



Tax Practitioners' Association, Indore
TAX NEWS & VIEWS

July - 2025 | Price ₹ 15



प्रासंगिक संवर कर बिखर न पाए कभी

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68 वे स्थापना दिवस पर टीपीए के पूर्व अध्यक्ष करा रहे हैं अपने संस्मरणों से रूबरू

जब मुझे टीपीए में एक कार्यकारिणी सदस्य की हैसियत से राम कृष्ण बाग में आयोजित आमसभा के दौरान चुना गया तब मेरी एक नयी यात्रा शुरू हुई।

कुछ ऐसी यादे हैं जो मेरे ज़हन में हमेशा रहती हैं। पहले होता यूँ था कि किसी भी अतिथि अथवा आयकर अधिकारी का स्वागत या विदाई समारोह पुरानी होटल श्रीमाया पर रखा जाता था। वहां पर प्रोग्राम शुरू होने के पहले एक मेम्बर गेट पर ही खड़ा हो जाता था और Rs 100-200 प्रति व्यक्ति इकट्ठा करता क्योंकि उस प्रोग्राम का बिल चुकाना होता था। टीपीए के पास कोई धन राशि या संसाधन नहीं रहते थे। बड़ी मुश्किल से कोई कार्यक्रम हो पाता था।

संस्था के पास कोई इंफ्रास्ट्रक्चर नहीं था। सन 1990 में, जीपीओ पर एक आयकर कार्यालय था और दूसरा आयकर कार्यालय जहाजमहल में था। सिर्फ जीपीओ वाले कार्यालय में संस्था को एक छोटा सा कमरा दिया हुआ था जो कि 60-70 फुट का रहा होगा। एक टूटी फूटी लोहे की अलमारी, एक टेबल और एक बेंच पड़ी रहती थी। कुछ भी छोटा मोटा कार्यक्रम करना होता था, तो आयकर कर्मचारी यूनियन से मिन्नतें करके माइक उधार लेते थे और इस तरह बहुत ही मुश्किलों से कुछ गतिविधियाँ हो पाती।

कांरवा आगे बढ़ा जब आदरणीय श्री बी एल बंसल सा अध्यक्ष निर्वाचित हुए। श्री राजेन्द्र गोयल साहब सेक्रेटरी बने और मैं जॉइंट सेक्रेटरी। उसी समय आयकर कार्यालय जीपीओ से नयी बिल्डिंग, यानी की, वर्तमान वाले आयकर ऑफिस में स्थानांतरित हुआ। वहां पर विभाग ने कई जगह अलग अलग कमरे विभिन्न समय में हमारी संस्था को दिए गए। फिर साथ ही साथ सबसे पहले हमने कुर्सियां व माइक सिस्टम खरीदा।

उसी दौरान मेंबर्स डायरेक्टरी बनाने की बात पर आदरणीय श्री सुरेश रामनानी साहब ने मुझे एक पुरानी डायरेक्टरी दी जिसमें नाम, पते होते थे पर बिना फोटो के। उस समय संस्था के 119 मेंबर थे। इस तरह नयी फोटो वाली डायरेक्टरी का काम चालू हुआ और सदस्यों की नवीन जानकारी एकत्रित कि गई।

फिर संस्था का लोगो बनाने की बात आई। आदरणीय श्री सुभाष देशपांडे सा ने सुझाया कि बड़े कवठेकर साहब, जो अनूप नगर में रहते थे उनके पास जाइए वो संस्कृत के बहुत बड़े विद्वान हैं और उनसे लोगो बनाने की राय ली जाए। हम उनके पास गए, उन्होंने 2-3 स्लोगन सुझाए उसमें से करे तत्व

परामर्श: पसंद किया गया, अर्थात कर का तत्व जहां है वहाँ परामर्श लीजिए।

फिर कांरवा आगे बढ़ा। हमें आयकर विभाग द्वारा दिया हुआ कमरा बार बार बदल जाता था, क्योंकि जहाजमहल और जीपीओ में जो अधिकारी पदस्थ थे वे नवीन आयकर भवन में आने लगे थे।

उसी दरमियान स्वर्गीय श्री अश्विनी सिन्हा सा की नियुक्ति इंदौर में हुई और वो उस समय आयकर आयुक्त (मुख्यालय) बने। उनसे हमने संस्था के लिए एक नियमित और स्थायी स्थान देने के लिए आग्रह किया। उन्होंने हमारे आग्रह को स्वीकार करके वर्तमान में जो हमारे पास हाल है उसको आवंटित कर दिया जो आज तक संस्था के पास है।

