



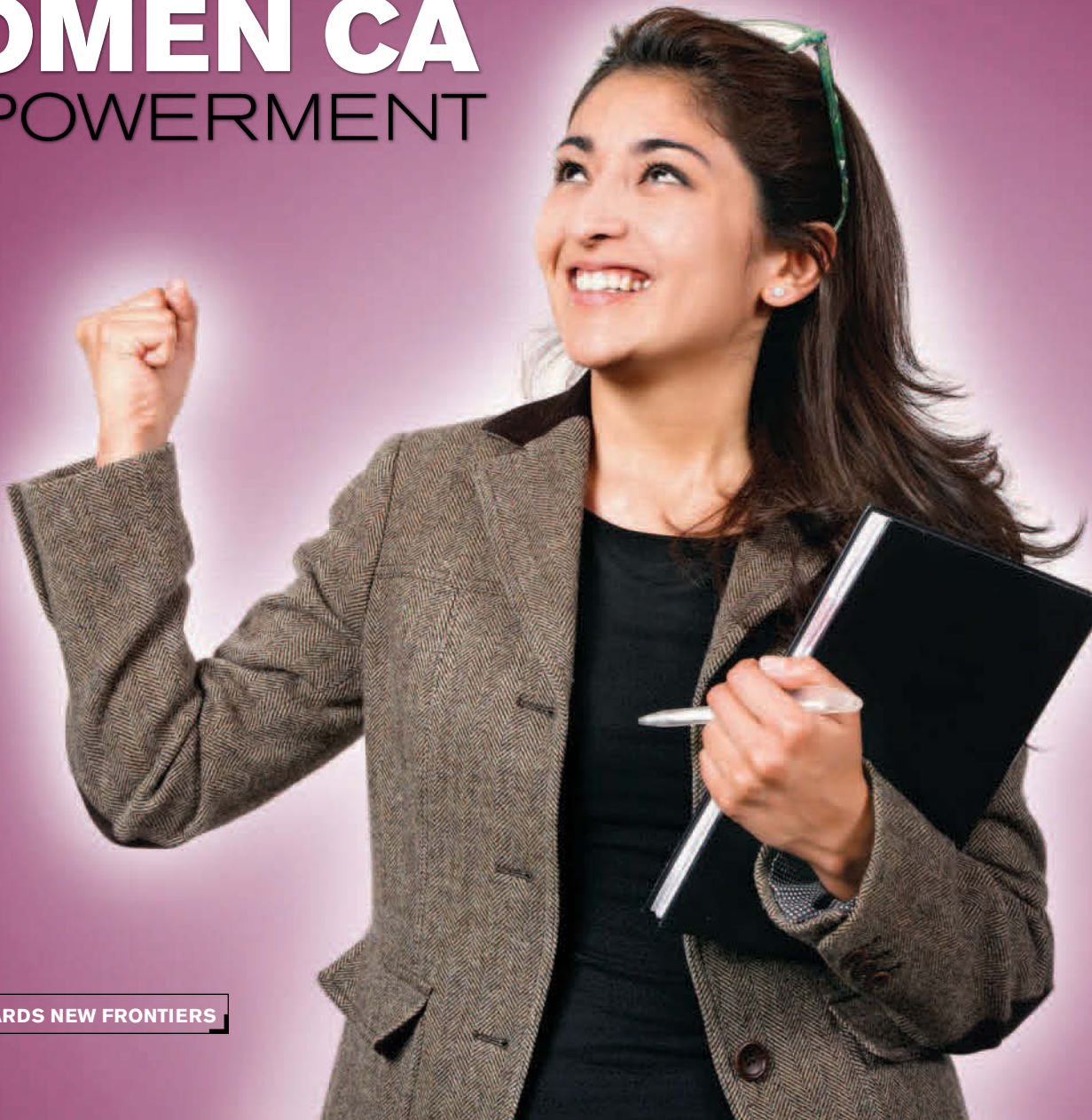
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THE CHARTERED ACCOUNTANT JOURNAL

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

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WOMEN CA EMPOWERMENT



MOVING TOWARDS NEW FRONTIERS

Advertisement

Women Empowerment as Professional Goal

An ICAEW source recently linked the slump in economic growth with existing gender inequality. The world economic forum finds a strong correlation between gender equality and national competitiveness. Another study reported that globally only 24 % of senior management roles are filled by women. The study has suggested that an increase in female employment can actually help raise GDP.

Jawaharlal Nehru had said, *"By merely looking at the condition of women, one can figure out the growth of the nation"*. Though India today has the largest women workforce after China, they are mostly performing in the sectors of agriculture and construction and as domestic help. We urgently need to address this issue.

Today, women are no more restricted to the roles of daughters, sisters, wives and mothers. They now feel more answerable to their society and their nation. Breaking the traditional mould, they are ready to step out and act wiser in profession using their ever-cheerful, clever and careful nature, which they were using effectively for years in the affairs of their homes.

Although Mahatma Gandhi rightly said, *"To call a woman a member of the weaker sex is a libel"*, it will be fair on our part to support them in achieving a professional excellence. It is said that *a woman is a full circle and within her, is a power to create, nurture and transform*. Managing effectively and silently in their families since ages, women are now ready to transcend the same skills to their workplace too. Blessed with an instinct to foresee and look through, they are often suited to managerial responsibilities.

It is said that empowerment begets empowerment. They have already started giving back the empowerment to the world around us. They mean business, as they are evolved. In a lighter vein, it would be interesting for us as auditors to audit the affairs of a family, in order to realise how effectively and in what amount they contribute to their family *vis-à-vis* other earning members of their family. In all roles, whether as housewives or professionals, they need to be respected.

Our Constitution too strongly supports the cause of gender equality by empowering the State to adopt strong measures in favour of women. While Article

14 of the Constitution gives them equal rights in political, economic and social spheres, Article 15 prohibits us to discriminate on the basis of gender. Article 39 asks for equality in remuneration. Contract Labour (Abolition and Regulation) Act and Rules, 1970 recommends separate provision for utilities and fixed working hours for women. As per Section 46(b) and 50 of the Employees State Insurance Act, 1948, insured women are entitled to claim maternity benefits on account of pregnancy, premature birth of child or miscarriage. While the law of the land is doing everything possible to create a gender-sensitive work environment for women professionals, as members of a noble profession, it becomes our responsibility also to empower our women in profession, and recommend the same to the industry.

Over the years, more and more women have been equally strengthening the profile of accountancy profession in India with their multitasking skills and acumen. At present, the percentage of women in active membership and student community is 21.1 and 36 respectively. Their high percentage in student community will work ultimately by minimising the gender gap in our professional fraternity.

These encouraging statistics need to be harnessed in the interests of our profession. Women are the untapped powerhouse of energy which should be channeled for the growth of our profession, our economy and our nation. With that goal in mind, the ICAI has put special focus on CA women empowerment in its Action Plan 2014-15: *Moving Towards New Frontiers*. An all-new *Women Empowerment Committee* has been formed this year to vigorously pursue this agenda. We are actively working to launch a flexi-working portal for our women professionals.

We want our women members and students to be empowered, not because they are discriminated or less capable, but because their potential needs to be harnessed and capitalised. Women will be our competitive advantage, if they are brought to the fore and core of our profession. This way, they could add their side of the story and help us create a gender-sensitive vision for our accountancy profession. ■

-Editorial Board ICAI – *Partner in Nation Building*

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From the President



CA. K. Raghu, President, ICAI

“ We Chartered Accountants, who are one of the main constituents of India’s knowledge society, are being increasingly looked upon as harbingers of such a revolution in India. As such, we are now all set to herald such a knowledge revolution in our own way, through upcoming ICAI TV channel. ”

Dear Professionals,

Warm greetings to all of you!

You may find it interesting that when the first woman chartered accountant Ms. Ethel Watts called accountancy an *eccentric choice of profession* for women in 1924, it didn’t sound strange, including in India. But with Ms. Shirin K. Engineer of Mumbai and Ms. R. Shivabhogam of Chennai becoming the first and second Indian woman chartered accountant respectively in 1933 and 1947 respectively, the story changed in India.

Time has come full circle since then, with more and more women joining the realm of our profession. Today, we can boast of women comprising 21.1% of our total membership as on 4th March, 2014. Complementing this figure, girls today have 36% share in our active studentship. However, I feel that the immense potential that lie embedded in these encouraging numbers is still vastly untapped and need to be harnessed, strengthened and empowered further in the interest of our profession, our society and our nation.

Keeping that very objective high on my Action Plan 2014-15, I have planned many an initiative exclusively for women in accountancy through a new *Women Member Empowerment Committee*. Taking that mission forward, we are all set to launch an effective flexi-working portal for our women members. Further, several measures are on the cards to develop the capacity of our women to take up positions of independent directors in line with the provisions of the Companies Act, 2013. Exclusive programmes on women independent directors have also been lined up.

I find women quite skilled at multitasking, and they tend to take a larger share of responsibility wherever they are, including in our profession. As such, if we empower women, we actually empower ourselves. As the leader of the Indian accountancy profession, I am particularly alive to this cause.

Mahatma Gandhi had said, “*You must be the change you wish to see in the world*”. As such, we have taken our step to stress the theme of women

From the President

empowerment. Let us all join hands to strengthen our women so as to eventually strengthen the profession and the nation.

Homage to Past-President CA. P. K. Mallik

Our profession suffered an insurmountable loss when one of our leading lights, our past President (1978-79) CA. Prasantha Kumar Mallik left us for heavenly abode on 26th February 26, 2014. Also a member of the Institute of Chartered Accountants of Scotland, he was an ICAI-EIRC member from 1961 to 1967 and ICAI Central Council member from 1967 to 1979. Through his first message in this Journal in October, 1978, he had called upon the profession to *strive for excellence*. Let's live up to his vision. I, on behalf of Indian accounting fraternity pay homage to him and stand by his bereaved family. May his soul rest in peace!