कुछ वर्ष पश्चात केडर रिस्ट्रक्चरिंग के कारण इंदौर में दो आयकर आयुक्त हो गए। फिर एक मुख्य आयकर आयुक्त भी नियुक्त हो गए। आयकर विभाग को फिर जगह की दिक्कत होने लगी और हम लोगों को बुलाया गया और कहा कि आपको टीपीए हाल खाली करना पड़ेगा। इसकी जगह हम आपको दो कमरे जहां वर्तमान में आयकर अधिकारी (छूट) व आयकर अधिकारी (आई एंड सी) बैठते थे उसको आवंटित कर देंगे। इस बात से आयकर विभाग से संस्था कि मतभेद की स्थिति बन गई। हम लोगो ने जैसे तैसे स्थिति को सम्भाला।

कुछ समय पश्चात श्री टी के शाह सा आयकर आयुक्त के रूप में नियुक्त हुए। हमने तब उनको टीपीए हॉल के इंटीरियर और आंतरिक साज सजा के लिए निवेदन किया। उसके बाद हमने जी जान से हॉल को नया रूप दिया जिसका आनंद हम लोग आज तक उठा रहे हैं।

नव श्रृंगारित हॉल के उदघाटन का भी मुझे अच्छा स्मरण है। हमने उसके लिए तत्कालीन मुख्य आयकर आयुक्त श्री एस पी सिंह सा से गुजारिश की थी। लेकिन उन्होंने किसी कारण वश मना कर दिया। फिर हम लोग निवेदन लेकर पहुँचे आयकर एपिलेट ट्रिब्यूनल के सदस्य श्री भवनेश सैनी साहब व गुंसियां साहब के पास। उन्होंने हमारे निवेदन को सहर्ष स्वीकारा और हॉल का उदघाटन किया। फिर तो कभी न बिखरने वाला कांरवा बना और चलता रहा।

टीपीए और आयकर विभाग का रिश्ता हमेशा सौहार्दपूर्ण रहा। यह बात आज तक इंदौर में पदस्थ हुए सभी अधिकारी स्वीकारते हैं। हमारे सदस्यों को कुछ समस्या यदि अधिकारियों कि तरफ से आती तो हम सभी मिलकर तत्परता से उसका निवारण भी करते और यह सुनिश्चित करते कि हमारे किसी सदस्य के साथ अन्याय न हो जाए। प्रतिवर्ष जो हम दिवाली मिलन और होली मिलन का कार्यक्रम करते हैं उसको सभी अधिकारीगण और सदस्यगण तहें दिल से याद करते हैं और ऐसी मिसाल पूरे भारत में कहीं देखने में नहीं आती है।

अब तो हमारी सदस्य संख्या बहुत बढ़ गई है। प्रति सप्ताह स्टडी सर्किल मीटिंग की जाती है जिसमें सभी सदस्य बहुत उत्साह से भाग लेते हैं। संस्था प्रति माह आकर्षक न्यूज लेटर निकालती है। इसके अलावा संस्था स्पोर्ट्स, हेल्थ चेकअप, नृत्य गीत आदि के कार्यक्रम भी करने लगी है यह सब देखकर बहुत ही सुखद अनुभूति होती है।

टीपीए से मुझे बहुत लगाव है और यह संस्था मेरे मन में बसी हुई है।

मेरे सपनों का टीपीए हमेशा खुशहाल और आबाद रहे यही मेरी भगवान से प्रार्थना है !!!

Dear Members,

President MESSAGE



I congratulate on the 68th Foundation Day of Tax Practitioners Association, Indore which started with only 20 members in the year 1958 under the leadership of Late Shri ST Shah sir being President and Late Shri BD Molasariya sir being Hon. Secretary. We celebrated the 68th foundation day with participation of large number of members and their families where many members performed art of singing, dance in the cultural evening. TPA also donated on the occasion of foundation day multimedia TV for educational purpose to Saraswati Shishu Mandir, Palda for their students.

With the blessing of the mother nature having good rains and everywhere spreading each shade of green colour by blossoming plants and trees paving ways for our good health and wealth. I urge members to be part of water harvesting mission make it possible to conserve as much rainy water as possible.

Various study circle meeting held on the contemporary subjects starting with advance usage of Tally Software for preparation of Tax Returns under Income Tax and GST, financial Statement and auditing, Issues to be taken care and cautions while finalising Company Audits, Standards of Auditing for Statutory and Tax Audits. On the occasion of international yoga day, we participated jointly in Yog Kumb attended by large number of participants.

I urge members to make full use of annual information statement etc while preparing return for their client and refrain themselves from claiming any tax deduction where you have any doubt of their being genuine. Deemed Assessment scheme under VAT for FY 2023-24 is continuing and members requested to extent its advantages to all their eligible clients. We represented CBIC for early release of GSTR9 & 9C.

I request all the members to contribute their ideas, perspectives to enable us to take-up more inclusive and purposeful programs and study circle meeting. Wealth has no meaning unless we ourselves and our family is in good health therefore, I reiterate that we need to spare time and give high priority to Good Health of ourselves and family members.

With Seasons Greeting.

Sincerely Yours,
CA Jaiprakash Saraf



GST Implications on Commercial Apartments under Joint Development Agreements: A Closer Look

The real estate sector has seen an increasing number of transactions being structured through Joint Development Agreements (JDAs), particularly under the area-sharing model. While JDAs enable the pooling of resources between landowners and developers, they also present unique challenges under the Goods and Services Tax (GST) regime - especially when commercial apartments are involved.

This article aims to provide clarity on the GST implications of such JDAs by breaking down the various supplies involved and analyzing them under relevant statutory provisions and notifications.



CA. Anuj Gupta

Background of the Transaction

Under a typical JDA executed between a landowner and a developer for a commercial project:

- The landowner transfers development rights to the developer.
- In return, the developer constructs commercial apartments and shares the constructed area.

For example, in one of the cases under review, the constructed area is to be divided between the landowner and the developer in a 70:30 ratio respectively. Suppose the total constructed area amounts to 6,000 square feet, and a total of 10 commercial apartments are to be developed (600 sq ft per apartment). Based on the agreed ratio, 7 commercial units i.e. 4,200 square feet (i.e., 70% of the total) would be allocated to the landowner, while the remaining 3 units i.e. 1800 square feet (i.e., 30%) would be retained by the developer.

This arrangement results in four distinct transactions:

1. Transfer of Development Rights (TDR) by the landowner to the developer.
2. Construction Services provided by the developer to the landowner.

3. Construction Services provided by either party (Landowner/developer) to prospective buyers (before completion).
4. Sale of Apartments after CC or first occupation: where the entire consideration has been received against an apartment after issuance of completion certificate, where required, by the competent authority or after first occupation, whichever is earlier.

1. Transfer of Development Rights – Supply by Landowner

The Transfer of Development Rights (TDR) refers to a transaction wherein the landowner grants the rights to develop a piece of land to a developer. This transfer is treated as a supply of service by the landowner to the developer. In exchange, the developer provides construction services to the landowner. Essentially, there is a mutual exchange—development rights from the landowner, and construction services from the developer—each constituting a supply under GST law.

The exchange of services between the Land Owner and Developer is a barter which is covered under the supply as mentioned in section 7(1) of the CGST Act, 2017.

The transfer of development rights is considered a supply of service under Section 7(1) of the CGST Act, 2017, read with Section 2(102) (definition of services).

- **Taxability:** While certain exemptions are available on Transfer of Development Rights (T D R) in residential projects-as provided under Notification No.04/2019– Central Tax (Rate) dated 29th March 2019—no such exemption applies to commercial projects.

This means that when TDR is involved in Joint Development Agreements (JDAs) with respect to a commercial project, such TDR services are fully taxable under GST Act.

- **GST Rate :** 18%
- **Valuation:** As per para 2A of Notification No. 11/2017 – CT (Rate), amended vide Notification No. 03/2019 – CT (Rate), dated 29th March 2019.

In short, the GST will be calculated as:

(Area given to landowner) (Selling price of similar flats to outsiders) – (Value of land, if applicable)
(4,200 sq ft.) X (5,000) Less 1/3rd Value of Land X 18%
Rate of Tax = Rs. 25,20,000/-

Tax Liability: In the case of Transfer of Development Rights (TDR), the tax is to be paid by the developer (i.e., the person receiving the service), not the landowner. As per Notification No. 05/2019 – Central Tax (Rate), the responsibility to pay GST falls on the developer under the reverse charge basis.