Putting Indian CAs on Global Pedestal

I aim to proactively promote ICAI qualification overseas, strengthen and widening relationship with international bodies and global standard-setters and regulators. I am endeavouring to create more professional opportunities for us abroad. The idea is to firmly establish our footprints on the world map. This month was mostly devoted to this cause. I am happy to share with you some of related significant developments:

➤ Reaching Out to IFAC in New York:

As you may be aware, India is one of the founding members of the International Federation of Accountants (IFAC), which is the global organisation for the accountancy profession comprising 179 members and associates in 130 countries. It is an ideal platform to showcase our presence and prestige and widen our role in global accounting affairs. With that objective in mind, I recently attended the IFAC Council and Board meeting held in New York. There we had one-on-one discussions on matters of mutual interest with IFAC President Mr. Warren Allen and other leading international accounting bodies.

➤ Building Bridges with US Through AICPA:

I am happy to note that a large number of our young members are going global and acting as our veritable ambassadors abroad. Hundreds more are set to go abroad in near future and America is one of their most favourable destinations. I, on

behalf of the ICAI, am fully inclined to assist and accentuate this welcome process.

Driven by that goal, I utilised my New York visit to have mutually enriching meeting with the largest accounting body of the world— American Institute of Certified Public Accountants (AICPA). In the meeting, I specifically pushed the agenda of mutual recognition among other issues. To further pave way for our foreign bound professionals as well those already working abroad, I also met nine other leading accounting bodies.

➤ Consul General of India-New York Promises Support:

I am happy to note and thankful to the Government for their support to the flag bearers of Indian accountancy profession on foreign soil through its consulates and embassies. I conveyed the same sentiments to Consul General of India in New York Shri Dhyaneshwar M. Mulay when I met him there. In very fruitful discussions, he has promised us his all support and help to open new chapters and empower our members in the North America region.

A detailed report on my New York visit is published elsewhere in this journal.

IFASS Meet in New Delhi- A first in ICAI history

I think that running a business is not just about earning profits. It is also an art of ensuring that every invested penny is productive and well accounted for to facilitate reasonable assessment of performance by stakeholders. Here comes into play the importance of Accounting Standards. I see Accounting Standards as the best way to protect investors, ensure regulatory compliance, assess business performance and enhance corporate governance.

This backdrop emphasises the great importance of standard-setting process, to which ICAI is deeply committed. Taking this objective forward, as set out in my agenda for this year to enhance our role in global standard-setting process, we recently hosted the International Forum of Accounting Standard Setters (IFASS) meet in New Delhi for the first time in the history of the ICAI. As many as 77 delegates representing 26 countries across the globe participated in the meeting.

From the President

The meeting has gone a long way in establishing our role in developing a single set of high quality global accounting standards. As you may be aware, IFASS is an informal group of organisations committed to support the mission of IASB and pursue common interests of the accounting regulators across the globe.

Spearheading Convergence Drive via IFRS-RPF

You would agree with me that in the present age of 'global business village' where the world is craving and coming alive to the immense advantages of single business language, the utmost relevance of IFRS or Ind AS needs no reiteration. We can gauge global mood in this regard by the fact that more than 130 countries around the world, including all of Europe, currently require or permit IFRS reporting.

As such, understanding IFRS or Ind AS is a business imperative for Indian companies too. This is because it will not only greatly help in boosting foreign investments but also benefit investors and other users of financial statements by refining the quality of information thereby enabling easy and better assessment of business performance on a global scale.

I am happy to share with you that after the enactment of the Companies Act, 2013, the Ministry of Corporate Affairs has also now shifted its focus on rolling out Ind AS for Indian companies. The ICAI is very much alive to this emerging arena of great challenge as well as opportunity for its members. The Government has asked us to conduct a sector-wise study, elaborating on the impact the implementation of 'Ind AS converged with IFRS' will have on the sectors.

In this backdrop, to have our say in the global drive for IFRS and put forward our perspective in this regard, we recently hosted the 8th IFRS Regional Policy Forum (IFRS-RPF) in New Delhi. The theme was *Financial Reporting—New Frontiers*. I am happy to note that the event was successful in achieving our stated objectives. As you may be aware, IFRS-RPF is a key platform in the Asian-Oceanic region for standards-setters, policymakers, regulators and government bodies.

Pushing Indian Agenda with IASB

Taking our 'Mission IFRS Convergence' forward and to put across our viewpoint on the issue, I also met International Accounting Standards Board (IASB) Chairman Mr. Hans Hoogervorst. He mainly called upon us to fully adopt the IFRS saying it will exemplify appeal of Indian capital markets to foreign investors.

Here I must mention that we have very consciously decided to converge with IFRS and not fully adopt it, mainly because a resurgent India is very different from its peers in the West or elsewhere, with its own priorities and preferences. There is no change in that stand as of now. However, in the longer term we may consider his viewpoint, but only after sorting out some crucial issues and testing the impact of our converged Ind AS on corporate sector. I conveyed the same to him.

A detailed report on IFASS and related events is published in this journal.

Pursuing Common Goals with SAFA

As you are aware, the South Asian Federation of Accountants (SAFA) is an important accountancy platform of our region, whose interests are intrinsically tied to ours. We share common goals and aspirations for the betterment of accountancy profession in the region. To push that common agenda of SAFA for the good of all of us, I recently attended SAFA events in Karachi. It was a very fruitful visit from our perspective during which I met representatives of all nine professional accountancy bodies from SAARC nations. I also had the opportunity to meet senior functionaries of Institute of Chartered Accountants of Pakistan and discussed issues of mutual interest.

ICAI Heralding Knowledge Revolution

I am sure you will concur with me when I say that close on the heels of Green Revolution, Industrial Revolution and IT Revolution, India is now well set for Knowledge Revolution. We Chartered Accountants, who are one of the main constituents of India's knowledge society, are being increasingly looked upon as harbingers of such a revolution in India. As such, we are now all set to herald such a knowledge revolution in our own way, through upcoming ICAI TV

From the President

channel. This will be dedicated to our about 8 lakh students in particular and commerce students across the nation in general.

Stage is set for launch of this channel using the upcoming DTH platform of Ministry of Human Resources Development under the scheme *National Mission on Education through Information and Communication Technology*. Under the guidance of Union HRD Minister Dr. M. Mangapati Pallam Raju, I recently signed the first MoU on sharing the MHRD DTH Platform in this regard.

The Union Minister announced: *DTH channels would be used for imparting education for the first time, which is conventionally used only for entertainment. We have made a beginning with one of the most credible body in the country that is the ICAI. This is a great synergy between two bodies.* I look forward to early launch of this channel for the ultimate benefit of our profession and the nation.

Industry Warming Up to our Placement Drive

I am happy to note that Industry is increasingly putting its trust in our young members and warmly taking them in their folds to be part of the 'India Story'. This was in ample display during our Campus Placement drive for February-March period across India. In a tremendous response, as many as 80 organisations participated in the programme and offered 717 jobs to our newly qualified members. Highest salary offered under domestic posting is ₹21 lakh per annum to 2 candidates while under international posting it was ₹20.25 lakh per annum to 3 candidates. Average CTC offered to our newly-qualified members is more than ₹7.38 lakh per annum.

I wish all our successful young members all the best for future and appeal to them to keep the flag of our profession flying high.

Let's Gear Up for Effective Bank Audit

As you are aware, a healthy banking industry is the backbone of sustainable socio-economic growth in our country. However, I am constrained to note that our banking system is under strain because of mounting Non Performing Assets (NPAs), which according to Assocham study, is

expected to reach ₹1,50,000 crore mark by end of FY14.

As the keepers of financial discipline in the country, this situation should worry us all the more. Given our training, exposure and skills, we can play a crucial role in reversing rising trend of NPAs and vigilantly keeping our banking system healthy. By lending credibility to their financial statements, audits and auditors have an extremely important role to play in building a resilient banking industry. As such, the exercise of Bank Branch Audit assumes paramount importance for the banking industry, the banking regulator, our members, as well as the nation as a whole.

Let's conduct these audits in the most professional manner keeping a broader national vision in mind. You will be aware that to help you to carry out this nationally important assignment in most proficient and 'value add' manner, the Auditing and Assurance Standards Board has recently released its 2014 Guidance Note on Audit of Banks. This Guidance note contains comprehensive guidance on the various critical aspects that the members need to be wary of while conducting Bank Branch Audits. Let's also ensure compliance with relevant Standards on Auditing while carrying out Bank Audit engagement.

Vote You Must

Before I conclude, let me remind you that with national elections having been announced, time has come for us to discharge our most onerous responsibility to our nation—casting our vote, especially for a resurgent India. We are a strong professional community of 2,24,000 members and about 8 lakh active students. We are a power to reckon with. Let's vote to assert our affirmation and our faith in democratic principles and values.

Yours Truly



CA. K. Raghu
President, ICAI

New Delhi, March 24, 2014

Photographs



MoU on MHRD DTH Platform Signed in New Delhi

ICAI President CA. K. Raghu and NMEICT/MHRD Mission Director and Joint Director (TEL) Shri Praveen Prakash sign first MoU on sharing MHRD DTH Platform in the august presence of Union HRD Minister Dr. M. M. Pallam Raju (3rd March, 2014)



Meeting with MCA Secretary

ICAI President CA. K. Raghu and Vice-President CA. Manoj Fadnis present bouquet to Secretary, Ministry of Corporate Affairs Shri Naved Masood (6th March, 2014)



8th IFRS Regional Policy Forum in New Delhi

ICAI President CA. K. Raghu and Vice-President CA. Manoj Fadnis stand together with IASB Chair Mr. Hans Hoogervorst, IFASS Chairperson Ms. Tricia O'Malley and AOSSG Chairman (and HKICPA President) Mr. Clement Chan, among other national and international dignitary participants during the Forum (8th March, 2014)



IFASS Meeting in New Delhi

ICAI President CA. K. Raghu and Vice-President CA. Manoj Fadnis stand together with IFASS Chairperson Ms. Tricia O'Malley and AOSSG Chairman (and HKICPA President) Mr. Clement Chan, among other national and international dignitary participants, during the meeting (7th March, 2014)

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IFAC Board/Council Meetings in New York



Meeting with IFAC Leadership

ICAI President CA. K. Raghu presents memento to IFAC President Mr. Warren Allen, while ICAI past-President CA. G. Ramaswamy along with IFAC CEO Mr. Fayeul Choudhury and Dy. President Ms. Olivia Kirtley look on (26th February, 2014)