Time of Supply: As per Notification No. 06/2019 – Central Tax (Rate), as amended vide Notification No. 03/2021 – Central Tax (Rate), the GST liability on the transfer of development rights (TDR), which is payable under the Reverse Charge Mechanism (RCM), must be discharged on or before the tax period in which either the completion certificate is issued by the competent authority or the first occupation of the project takes place—whichever of the two occurs earlier.

2. Construction Services by Developer to Landowner

When a developer constructs apartments for the landowner's share, this said construction activity is treated as a taxable supply of service under Para 5(b) of Schedule II of the CGST Act, 2017. In this case, the developer does not receive money as consideration. Instead, the landowner gives the development rights—the right to use the land for construction—as a consideration in kind.

- **GST Rate :** 18%
- **Valuation:** The construction services are provided in exchange for the TDR received. Since this is a barter transaction with no other consideration involved, the value of the TDR will be treated as equal to the value of the construction services rendered.

So, in short, the GST will be calculated as:

$(\text{Area given to landowner}) \times (\text{Value of similar apartments}) - (\text{Value of land}) (4,200 \text{ sq ft.}) \times (5,000)$
Less 1/3rd Value of Land X 18% Rate of Tax = Rs. 25,20,000/-

- **Time of Supply:** As per Notification No. 06/2019 – Central Tax (Rate), as amended by Notification No. 03/2021 – Central Tax (Rate), the GST liability on the construction service provided by the land owner to the developer must be discharged on or before the tax period in which either the completion certificate is issued by the competent authority or the first occupation of the project takes place—whichever of the two occurs earlier.

- **Tax Collection:** Tax may be recovered from the landowner based on the above valuation.

3. Construction Services to Buyers (Pre-Completion)

Under the GST framework, the said construction activities are treated as a supply of service in terms of Para 5(b) of Schedule II of the CGST Act, 2017. This applies in cases where any portion of the consideration for the construction is received prior to the issuance of the completion certificate (where required by the competent authority), or before the first occupation, whichever occurs earlier. In such scenarios, the construction service becomes taxable under GST.

- **GST Rate:** 18%
- **Valuation:** Transaction value as per Section 15(1) of the CGST Act further availing the 1/3rd abatement of the land.
- **Time of Supply:** Based on the terms of the sale agreement and governed by Sections 13(2) and 31(5) of the CGST Act.

4. Sale of Completed Units (Post-Completion Certificate)

Transactions involving the sale of immovable property, such as a fully completed flat, building, or commercial unit, are not subject to GST. According to Schedule III of the CGST Act, read with Section 7, the sale of land or completed buildings is expressly excluded from the definition of “supply” under GST. In such cases, the transaction is treated purely as a sale of immovable property, and thus falls outside the purview of GST.

Conclusion

The GST implications on Joint Development Agreements (JDAs) for commercial projects are complex and require a detailed analysis of contractual terms, timelines for construction, and the structure of consideration. It is essential for developers to evaluate each component of the transaction—whether it involves the transfer of development rights (TDR), the construction portion allocated to the landowner, or the eventual sale to customers—to ensure proper tax treatment and compliance.

A well-drafted JDA and strong professional advisory support can significantly reduce the risk of future disputes and help both landowners and developers navigate the tax landscape effectively.

COMPLIANCES AND PROVISIONS FOR NRI

Facts

A Complete Guide that covers relevant FEMA, Income Tax and Banking Regulations for an individual shifting abroad for employment, living abroad or coming back to India permanently in very lucid and understandable manner.



CA Abhishek Gang

This is a compilation of research done for the Income Tax and FEMA provisions applicable to a nonresident Indian. This includes Dos and Don'ts, compliances and provisions related to an NRI.

This is a research in a sense that it gives you a new perspective to the Income tax and FEMA provisions as applicable to NRIs and you can directly find answers to your questions at one place. I have bifurcated all my research in three parts for better use:

1. Individual who has decided to leave India.
 2. Individual who has left India and is now an NRI.
 3. Individual who has permanently shifted back to India
- For convenience, I have bifurcated this compilation in three newsletters. This newsletter only contains compilations for "Individual who has decided to leave India"

I hope this compilation will be useful to you.

Following are key questions covered in this newsletter:

Provisions applicable to an individual leaving India.

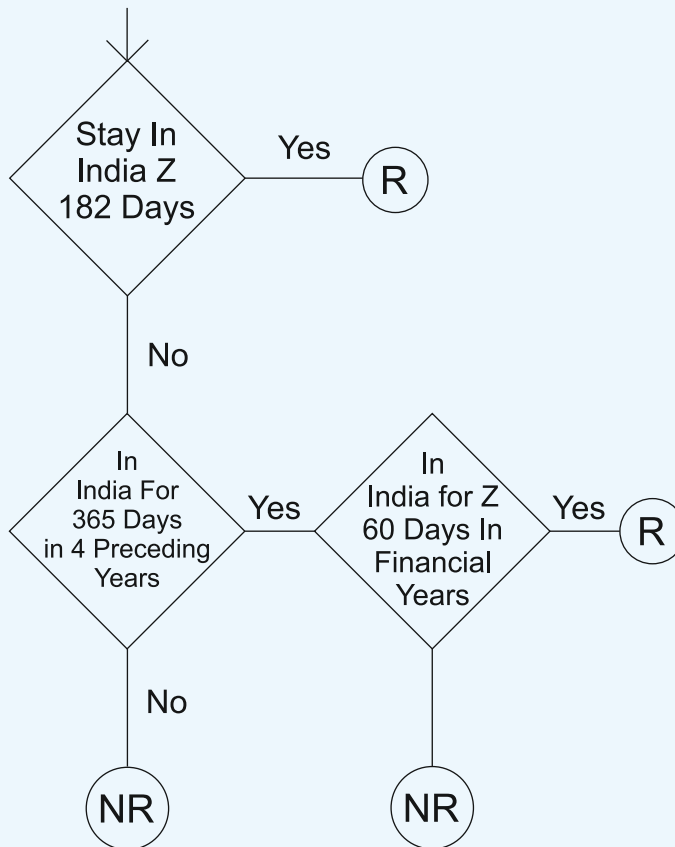
1 Guideline to determine your residential Status in the year of departure

- a. If an Indian citizen is leaving India for employment purposes (refer para B3)

He will only be resident if stays for 182 days or more in India during the relevant financial year. No need to apply second basic condition.

- b. If an Indian citizen is leaving India other than employment purposes (refer para B3)

See the below flow chart



R : Resident

NR : Non Resident

C For foreign citizens

Same as b above

2. Key considerations for existing bank accounts when leaving India

- a. Close unnecessary bank accounts.
- b. Take online access, cheque book and debit card of all bank accounts.
 - i. A cheque book facilitates RTGS or NEFT transactions even when you're abroad. You don't need to visit the branch if someone accompanies your cheque for such transactions.
 - ii. A debit card enables the reset of your online access and mobile applications.
 - iii. Online account access allows communication with the bank and monitoring of all financial transactions.

3. Things related to mobile number & email ID

Normally all important communications are through sms and emails. So update your mobile number and email ID on the Income Tax portal, bank websites, post office accounts, share brokers, mutual funds, etc., to ensure smooth access and timely compliances.

You can keep your India mobile number active for OTPs and SMS to ensure smooth compliance, banking operations, and prevent fraud in inactive accounts.

4. Things related to PAN Aadhar Passport Ensure your name on the Passport, PAN and Aadhar is identical. Update your mobile number in Aadhar and link it with PAN to receive OTPs for IT return filing. It is important to note that property registrations are now online and requiring OTP for verification.

5. Secure your IDs while travelling abroad You can also download and activate DigiLocker for all your IDs to securely store them and to prevent loss of identity documents.

6. Power of Attorney Grant a general power of attorney to a trusted person for handling regular transactions or acts.

7. Things to ensure while buying foreign currency

Avoid buying foreign currency in cash or through unauthorized sources to prevent counterfeit (जालीनोट) issues. Immigration and visa authorities may request currency purchase invoices. Opt for multi-currency cards instead of cash.

8. Non-Resident Status under FEMA vs. Income Tax

If you left India

- (i) with an appointment letter or
- (ii) relocating for business purpose then you will become a non-resident under FEMA. Note that FEMA is based on intent, while residential status under income tax is determined by the number of days stayed in India.

9. Things regarding NOC certificate

Obtain a No Object Certificate (Section 230)

- a. If not domiciled in India and in employment or doing business or profession in India then :

Request your employer or income source to file an undertaking with the IT department and obtain an NOC.

- b Domiciled in India then :
File Form 30C with the IT department and obtain a NOC, if required by the department.

10. Taxability of foreign Income if your status is Resident in the year of departure

If you are resident in India in the year of departure then your foreign income will also be taxable in India. Please remember:

- a. you can take benefits of DTAA.
- b. to deposit advance tax to avoid heavy interest on Income tax.
- c. file form 67, if you are taking DTAA benefits.