Meeting with Consul General of India in New York

ICAI President CA. K. Raghu presents memento to Consul General of India in New York, Shri Dnyaneshwar M. Mulay, during his IFAC visit, while ICAI past-President CA. G. Ramaswamy looks on (28th February, 2014)



Meeting with AICPA Leadership

ICAI President CA. K. Raghu presents memento to AICPA President & CEO Mr. Barry C. Melancon, in the presence of AICPA Senior Vice-Presidents Ms. Susan S. Coffey and Mr. Mark Peterson during his IFAC Visit (27th February, 2014)



Meeting with ICAA and ICANZ Leaderships

ICAI President CA. K. Raghu and past-President CA. G. Ramaswamy along with ICANZ (Institute of Chartered Accountants of New Zealand) CEO Mr. Craig Norgate and ICAA (Institute of Chartered Accountants of Australia) CEO Mr. Lee White during their IFAC visit (25th February, 2014)



Meeting with CPA Ireland CEO

ICAI President CA. K. Raghu and past-President CA. G. Ramaswamy along with CPA Ireland CEO Mr. Eamonn Siggins during their IFAC visit (26th February, 2014)



Uganda (Kampala) Chapter of ICAI Inaugurated

Then ICAI-President CA. Subodh Kumar Agrawal and Central Council member CA. J. Venkateswarlu along with Director (Economic Affairs) in Ugandan Finance Ministry Mr. Lawrence Kizza, Institute of Certified Public Accountants of Uganda Vice-President Mr. Begumisa Protazio and Chapter Chairman CA. Rajesh Chaplot, among others (1st February, 2014)

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Meeting with IRDA Chairman in Hyderabad

ICAI President CA. K. Raghu welcomes IRDA Chairman Shri T. S. Vijayan in Hyderabad, while ICAI Central Council member CA. M. Devaraja Reddy looks on (5th March, 2014)



Visit to ICAP during SAFA Meetings

ICAI President CA. K. Raghu and Vice-President CA. Manoj Fadnis along with SAFA President (ICAI past-President) CA. Subodh Kumar Agrawal and Institute of Chartered Accountants of Pakistan President Mr. Naeem Akhtar Sheikh (11th March, 2014)

IFASS Meeting and 8th IFRS Regional Policy Forum



Presenting Bouquet to IASB Chair

ICAI President CA. K. Raghu welcomes IASB Chair Mr. Hans Hoogervorst at ICAI headquarters, in the presence of ICAI Vice-President CA. Manoj Fadnis (8th March, 2014)



Presenting Bouquet to CINIF President

ICAI President CA. K. Raghu presents bouquet to CINIF (Consejo Mexicano de Normas de Información Financiera, A.C.) President Mr. Felipe Perez Cervantes in New Delhi (6th March, 2014)



Addressing Participants at IFASS Meeting

ICAI President CA. K. Raghu shares the dais with ICAI Vice-President CA. Manoj Fadnis, IFASS Chairperson Ms. Tricia O'Malley and an IFASS official Mr. Harry Klompass (6th March, 2014)



Presenting Memento to IASB Chair at IFRS Regional Forum

ICAI President CA. K. Raghu presents a memento to IASB Chair Mr. Hans Hoogervorst during the 8th IFRS Regional Policy Forum, while AOSG Chair (and HKICPA President) Mr. Clement Chan and ICAI Vice-President CA. Manoj Fadnis celebrate (8th March, 2014)

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Meeting with Tamil Nadu Governor

ICAI President CA. K. Raghu presents bouquet to Tamil Nadu Governor Dr K. Rosaiah, while Central Council members CA. Babu Abraham Kallivayalil, CA. M. Devaraja Reddy and CA. G. Sekar, and SIRC immediate past-Chairman CA. D. Prasanna Kumar, among others, share the occasion (21st February, 2014)



Meeting with Karnataka Governor

ICAI President CA. K. Raghu presents bouquet to Karnataka Governor Dr. Hans Raj Bhardwaj, while Branch Chairman CA. Babu K. Thevar and Regional Council members CA. Suresh P. R. and CA. Nitin Mahadevappa, among others, share the moments (22nd February, 2014)

Visit to SIRC of ICAI



Homage to First President

ICAI President CA. K. Raghu pays tribute to first ICAI President Shri G. P. Kapadia, while Central Council members CA. Babu Abraham Kallivayalil and CA. G. Sekar, SIRC Chairman CA. P. V. Rajarajeswaran and SIRC immediate past-Chairman CA. D. Prasanna Kumar, among others, look on (21st February, 2014)



ICAI President Felicitated

ICAI President CA. K. Raghu gets felicitated, while SIRC Chairman CA. P. V. Rajarajeswaran and other SIRC managing committee members look on (21st February, 2014)

Visit to Bangalore Branch



With Management Committee

ICAI President CA. K. Raghu and Vice-President CA. Manoj Fadnis share the dais with Branch Chairman CA. Babu K. Thevar and other managing committee members, among others (20th February, 2014)



Addressing the Members

ICAI President CA. K. Raghu addresses the members while ICAI Vice-President CA. Manoj Fadnis and Branch Chairman CA. Babu K. Thevar, among other managing committee members, listen to him at the dais (20th February, 2014)

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Know Your Ethics

Ethical Issues in Question-Answer Form

Q. Is there any ceiling on the number of tax audit assignments that can be taken up by a member in practice?

- A. Yes, in exercise of the powers conferred by Clause (1) of Part II of the Second Schedule to the Chartered Accountants Act, 1949 the Council of the Institute has issued Council General Guidelines, 2008, Chapter VI of which specifies that a member of the Institute in practice shall be deemed to be guilty of professional misconduct, if he accepts, in a financial year, more than the specified number of tax audit assignments under Section 44AB of the Income Tax Act, 1961. The number specified for tax audits is 60 (w.e.f. financial year 2014-15).

Q. Whether the audits conducted under Section 44AD, 44AE and 44AF of the Income Tax Act, 1961 shall be taken into account for the purpose of reckoning the specified no. of tax audit assignments?

- A. No. Please refer the Code of Ethics, 2009 (Chapter VI of the Council General Guidelines, 2008).

Q. Whether a Chartered Accountant is permitted to accept appointment as auditor of a concern while he is indebted to the firm or has given any guarantee or provided any security in connection with the indebtedness of any third person to the concern?

- A. Yes, the Chapter X of the Council General Guidelines, 2008 specifies that a member of the Institute shall be deemed to be guilty of professional misconduct if he accepts appointment as auditor of a concern while he is indebted to the concern or has given any guarantee or provided any security in connection with the indebtedness of any third person to the concern, for limits fixed in the statute and in other cases for amount exceeding ₹ 10,000.

Q. Whether the statutory auditors consisting of ten or more members can conduct the branch audits of the same company?

- A. The Council has prescribed certain self-regulatory measures in order to ensure a healthy growth of the profession and an equitable flow of professional work among the members. One of the recommendations of this nature is that

the branch audits of a company should not be conducted by its statutory auditors consisting of ten or more members, but should be conducted by the local firms of auditors consisting of less than ten members. This should not be understood to mean any restriction on the right of the statutory auditors to have access over branch accounts conferred under the Companies Act, 1956. This restriction may not apply in the following cases:

- (i) where the accounting records of the branches are maintained at the head office of the respective companies; and
- (ii) where significant operations of an undertaking or a company are carried out at its branch office.

Q. Is there any ceiling on the fees to be accepted from one company?

- A. To ensure that the professional independence of a member in full-time or part-time practice does not appear to be jeopardised he should, as far as possible, take care to see that the professional fees for audit and other services received by the firm in which he is a partner, by him and his partners individually and by firm or firms in which he or his partner are partners from one or more clients or companies under the same management does not exceed 40% of the gross annual fees of the firm, firms and partners referred to above. 'Companies under the same management' here would refer to the definition of this expression as provided in Section 370(1-B) of the Companies Act, 1956.

Provided that no such ceiling on the gross annual professional fees of a member would be applicable where such fees do not exceed two lakhs of rupees in respect of a member or firm including fees received by the member or firm for other services rendered through the medium of a different firm or firms in which such member or firm may be a partner or proprietor.

Provided further that no such ceiling on the gross annual professional fees of a member would be applicable in the case of audit of government companies, public undertakings, nationalised banks, public financial institutions or where appointments of auditors are made by the Government.

Q. Whether a member of the Institute in practice is liable for professional misconduct,

* Contributed by the Ethical Standards Board of the ICAI

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Know Your Ethics

if he does not follow the direction given, by the Council or an appropriate Committee or on behalf of any of them, to the incoming auditors not to accept the appointment as auditors, in the case of unjustified removal of the earlier auditors?

- A. Yes, the Chapter XI of Council General Guidelines, 2008 specifies that a member of the Institute in practice shall be deemed to be guilty of professional misconduct, if he does not follow the direction given, by the Council or an appropriate Committee or on behalf of any of them, to the incoming auditors not to accept the appointment as auditors, in the case of unjustified removal of the earlier auditors.

Q. Whether a member of the Institute shall be deemed to be guilty of professional misconduct, if he includes in any statement, return or form to be submitted to the Council or any of its committees, Director (Discipline), Board of Discipline, Disciplinary Committee, Quality Review Board or the Appellate Authority any particulars knowing to be false?

- A. Yes, as per Clause (3) of Part-II of the Second Schedule to the Chartered Accountants Act, 1949 a member of the Institute, whether in practice or not, shall be deemed to be guilty of professional misconduct if he includes in any statement, return or form to be submitted to the above authorities any particulars knowing them to be false.

Q. What is the status of a Chartered Accountant who is a salaried employee of a Chartered Accountant in practice or a firm of such Chartered Accountants?

- A. An associate or a fellow of the Institute who is a salaried employee of a Chartered Accountant in practice or a firm of such Chartered Accountants shall, notwithstanding such employment, be deemed to be in practice for the limited purpose of the training of articled assistants.

He may hold Certificate of Practice but he is not entitled to do attest functions w.e.f. 01-04-2005.

Q. Can a member in practice be Promoter/Promoter Director of the Company?

- A. Yes, there is no bar for a member to be a promoter/signatory to the Memorandum and Articles of Association of any company. There is also no bar for such a promoter/signatory

to be a Director Simplicitor of that company irrespective of whether the objects of the company include areas, which fall within the scope of the profession of chartered accountants. Therefore members are not required to obtain specific permission of the Council in such cases. There is also no bar on holding any number/percentage of shares in the company.

Q. Can a member in practice be a sleeping partner in family business concern?

- A. Yes, a member in practice can be a sleeping partner in a family business concern provided he takes specific permission from the Council in terms of Regulation 190A of Chartered Accountants Regulations, 1988.

Q. Can a member who is in part-time/full-time employment apply for Certificate of Practice and do attest functions?

- A. Yes, he can apply for Certificate of Practice but cannot do attest function. Please refer Regulation 190A of the Chartered Accountants Regulations, 1988.

Q. What should be the size of signboard for the office?

- A. With regard to the size of the signboard for his office that a member can put up, it is a matter in which the members should exercise their own discretion and good taste. The size of the signboard should be reasonable. Use of glow signs or lights on large-sized boards as is used by traders or shopkeepers would not be proper. A member can have a name board at the place of his residence with the designation of a Chartered Accountant, provided it is a name plate or name board of an individual member and not of the firm.

Q. Can a member share profits with the widow of his deceased partner?

- A. Yes, when there are two or more partners and one of them dies, the widow of the deceased partner can continue to receive a share of the profit of the firm. A legal representative, say widow of a deceased partner, would be entitled to share the profits only where the partnership agreement contains a provision that on the death of the partner his widow or legal representative would be entitled to such payment by way of sharing of fees or otherwise for the specified period. ■

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Circulars/Notifications

Given below are the important Circulars and Notifications issued by the CBDT, CBEC, MCA, RBI, SEBI and IRDA during the last month for information and use of members. Readers are requested to use the citation/website or weblink to access the full text of desired circular/notification. You are requested to please submit your feedback and suggestions on the column at eboard@icai.in



(Matter on Direct Taxes has been contributed by the Direct Taxes Committee of the ICAI)

I. NOTIFICATIONS

1. Notified rate of interest on deposits made under special deposit scheme

Central Government has notified rate of interest at 8.7% per annum for non-Government Provident, Superannuation and Gratuity funds under special deposit scheme with effect from 1st April, 2014 and until further orders.

[Notification No. 5(4)-B(PD)/2014, dated 04-03-2014]

2. Agreement for avoidance of double taxation and prevention of fiscal evasion with Latvia

The Central Government has, through this notification, notified that all the provisions of the Agreement between the Government of the Republic of India and the Government of the Republic of Latvia for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income signed on 18-09-2013 shall be given effect to in the Union of India with effect from the 1st April, 2014.

[Notification No.12/2014 dated 05-03-2014]

3. Agreement for avoidance of double taxation and prevention of fiscal evasion with Romania

The Central Government has, through this notification, notified that all the provisions of the Agreement between the Republic of India and Romania for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income signed on 08-03-2013 shall be given effect to in the Union of India with effect from the 16th December, 2013, being the date of entry into force of the said agreement.

[Notification No.13/2014 dated 05-03-2014]

The complete text of the above mentioned

notification can be downloaded from the link below: <http://law.incometaxindia.gov.in/DIT/Notifications.aspx>

II. CIRCULARS

1. Extension of due date for filing of TDS/TCS statements for FYs 2012-13 & 2013-14

The Central Board of Direct Taxes has examined several petitions received from Government deductors regarding delay in filing of TDS/TCS statements due to late furnishing of the Book Identification Number (BIN) by the Principal Accounts Officers (PAO)/District Treasury Office (DTO)/Cheque Drawing and Disbursing Office (CDDO) which resulted in consequential levy of fees under Section 234E of the Income-tax Act, 1961. Even though the mandatory quoting of BIN in the TDS/TCS statements, in the case of Government deductors was applicable from 01-04-2010, the allotment of Accounts Officers Identification Numbers (AIN) to the PAOs/ DTOs/ CDDOs (a pre-requisite for filing Form 24G and generation of BIN) was completed in F.Y. 2012-13 which resulted in delay in filing of TDS/TCS statements by a large number of Government deductors.

The Board has thus decided to extend the due date of filing of the TDS/TCS statement mapped to a valid AIN to 31-03-2014 for a Government deductor, for—

- (i) FY 2012-13 - 2nd to 4th Quarter
- (ii) FY 2013-14 - 1st to 3rd Quarter

It has also been clarified that any fee under Section 234E of the Act already paid by a Government deductor shall not be refunded. Further, it has been clarified that the above extension is one time exception in view of the special circumstances referred to above.

[Circular No. 7/2014 dated 04-03-2014]

The complete text of the above mentioned circular can be downloaded from the link below: <http://law.incometaxindia.gov.in/DIT/Circulars.aspx>

III. INSTRUCTIONS/ORDERS/MISC.

1. Clarification on deduction of tax under Section 195(1) where no application has been made under Section 195(2) to determine sum chargeable to tax

Section 195 provides that any person responsible for paying any sum chargeable under the provisions of this Act, to a non-resident, or a foreign company shall deduct income-tax thereon at the rates in force at the time of credit of such income to the account of the payee or at the time of payment thereof, whichever is earlier. Further, Section 201 provides that any person who fails to do so shall be deemed to be an assessee-in-default liable to pay interest at specified rate. In the light of decisions of the Supreme Court in the case of *GE India Technology (P.) Ltd. vs. CIT* [2010] 7 taxmann.com 18/193 Taxman 234/327 ITR 156 (SC) and *Transmission Corporation of AP Ltd. and another vs. CIT* [1999] 105 Taxman 742/239 ITR 587 (SC) and the decision of the Madras High Court in *CIT vs. Chennai Metropolitan Water tax Cases Appeals Nos.500-501 of 2005*, [2011] 14 Taxmann.com 73/202 Taxman 454/[2012] 348 ITR 530 (Mad.), the field officers had sought clarification as to whether the tax is to be deducted under Section 195(1) on the whole sum being remitted to a non-resident or only the portion representing the sum chargeable to tax, particularly if no application has been made under sub-Section (2) of Section 195 of the Act to determine the sum.

The CBDT examined the matter in detail and directed that where the assessee fails to deduct tax under Section 195 of the Act, the Assessing Officer shall determine the appropriate proportion of the sum chargeable to tax and ascertain the tax liability on which the deductor shall be deemed to be an assessee in default under Section 201 of the Act. It has been further clarified that such appropriate proportion of the sum will depend on the facts and circumstances of each case taking into account nature of remittances, income component therein or any other fact relevant to determine such appropriate proportion.

[Instruction No. 2/2014, dated 26-02-2014]

The complete text of the above Instructions and orders can be downloaded from the link below: <http://www.incometaxindia.gov.in/home.asp>



(Matter on Indirect Taxes has been contributed by the Indirect Taxes Committee of the ICAI)

A. EXCISE

1. Cenvat Credit Rules for Input Service Distributors, Amended

Rule 7 of Cenvat Credit Rules, 2004 which entails distribution of CENVAT credit by Input Service Distributor has been amended *vide Notification No. 05/2014–Central Excise (N.T.) dated 24th February, 2014* as :

- a. For the units that are exclusively engaged in manufacture of exempted goods or providing of exempted services, service tax paid on input services **used by one or more units** will not be allowed to be distributed as Cenvat Credit.
- b. Credit of service tax paid on input services will be distributed only to the **unit by which** the service is wholly used.
- c. *Pro Rata* distribution of service tax credit shall be based on turnover of units using said input service during relevant period to total turnover of all its units **operational** in current year, during said relevant period.
- d. Relevant Period:
 - (i) If the assessee has turnover in the year preceding to the month/quarter during which credit is to be distributed: Relevant period will be the preceding financial year if Input Service Distributors turnover is available for that year
 - (ii) If details of turnover are not available for some or all of the units: Relevant period will be the last quarter, previous to the month/quarter for which credit is distributed, for which turnover details of all units is available will be the relevant period.

This amendment will be effective from 1st April, 2014,

[Notification No. 05/2014 – Central Excise (N.T.) dated 24th February, 2014]

2. Amendments with respect to Importers

- a. Notification No. 08/2014–Central Excise (N.T.), Date: 28th February, 2014 has amended Rule 9 (1) of Central Excise Rules 2002 so as to require **an importer who issues an invoice on which CENVAT Credit can be taken**, to get registered under central excise. This is in addition to the existing list of assessee's who need to get registered under the said rule. *Consequential amendment has been made in Form A–Central Excise Registration Application Form vide Notification No. 10/2014–Central Excise (N.T.), Dated : 28th February, 2014. Importer has now been included in the said form.*
- b. Notification No. 09/2014–Central Excise (N.T.), Dated : 28th February, 2014 has amended Rule 9 (8) of Cenvat Credit Rules, 2004 so as to require a **registered importer** to submit a return in the prescribed form within 15 days from the end of the respective quarter provided that such return is submitted electronically.

A new Quarterly Return Form for first stage/ second stage dealer or the registered importer has been provided *vide Notification No. 11/2014–Central Excise (N.T.), Dated : 28th February, 2014*

All the above amendments will be effective from 1st April, 2014.

[Notification No. 08/2014–Central Excise (N.T.), Dated: 28th February, 2014, Notification No. 09/2014–Central Excise (N.T.), Dated: 28th February, 2014, Notification No. 10/2014–Central Excise (N.T.), Dated: 28th February, 2014, Notification No. 11/2014–Central Excise (N.T.), Dated: 28th February, 2014]

3. Refund of CENVAT Credit to Service Providers Covered Under Partial Reverse Charge

Notification No. 12/2014–Central Excise (N.T.), Dated: 3rd March, 2014 has amended Rule 5B of CENVAT Credit Rules, 2004 to provide procedures, safeguards, conditions and limitations for refund of CENVAT Credit to service providers providing following services covered under partial reverse charge:

- Rent-a-Cab (where service provider has not opted for benefit of abatement)
- Manpower Supply Services
- Security Services
- Works Contract Services

Refund amount = A-B

$$A = \frac{\text{CENVAT credit taken on inputs and input services during the half year}}{\text{turnover of output service under partial reverse charge during the half year}} \times \frac{\text{total turnover of goods and services during the half year}}{\text{turnover of output service under partial reverse charge during the half year}}$$

B = Service tax paid by the service provider for such partial reverse charge services during the half year

The refund of unutilised CENVAT credit shall not exceed the amount of service tax liability paid or payable by the recipient of service with respect to the partial reverse charge services provided during the period of half year for which refund is claimed.