11. Foreign currency regulations for travelers (excluding specific countries)

Travelers to countries (excluding Iran, Iraq, Libya, Russia, and CIS republics) can purchase foreign currency notes/coins up to USD 3,000 per visit. The remaining amount can be carried as store value cards, traveler's cheques, or banker's drafts.

Tax collected at Source under LRS.

12. Tax collected at Source under LRS.

Purpose of remittance	Threshold	Rate
Any Education - From FI	10 Lakhs	0
Any education-others	10 Lakhs	5%
Medical Treatment	10 Lakhs	5%
Tour Packages	Up to 10 Lakhs Above 10 Lakhs	20%
Any other remittance	10 Lakhs	20%

GLIMPSES OF TPA ACTIVITIES



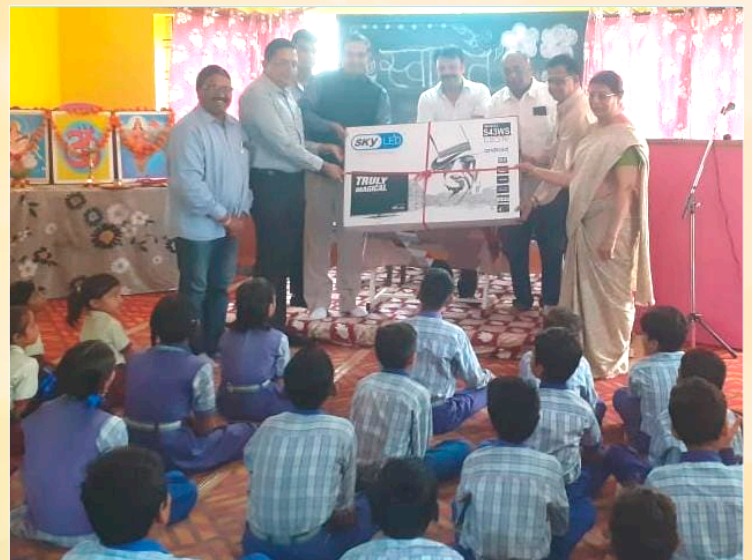
Past President greeted on Foundation Day



TPA Member's Directory 2025 released on Foundation Day



Yog Kumbh participation on International Yoga Day



Donation of Multimedia TV to Saraswati Shishu Mandi, Palda on Foundation Day



Laughter....Music....Fun



68 वें स्थापना दिवस का जोरदार जश्न



Ms Sangeeta Dave & Shri Nilendu Dave



Ankit Sisodia presenting the program



CA Shailendra Porwal & Ms Smita Porwal



Ankit Sisodia as Baccha Yadav entertaining members



CA Piyush Rathi & CA Vinita Rath



Members at Foundation Day



क्या मस्ती क्या धूम



68 वें स्थापना दिवस का जोरदार जश्न



CA Shailendra Solanki & CA Abhay Sharma



CA Abhishek Gang & CA Deepak Maheshwari



CA Vijay Bansal & Shri Nilendu Dave



CA J P Saraf & CA Manoj P Gupta



Adv Govind Goyal & CA Umesh Goyal



CA Sunil P Jain & CA Krishna Garg



CA Sanket Mehta, CA Pranay Goyal &
CA Avinash Agrawal



CA. S. N. Goyal & CA. R. S. Somani



गीत संगीत से सजी संध्या

68 वें स्थापना दिवस का जोरदार जश्न



CA Abhishek Gang



CA Sumit Sodani



CA Piyush Mandovra



CA Krishna garg



CA Naveen Khandelwal



CA Pankaj Sethi



CA. Deepak Maheshwari



Shri Nilesh Gangrade



Adv. Govind Goyal



Together We Dance Together We Shine !!! ✨



68 वें स्थापना दिवस का जोरदार जश्न



A Rocking Performance by Team TPA

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I CA. Manoj P. Gupta I CA. Abhishek Gang I Mr. Nilendu Dave I CA. Ritu Lasod

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Indore- 452 001 (M.P.)

Mail : secretary@tpaindore.com www.tpaindore.com

Printed Book-Post

TPA - Monthly News Letter

To,

Published by President **CA Jaiprakash Saraf** &

Edited by **CA Manoj P. Gupta** on behalf

of Tax Practitioners' Association, Indore (M.P.) and

Printed at **Profiles**, 639, Sneha Nagar, Indore, Ph.: 9425064293

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