Refund can be claimed on half yearly basis. The due date for filing of refund claim is within one year from the due date of filing of return

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for the half year. If more than one return is required to be filed for the half year, then the time limit of one year shall be calculated from the due date of filing of the return for the later period.

Also the last date of filing of application in Form A, for the period starting from the 1st day of July, 2012 to the 30th day of September, 2012, shall be the 30th day of June, 2014. No refund shall be admissible for the CENVAT credit taken on input or input services received prior to the 1st day of July, 2012.

Form A and further details can be obtained from www.cbec.gov.in.

[Notification No. 12/2014–Central Excise (N.T.),
Dated: 3rd March, 2014]



(Matter on FEMA has been contributed by CA. Manoj Shah and CA. Hinesh Doshi)

1. Foreign Direct Investment (FDI) A. Reporting under FDI Scheme: Amendments in Form FC-GPR

A.P. (DIR Series) Circular No. 102 dated 11th February, 2014

As per the extant regulations, Indian companies are required to report the details of the amount of consideration received for issuing shares and convertible debentures under the FDI scheme to the Regional Office of RBI in whose jurisdiction the Registered Office of the company operates, within 30 days of receipt of the amount of consideration. Further, in terms of Para 9 (1) B of Schedule ibid, the companies are required to report the details of the issue of shares/convertible debentures in form FC-GPR, to the Regional Office concerned, within 30 days of issue of shares/convertible debentures.

In order to further capture the granular details of FDI as regards Brownfield/Greenfield investments and the date of incorporation of Investee Company, Form FC-GPR has been revised. The details of FDI should, henceforth, be reported in the revised Form FC-GPR.

For revised Form FC-GPR, please refer the circular available on RBI website at: <http://rbidocs.rbi.org.in/rdocs/notification/PDFs/102APD110214.pdf>

B. Foreign investment in India by SEBI registered FIL, QFI and long term Investors in Corporate Debt A.P. (DIR Series) Circular No.104 dated 14th February, 2014

The present limit for investment by SEBI registered Foreign Institutional Investors (FIIs), SEBI registered Qualified Foreign Investors (QFIs) and long term investors registered with SEBI in corporate debt stands at USD 51 billion, out of which, a sub-limit of USD 3.5 billion is available for investment by eligible investors (*viz.* FIIs, QFIs and Long terms investors registered with SEBI–Sovereign Wealth Funds (SWFs), Multilateral Agencies, Pension/ Insurance/Endowment Funds, Foreign Central Banks) in Commercial Paper (CP). This sub-limit is being presently utilised only to the extent of around 58% of the limit put in place by SEBI.

On a review, in order to encourage long term investors, RBI has now decided, to reduce, with immediate effect, the existing Commercial Paper sub-limit of USD 3.5 billion by USD 1.5 billion to USD 2 billion. The balance USD 1.5 billion shall, however, continue to be part of the total corporate debt limit of USD 51 billion and will be available to eligible foreign investors for investment in corporate debt.

The operational guidelines in this regard will be issued by SEBI.

All other existing conditions for investment in Corporate debt shall remain unchanged.

C. FDI in Small Scale Industrial Undertakings (SSI)/ Micro & Small Enterprises (MSE) and in Industrial Undertaking manufacturing items reserved for SSI/ MSE

A.P. (DIR Series) Circular No.107 dated 20th February, 2014

With the promulgation of the Micro, Small and Medium Enterprises Development Act, 2006 (MSMED Act), the extant policy for FDI in Small Scale Industrial unit and in a company which has de-registered its small scale industry status and is not engaged or does not propose to engage in manufacture of items reserved for small scale sector, has since been reviewed and RBI has decided that:

- (a) A company which is reckoned as MSEs (earlier SSIs) in terms of MSMED Act and not engaged in any activity/sector mentioned

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in Annex A to schedule 1 of Notification No. FEMA. 20/2000-RB dated 3rd May, 2000 may issue shares or convertible debentures to a person resident outside India, subject to the limits prescribed in Annex B to schedule 1, in accordance with the entry routes specified therein and the provision of FDI Policy, as notified by the Ministry of Commerce & Industry, the GOI, from time to time.

- (b) Any Industrial undertaking, with or without FDI, which is not an MSE, having an industrial license under the provisions of the Industries (Development & Regulation) Act, 1951 for manufacturing items reserved for manufacture in the MSE sector may issue shares in excess of 24% of its paid up capital with prior approval of the Foreign Investment Promotion Board (FIPB) of the GOI.

Further, in terms of the provisions of MSMED Act:

- (i) in the case of the enterprises engaged in the manufacture or production of goods pertaining to any industry specified in the first schedule to the Industries (Development and Regulation) Act, 1951, a micro enterprise means where the investment in plant and machinery does not exceed ₹25 lakh; a small enterprise means where the investment in plant and machinery is more than ₹25 lakh but does not exceed ₹5 crore;
- (ii) in the case of the enterprises engaged in providing or rendering services, a micro enterprise means where the investment in equipment does not exceed ₹10 lakh; a small enterprise means where the investment in equipment is more than ₹10 lakh but does not exceed ₹2 crore.



RBI had amended the Notification No. FEMA 20/2000-RB *vide* Notification No. FEMA 230/2012-RB dated 29th May, 2012 effective from 27th February, 2009 read with Corrigendum dated 10th September, 2013 notified *vide* G.S.R. No. 624(E) dated 12th September, 2013.

2. Clarifications on Import of Gold/Gold Dore by Nominated Banks/Agencies/ Entities

A.P. (DIR Series) Circular No.103 dated 14th February, 2014

GOI and the RBI have been receiving representations related to Advance Authorisation (AA)/Duty Free Import. Accordingly, in consultation with GOI, RBI has issued the following clarifications which shall come into force with immediate effect:

- (a) In case of AA/DFIA issued before 14th August, 2013, the condition of sequencing imports prior to exports shall not be insisted upon even in case of entities/units in the SEZ and EoUs, Premier and Star Trading Houses.
- (b) The imports made as part of the AA/DFIA scheme will be outside the purview of the 20:80 scheme. Such Imports will be accounted for separately and will not entitle the Nominated Agency/Banks/Entities for any further import.
- (c) The Nominated Banks/Agencies/Entities may make available gold to the exporters (other than AA/DFIA holders) operating under the Replenishment Scheme. They can resort to import of gold for the purpose, if considered necessary. However, such import will be accounted for separately and will not entitle them for any further import.
- (d) Import of gold in the third lot onwards will be lesser of the two:
 - (i) 5 times the export for which proof has been submitted; or
 - (ii) Quantity of gold permitted to a Nominated Agency in the first or second lot.

Further with reference to A.P. (DIR Series) Circular No. 82 dated 31st December, 2013 on import of Gold Dore, RBI has clarified that:

- (a) The refiners are allowed to import Gold Dore of 15% of their license for each of the first 2 months.
- (b) In case, the quantity has already been identified by DGFT for first 2 lots, import

of such quantity will be in compliance with the guidelines issued *vide* A.P. (DIR Series) Circular No. 82 dated 31st December, 2013.

- (c) DGFT, through a notification, may include new refiners, and fix license quantity for them.

For revised working example of the operations of 20:80 scheme envisaged in terms of the revised instructions, please refer the circular on RBI website at: <http://rbidocs.rbi.org.in/rdocs/notification/PDFs/APDIR103NT0214.pdf>

3. External Commercial Borrowings (ECB) – Reporting arrangements

A. P. (DIR Series) Circular No. 105 dated 17th February, 2014

In order to capture details of the financial hedges contracted by corporates, of their foreign currency exposure relating to ECB and their foreign currency earnings and expenditure, RBI has modified the format of ECB-2 Return (Part-E). The reporting in the modified ECB-2 Return shall be applicable from the return of the month April, 2014 onwards.

There is, however, no change in the reporting

procedure. The revised format of ECB-2 Return can be accessed on RBI website at: <http://rbidocs.rbi.org.in/rdocs/notification/PDFs/105AP170214E.pdf>

4. Liberalisation in Reporting Requirement for NRIs/ PIOs and Foreign Nationals

A.P (DIR Series) Circular No. 106 dated 18th February, 2014

Under the extant regulations, AD Category - I banks are required to furnish on a quarterly basis a statement on the number of applicants and total amount remitted out of balances in NRO accounts in the prescribed format, to the Chief General Manager-in-Charge, Foreign Exchange Department, Foreign Investments Division (NRFAD), RBI, Central Office, Mumbai-400001 within 10 days of the reporting quarter.

With a view to having access to more real time data, RBI has decided to collect this information on a monthly basis. Accordingly, AD - Category I banks may furnish on a monthly basis, a statement on the number of applicants and total amount remitted, as per the proforma, to the Chief General

Manager-in-Charge, NRFAD, RBI, Central Office, Mumbai-400001 within 7 days of the end of the reporting month. The data may be sent preferably by e-mail on fedconrfad@rbi.org.in as per the *pro forma*.

It may be noted that the proforma has been revised to also include "Transfers from NRO to NRE account".

The proforma is available on RBI website at: <http://rbidocs.rbi.org.in/rdocs/notification/PDFs/CAO18022014F.pdf>

5. Export Data Processing and Monitoring System (EDPMS) for Export of Goods and Services

A.P. (DIR Series) Circular No. 109 dated 28th February, 2014

RBI has *vide* A.P. (DIR Series) Circular No.101 dated 4th February, 2014 informed the AD Banks about new comprehensive IT- based system called Export Data Processing and Monitoring System (EDPMS) which has been developed for better monitoring of export of goods and software and facilitating AD banks to report various returns through a single platform.

The EDPMS has now been operationalised with effect from 28th February, 2014 and the same would be available to AD banks with effect from 1st March, 2014. Accordingly, AD banks are advised to use web link <https://edpms.rbi.org.in/edpms> for accessing the system. The user credentials for accessing the system have already been shared with the AD banks.

Henceforth, the entire shipping documents should be reported in the new system and old shipping documents would continue to be reported in the old system till completion of the cycle. Both, the old and new systems will run parallel to each other for some time before the old system is discontinued. This will be advised to AD banks separately.

6. Money Transfer Service Scheme (MTSS) – 'Direct to Account' facility

A.P. (DIR Series) Circular No. 110 dated 4th March, 2014

To facilitate receipt of foreign inward remittances directly into bank account of the beneficiary, RBI has decided to allow foreign inward remittances received under MTSS to be transferred to the KYC compliant beneficiary bank account through electronic mode, such as NEFT,

IMPS *etc.* The detailed procedure to be followed for this purpose can be referred to in the said circular which is available on RBI website at: <http://rbidocs.rbi.org.in/rdocs/notification/PDFs/AP11040314SF.pdf>



(Matter on Corporate Laws has been contributed by corporatelaws.taxmann.com)

MCA (www.mca.gov.in)

1. Company Law Board (Amendment) Regulations, 2014 – Insertion of

Regulation 51

Company Law Board *vide* its Order No. 10/36/2001, dated 20-02-2014 has made amendment in the Company Law Board Regulations, 1991. In Chapter IV of the Company Law Board Regulations, 1991, after Regulation 50, Regulation 51 providing for restriction on Audio or Video Recording by the parties has been inserted.

2. Registration of Companies/Limited Liability Partnerships (LLPs) With the Word 'National' in Their Names

MCA through Circular No. 2/2014 [F. No. 2/2/2014-CL-V], dated 11-02-2014 has clarified that no company should be allowed to be registered with the word 'National' as part of its title unless it is a government company and the Central/State government(s) has a stake in it. Further MCA urged that this should be stringently enforced by all Registrar of Companies (ROCs) while registering companies.

Similarly, the word 'Bank' may be allowed in the name of an entity only when such entity produces a 'No Objection Certificate' from the RBI in this regard. By the same analogy the word "Stock Exchange" or "Exchange" should be allowed in name of a company only where 'No Objection Certificate' from SEBI in this regard is produced by the Promoters.

3. Enforcement of Section 135 & Schedule VII of Companies Act, 2013

Ministry of Corporate Affairs has notified that provisions of Section 135 and Schedule VII of the Companies Act, 2013 relating to Corporate Social Responsibility shall come into force with effect from 1st April, 2014.

RBI (www.rbi.gov.in)

1. Export of Goods and Services- Export Data and Monitoring System (EDPMS)

RBI *vide* its Circular No. 109, dated 28-02-2014 has advised that Export Data Processing and Monitoring System (EDPMS) which had been developed for better monitoring of export of goods and software and facilitating AD banks to report various returns through a single platform has been operationalised with effect from 28th February, 2014.

EDPMS would be available to AD banks with effect from 1st March, 2014. Accordingly, AD banks are advised to use web link <https://edpms.rbi.org.in/edpms> for accessing the system. The user credentials for accessing the system have already been shared with the AD banks. Henceforth, the entire shipping documents should be reported in the new system and old shipping documents would continue to be reported in the old system till completion of the cycle. Both, the old and new systems will run parallel to each other for some time before the old system is discontinued. This will be advised to AD banks separately.

2. Clarifications on Import of Gold/Gold Dore by Nominated Banks/Agencies/Entities

RBI *vide* Circular No. 103, dated 14-02-2014 has issued clarification with regard to Advance Authorisation (AA)/Duty Free Import Authorisation (DFIA). It has been decided that in case of AA/DFIA issued before 14th August, 2013, the condition of sequencing imports prior to exports shall not be insisted upon even in case of entities/units in the SEZ and EoUs, Premier and Star Trading Houses; the imports made as part of the AA/DFIA scheme will be outside the purview of the 20:80 scheme; the Nominated Banks/Agencies/Entities may make available gold to the exporters (other than AA/DFIA holders) operating under the Replenishment Scheme; import of gold in the third lot onwards will be lesser of the two *viz*:-Five times the export for which proof has been submitted or Quantity of gold permitted to a Nominated Agency in the first or second lot.

Further, with reference to earlier circular on import of Gold Dore, it is clarified that—the refiners are allowed to import Gold Dore of 15% of their licence for each of the first two months; in case,

the quantity has already been identified by DGFT for first two lots, import of such quantity will be in compliance with RBI guidelines and DGFT, through a notification, may include new refiners, and fix licence quantity for them.

3. FDI into a Small Scale Industrial Undertakings (SSIs)/Micro & Small Enterprises (MSEs) and in Industrial Undertaking Manufacturing Items Reserved for SSIs/MSEs

RBI has issued Circular No. 107, dated 20-02-2014 with the promulgation of the Micro, Small and Medium Enterprises Development (MSMED) Act, 2006, the extant policy for foreign direct investment (FDI) in Small Scale Industrial unit and in a company which has de-registered its small scale industry status and is not engaged or does not propose to engage in manufacture of items reserved for small scale sector, has since been reviewed and it has been decided that:

- (i) a company which is reckoned as Micro and Small Enterprises (MSE) and which is not engaged in any activity/sector mentioned in Annex A to schedule 1 to the Notification, ibid may issue shares or convertible debentures to a person resident outside India, subject to the limits prescribed in Annex B to schedule 1 and in accordance with the entry routes specified therein and the provision of Foreign Direct Investment Policy, as notified by the Ministry of Commerce & Industry, Government of India, from time to time.
- (ii) any Industrial undertaking, with or without FDI, which is not an MSE, having an industrial license under the provisions of the Industries (Development & Regulation) Act, 1951 for manufacturing items reserved for manufacture in the MSE sector may issue shares in excess of 24% of its paid up capital with prior approval of the Foreign Investment Promotion Board of the Government of India.

Further, in terms of the provisions of MSMED Act, (i) in the case of the enterprises engaged in the manufacture or production of goods pertaining to any industry specified in the first schedule to the Industries (Development and Regulation) Act, 1951, a micro enterprise means where the investment in plant and machinery does not exceed twenty five lakh rupees; a small enterprise means where the investment in plant and machinery is more than ₹25 lakh but does not

exceed ₹5 crore; (ii) in the case of the enterprises engaged in providing or rendering services, a micro enterprise means where the investment in equipment does not exceed ₹10 lakh; a small enterprise means where the investment in equipment is more than ₹10 lakh but does not exceed ₹2 crore.

4. Recognition of e-aadhaar as an 'Officially Valid Document' Under PML rules

RBI *vide* Circular DBOD.AML.BC. NO. 100/14.01.001/2013-14, dated 04-03-2014 has directed banks that they may accept e-Aadhaar downloaded from UIDAI website as an officially valid document subject to condition that if the prospective customer knows only his/her Aadhaar number or if the prospective customer carries a copy of the e-Aadhaar downloaded elsewhere, the bank may print the prospective customer's e-Aadhaar letter in the bank directly from the UIDAI portal.

Further the physical Aadhaar card/letter issued by UIDAI containing details of name, address and Aadhaar number received through post and e-KYC process would continue to be accepted as an 'Officially Valid Document'. Banks may revise their KYC policy in the light of the above instructions and ensure strict adherence to the same.

5. External Commercial Borrowings (ECB) Reporting Arrangements

RBI has issued Circular No. 105, dated 17-02-2014 as regards reporting arrangement of External Commercial Borrowing (ECB), in order to capture details of the financial hedges contracted by corporate of foreign currency exposure relating to ECBs and their foreign currency earnings & expenditure the format of ECB-2 Return has been modified (Part-E). The reporting in the modified ECB-2 return will be applicable from the return of the month April, 2014 onwards.

There is no change in the reporting procedure and corporates raising External Commercial Borrowings continue to submit ECB-2 Return on a monthly basis duly certified by the designated AD Category-I bank so as to reach Department of Statistics and Information Management (DSIM) of Reserve Bank of India within seven working days from the close of month to which it relates.

IRDA (www.irda.gov.in)

1. Payment of Dues to Policyholders and Disclosure of Unclaimed Amount Thereof

IRDA has issued Circular No. IRDA/F&A/CIR/GLD/056/02/2014, dated 17-02-2014 wherein it has been decided that in order to bring better governance, transparency and smooth transfer of the amount due to policyholders, all insurers are advised to formulate Policyholder Protection Committee & Audit Committee with effect from 1st April, 2014.

Further, all insurers are required to display the information about any unclaimed amount of Policyholders, *i.e.*, death claim, maturity claim, survival benefits *etc.*, remained unclaimed beyond six months from the due date for settlement of the claim amount on their respective website in the prescribed format; Insurers are also required to provide a "Find"/"Search" option for convenience to search the information.

Initially, insurers are advised to upload the information in the prescribed format as at 31st March, 2014 by 30th April, 2014. Subsequently, the said information shall be updated on half yearly basis-as on 30th September and 31st March by 31st October and 30th April respectively. Insurers shall remit proceeds of all claims/maturity payments/any other sum due to the policyholders or nominees or assignees only through Electronic mode for existing as well as in case of new insurance policies.

2. Bank's Capital Instruments Under Basel III- Investments by Insurance Companies

IRDA has issued Circular No. IRDA/F & I/CIR/INV/063/02/2014, dated 13-02-2014 on examination of various instruments prescribed under Basel –III framework and decided to permit new instruments issued by domestic banks for investment by insurers they are Debt Capital Instruments (DCI), Redeemable Non-cumulative Preference Shares (RNCPS), Redeemable Cumulative Preference Shares (RCPS) These instruments may be deemed as a part of approved Investments for the purpose of Sections 27A and 27B of Insurance Act, 1938 subject to the conditions as *viz*; the debt Instrument issued by banks shall be rated not less than 'AA' by an independent, reputed and recognised Rating Agency registered under SEBI; if the Instruments are downgraded below AA, such investments shall be re-classified as 'Other Investments'; preference shares issued by the banks shall satisfy the conditions specified under Sections 27A and 27B of Insurance Act, 1938; in case the interest on the instrument is not serviced on due dates, the investment in such instruments are to be re-classified as ' Other Investments' from such date for reporting to the Authority.

Insurers are also notified to note that all exposures norms as specified in Regulation 9 of IRDA (Investment) Regulations, 2000 shall apply to these Instruments/Preference Shares Issued by Bank, *i.e.*, Group exposure, Single Investee exposure, Industry exposure, etc and category codes for these instrument are specified. ■

Legal Decisions¹



Income-tax Act

LD/62/62

Li and Fung India Pvt. Ltd.

vs.

CIT

16th December, 2013 (DEL)

[Assessment Year 2006-07]

Section 92CA of the Income-tax Act, 1961 - Transfer Pricing - Reference to transfer pricing officer

Where appellant entered into international transactions of buying services for sourcing of garments, handicrafts, leather products, etc. in India for its AE, and was paid service charges of 5% of cost plus mark up incurred for providing these services, Tribunal was not justified in holding that mark up on the FOB value of the goods sourced through the assessee would be the most appropriate method for calculation of arm's length price

The assessee LFIL was a wholly owned subsidiary of Li & Fung (South Asia) Ltd., a company incorporated in Mauritius as a captive offshore sourcing provider. Li & Fung (Trading)(the AE), is a group company incorporated in Hong Kong, which enters into contracts with customers *viz.* retail chains overseas, for rendering sourcing support services for the supply of high volume, time sensitive consumer goods. The appellant entered into an agreement dated 04-12-1997 with the AE, whereby the contract for rendering sourcing services was outsourced or subcontracted to the assessee LFIL, for which it was remunerated at cost plus a mark up of 5% for services rendered to the AE, and ultimately, the AE's customers.

For the international transactions of buying services for sourcing of garments, handicrafts, leather products etc. in India for the affiliate AE, the assessee was paid service charges of 5% of cost plus mark up incurred for providing these services. The assessee had worked out the arm's length of international transaction by applying Transactional Net Margin Method (TNMM) by company operating profit margin of 26 companies and assessee's OP/OC taken at 5.17%. 37. The tax authorities *i.e.* the TPO, and the AO (as well as the DRP) and the Tribunal accepted the application of TNMM by LFIL as "*the most appropriate*" one.

Nevertheless, they did not consider the cost plus compensation at 5% at arm's length. The reasoning for not doing so was that LFIL was performing all critical functions, assuming significant risks and used both tangibles and intangibles developed by it over a period of time. Reliance was placed upon the technical capacity, manpower, low cost of product, quality of product in India available to the assessee and the enhanced profit potential the AE. The tribunal held that the cost plus 5% mark up was definitely not on the arms length while working out the compensation for the services rendered by LFIL to the associated enterprise and mark up on the FOB value of the goods sourced through the assessee shall be the most appropriate method for calculation of arm's length price.

The following questions of law arise from the appeal: *a. Whether the assessment of the Revenue of arm's length price applying the TNMM method was contrary to the transfer pricing provisions under the IT Act and Rules? b. Whether the Transfer Pricing Officer's (TPO's) apportionment by considering the cost plus mark up of 5% on FOB value of goods through third party enterprises, sourced through the appellant was in compliance with the law?*

The Delhi High Court held as follows:

In scrutinising Transfer Pricing documents, the TPO undertakes an exercise known as "FAR" (functions performed, assets owned and risks assumed by the associated enterprises involved). This analysis plays a critical role in determining the arm's length price of an international transaction entered into between AEs. The FAR analysis defines roles, responsibilities and risks assumed by the parties involved providing steadfast pointers into the underlying economic substance of the transactions. The OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations too recognise the importance of FAR in the transfer pricing context, with the arm's length compensation between AEs reflecting the functions that each enterprise performs (taking into account the assets used and the risks assumed by either party). In this case, what prevailed with the TPO and all other authorities was the circumstance that LFI, *i.e.* the assessee, according to them, performed all the critical functions, assumed significant risks and used both tangibles and unique intangibles developed by it over a period of time. These intangibles included supply chain management which was important to achieve the

¹ Readers are invited to send their comments on the selection of cases and their utility at eboard@icai.in. For full judgment, write to eboard@icai.in

strategic and pricing advantage, as well as human intangibles in the form of technical capacity and owned manpower to perform the critical functions. It was further held that the assessee had performed all critical functions, assumed significant risks and also developed significant supply chain intangibles in India and Li & Fung HK, the AE did not have either any technical expertise or manpower to carry out the sourcing activities in Hong Kong.

The TPO's determination enhanced LFIL's cost base for applying the operating profit over total cost margin. LFIL's compensation model was based on functions performed by it and the operating costs incurred by it and not on the cost of goods sourced from *third party vendors* in India. Allotting a margin of the value of goods sourced by third party customers from Indian exporters/vendors to compute the appellant's profit was unjustified. To apply the TNMM, the assessee's net profit margin realised from international transactions had to be calculated only with reference to cost incurred by it, and not by any other entity, either third party vendors or the AE. Textually, and within the bounds of the text must the AO/TPO operate, Rule 10B(1)(e) does not enable consideration or imputation

of cost incurred by third parties or unrelated enterprises to compute the assessee's net profit margin for application of the TNMM. Rule 10B(1)(e) recognises that *"the net profit margin realised by the enterprise from an international transaction entered into with an associated enterprise was computed in relation to costs incurred or sales effected or assets employed or to be employed by the enterprise ..."* It thus contemplates a determination of ALP with reference to the relevant factors (cost, assets, sales etc.) of the enterprise in question, i.e. the assessee, as opposed to the AE or any third party. The textual mandate, thus, was unambiguously clear.

The TPO's reasoning to enhance the assessee's cost base by considering the cost of manufacture and export of finished goods, i.e., ready-made garments by the third party vendors (which cost was certainly not the cost incurred by the assessee), was nowhere supported by the TNMM under Rule 10B(1)(e) of the Rules. Having determined that (TNMM) to be the most appropriate method, the only rules and norms prescribed in that regard could have been applied to determine whether the exercise indicated by the assessee yielded an ALP. The approach of the TPO and the tax authorities in essence imputes notional

adjustment/income in the assessee's hands on the basis of a fixed percentage of the free on board value of export made by unrelated party vendors.

LFIL, in the Transfer Pricing documentation, established the international transactions of rendering buying services to be at the arm's length price having regard to the operating profit margin of comparable companies having similar functional profile. LFIL's computation of the operating profit margin (OP/TC per cent) by enhancing the cost base, i.e., by increasing the cost of the sales facilitated by LFIL leads to an arbitrary adjustment of its income, as such an alteration resides plainly outside the Rules and the provisions of the Act.

Moreover, there was considerable merit in the submission that the (finding of the) lower authorities, including the Tribunal, misdirected themselves in holding that LFIL assumed substantial risk. Whilst this Court would neither state that LFIL performed functions with a limited risk component, as it did not engage itself in manufacturing of garments (which was LFIL's stance), apart from broad assumptions made by the Revenue, no material on record testifies to that fact such that it can be the basis for an ALP adjustment. Indeed, LFIL had neither made investment in the plant, inventory, working capital, etc., nor did it claim to have any expertise in the manufacture of garments. More importantly, and given no material to the contrary, LFIL did not bear the enterprise risk for manufacture and export of garments. LFIL's functional and risk profile thus was entirely different and had nothing to do with the manufacture and export of garments by unrelated third party vendors. Simply put, LFIL renders support services in relation to the exports, which were manufactured independently. Thus, attributing the costs of such third party manufacture, when LFIL did not engage in that activity, and more importantly, when those costs were clearly not LFIL's costs, but those of third parties, was clearly impermissible. A contrary conclusion would amount to treating it (the appellant) as the vendor/ exporters' partner in their manufacturing business – a completely unwarranted inference.

Indeed, having done the work, LFIL had developed experience and expertise which the Tribunal had held to be human capital and supply chain intangibles. But such description did not in any way reveal how the appellant bears any risk – either enterprise or economic. LFIL's remuneration on a cost plus mark-up of 5 per cent represents

the functions performed, assets utilised and risks assumed by it.

Further, the TPO's determination that LFIL bore significant risks was not borne out from the records. In transactions in which LFIL was a party, it did not bear any financial risk. To the contrary, its costs towards establishment, transportation, salaries, etc. were fully reimbursed, and it was insulated from any economic or financial downside to any particular transaction. In other words, its remuneration was based entirely on the costs borne by it. In essence, it was a low risk contract service provider exclusively rendering sourcing support to the AE. It did not bear any significant operational risks for its functions, rendered to the third party vendor/customers. Rather, it was the AE that undertook substantial functions and in fact assumes enterprise risks, such as market risk, credit risk etc. It also bears the letter of credit associated charges and other expenses.

Another important aspect which could not be overlooked was that the the transfer pricing documentation maintained in terms of section 92D of the Act read with rule 10B of the Income-tax Rules, determined the arm's length price of the "*international transaction*" of the provision of buying services applying the TNMM, by comparing operating profit margin of LFIL with that of the comparable companies, being weighted average OP/OC per cent of 26 comparable companies 4.07 % cent and OP/OC % of LFIL 5.17 %. This exercise had not been discarded. In other words, the TPO and the appellate fora were aware that in accordance with the rules, a comparison of the profit margin of LFIL with that of other similarly functioning companies was shown, and is, at the first instance, relevant to determine the ALP. The profit margin, as well as the cost plus model adopted by LFIL, was not shown to be distorted or of such magnitude as to persuade the tax authorities into discarding the exercise altogether. Having not contradicted this comparison, the Revenue proceeded to its own determination and calculations. This, however, was improper, given that the assessment carried out by the assessee must first be rejected, for any further alterations to take place. Indeed, it cannot be that the Revenue admits to the correctness of LFIL's assessment but nonetheless proceeds to adopt a different method.

Indeed, once the TNMM was deemed most appropriate method, the distortions, if any, had to be addressed within its framework. Here, the

unrelated transactions which were compared by LFIL had not been adversely commented upon, and neither had the choice of the TNMM. The TPO, therefore, ignored the relevant and crucial material, and straightaway proceeded to broaden the base for arriving at the profit margin, for attributed income of the assessee. Not only was this a clear infraction of the terms of the Act and Rules; the TPO went ahead to introduce what was clearly alien to the provisions of law and travelled outside the Rules.

The order of the TPO, in the instant case, had not provided any substantive reasons for disregarding the TNM method as applied by LFIL. Further, the TPO's arbitrary exercise of adjusting the cost plus mark up of 5% on the FOB value of exports finds no mention in the IT Act nor the Rules. Such an exercise of discretion by the TPO, disregarding the LFIL's lawful tax planning measures with its group companies, was not in compliance with the IT Act and Rules of Income Tax.

The Court summarises its conclusions as follows:

- (a) The broad basing of the profit determining denominator as the entire FOB value of the contracts entered into by the AE to determine the LFIL's ALP, as an "adjustment", was contrary to provisions of the Act and Rules;
- (b) The impugned order had not shown how, and to what extent, LFIL bears "significant" risks, or that the AE enjoys such locational advantages, as to warrant rejection of the Transfer pricing exercise undertaken by LFIL;
- (c) Tax authorities should base their conclusions on specific facts, and not on vague generalities, such as "significant risk", "functional risk", "enterprise risk" etc. without any material on record to establish such findings. If such findings are warranted, they should be supported by demonstrable reason, based on objective facts and the relative evaluation of their weight and significance.
- (d) Where all elements of a proper TNMM are detailed and disclosed in the assessee's reports, care should be taken by the tax administrators and authorities to analyse them in detail and then proceed to record reasons why some or all of them are unacceptable.
- (e) The impugned order, upholding the determination of 3% margin over the FOB value of the AE's contract, was in error of law.

In light of the above circumstances, the TPO's addition of the cost plus 5% markup on the FOB value of exports among third parties to LFIL's calculation of arm's length price using the TNMM was without foundation and liable to be deleted.

LD/62/63

Kathiroom Service Cooperative Bank Ltd.

vs.

Commissioner of Income Tax (CIB)

August 27, 2013 (SC)

Section 133 of the Income-tax Act, 1961 - Search and seizure - Power to call for information

Where only after obtaining approval of Commissioner, Assessing Authority issued notice under Section 133(6) to assessee-financial institution requiring it to furnish information regarding the account holder with cash transactions or deposits of more than ₹1,00,000, said notice was valid

The appellant-assessee was a Service Co-operative Rural Bank. The Income Tax Officer issued a notice to the assessee under Section 133(6) of the Act calling for general information regarding details of all persons (whether resident or non-resident) who had made (a) cash transactions (remittance, transfer, etc.) of ₹1,00,000 and above in any account and/or (b) time deposits (FDs, RDs, TDs, etc.) of ₹1,00,000 or above for the period of three years between 01-04-2005 and 31-03-2008, dated 02-02-2009. It was expressly stated therein that failure to furnish the aforesaid information would attract penal consequences. The assessee objected to the said notice on grounds, inter alia, that such notice seeking for information which was unrelated to any existing or pending proceeding against the assessee could not be issued under the provisions of the Act and requested for withdrawal of the said notice. The Assessing Authority addressed to the objections raised by the assessee and accordingly rejected them. On writ, the Single Judge dismissed the said petition. On writ appeal, the Division Bench had observed that the questions raised was covered by the decision of the Supreme Court in *Karnataka Bank Ltd. vs. Secretary, Government of India and Ors.*, (2002) 9 SCC 106 and accordingly, dismissed the said appeal.

The Supreme Court held as follows:

In common parlance, "to enquire" would mean to

seek information and "enquiry" would refer to the process of gathering such information.

Since the language of the Section 133(6) was wholly unambiguous and clear, reliance on interpretation of statutes would not be necessary. Before the introduction of amendment to Section 133(6) in 1995, the Act only provided for issuance of notice in case of pending proceedings. As a consequence of the said amendment, the scope of Section 133(6) was expanded to include issuance of notice for the purposes of enquiry. The object of the amendment of section 133(6) by the Finance Act, 1995 as explained by the CBDT in its circular shows that the legislative intention was to give wide powers to the officers, of course with the permission of the CIT or the Director of Investigation to gather general particulars in the nature of survey and store those details in the computer so that the data so collected can be made use of for checking evasion of tax effectively. The assessing authorities are now empowered to issue such notice calling for general information for the purposes of any enquiry in both cases: (a) where a proceeding was pending and (b) where proceeding was not pending against the assessee. However in the latter case, the assessing authority must obtain the prior approval of the Director or Commissioner, as the case maybe before issuance of such notice. The word "enquiry" would thus connote a request for information or questions to gather information either before the initiation of proceedings or during the pendency of proceedings; such information being useful for or relevant to the proceeding under the Act.

The powers under Section 133(6) are in the nature of survey and a general enquiry to identify persons who are likely to have taxable income and whether they are in compliance with the provisions of the Act. It would not fall under the restricted domains of being "area specific" or "case specific". Section 133(6) does not refer to any enquiry about any particular person or assessee, but pertains to information in relation to "such points or matters" which the assessing authority issuing notices requires. This clearly illustrates that the information of general nature can be called for and names and addresses of depositors who hold deposits above a particular sum was certainly permissible.

In the instant case, by the impugned notice the assessing authority sought for information in respect of its customers which had cash transactions or deposits of ₹1,00,000 or above for a period of

three years, without reference to any proceeding or enquiry pending before any authority under the Act. Admittedly, in the present case notice was issued only after obtaining approval of the Commissioner of Income Tax, Cochin. In light of the aforesaid, the Assessing Authority had not erred in issuing the notice to the assessee-financial institution requiring it to furnish information regarding the account holder with cash transactions or deposits of more than ₹1,00,000 .

Therefore, the High Court was justified in its conclusion that for such enquiry under Section 133(6) the notice could be validly issued by the Assessing Authority.

Note: Judgment and Order passed by the High Court of Kerala in Writ Appeal No. 1854 of 2009 dated 24-11-2009, upheld.

LD/62/64
Motorola Solutions India (P) Ltd.
vs.
CIT, Faridabad
October 11, 2013 (P&H)
[Assessment Year 2005-06]

Section 221 of the Income-tax Act, 1961 - Collection and recovery of tax – Penalty payable when tax in default

Where stay on demand was granted on furnishing bank guarantees which clearly envisages automatic renewal provision, proceedings for recovery of stayed tax demand could not be initiated after date of expiry unless bank guarantees are withdrawn

The petitioner Indian company is a subsidiary of Motorola Solutions International Capital LLC, USA and Motorola Solutions Inc. USA. The petitioner's case was taken up for scrutiny. A notice was served upon the petitioner under Section 143(2) and the matter was, thereafter referred to the Transfer Pricing Officer under Section 92CA. The Assessing Officer made certain additions to the income declared by the petitioner and raised a tax demand of ₹8,56,91,161/-, which led to the issuance of a demand notice under Section 156 . The petitioner filed an appeal before the Commissioner (Appeals), Bangalore. A further demand of ₹13.06 crore was raised by a rectification order dated 10-02-2009.

Article 27 of the Indo-US provides for a Mutual Agreement Procedure (MAP). The CBDT has issued

Instruction No. 2, dated 28-04-2003, directing that the tax would remain suspended during pendency of MAP. Vide Instruction No. 10/2007, dated 23-10-2007, the CBDT extended applicability of the MOU to Indian resident entities during the course of pendency of MAP.

Motorola Solutions Incorporated USA, of which the petitioner is a 100% subsidiary, admittedly, invoked MAP. The invocation of MAP was brought to the notice of the Indian competent authority i.e., the Joint Secretary (FT & TR-1), CBDT. The Joint Secretary has admitted the pendency of MAP proceedings. The petitioner filed an application for stay before the Assistant Commissioner of Income Tax, Bangalore. The petitioner was required to deposit ₹4 Crores in two instalments, of ₹2 Crore each and till such time as the MAP application is not decided, to furnish a bank guarantee, before 16-03-2009.

The petitioner paid ₹4 crore in two equal instalments, without prejudice to its rights and furnished a bank guarantee of ₹17.63 crore, in terms of the MOU as well as the stay order. It is, therefore, apparent that at the time of passing of order dated 22-02-2009, the pendency of MAP was accepted by the revenue.

The proceedings were, thereafter, transferred to Gurgaon, where respondent No. 2, despite the stay order accepting the pendency of MAP, issued notice under Section 221(1), calling upon the petitioner to show cause why penalty should not be levied as tax determined has not been paid and it is not clear whether MAP has been admitted. Another letter asked the petitioner to deposit outstanding tax.

The letter did not refer to failure of the petitioner to renew the bank guarantee but is confined to seeking information whether MAP had been admitted by the Indian Competent Authority. It, however, appeared that in proceedings, in the office of respondent no. 2, certain objections were raised with respect to validity of the bank guarantee furnished by the petitioner.

The petitioner's letter reveals that the petitioner asserted that it has already furnished bank guarantee and invoked MAP in accordance with the Indo-US treaty and a bank guarantee of ₹9 crore is already on the file. The letter also records that the petitioner's banker (CITI Bank) has sent confirmation that the second bank guarantee of ₹17.63 crore is valid and continuing. It is further asserted that MAP application has been filed in accordance with the

Indo-US treaty and is pending. The CITI Bank also addressed letter to the Assistant Commissioner confirming the validity of the bank guarantee.

After receipt of the letter, respondent no. 2, issued notice, dated 26-03-2013, under Section 226(3), calling upon the petitioner to forthwith deposit ₹26,26,87,000/- in favour of Deputy Commissioner of Income Tax, Circle-2, Gurgaon, followed by another notice dated 28-03-2013, under Section 226(3), to the Standard Chartered Bank, i.e. the petitioner maintained its account requiring it to remit ₹26,26,87,000/-. The bank issued a Demand Draft of ₹26,26,87,000/- in favour of the revenue.

The question that arises for adjudication from these facts is *whether the revenue is justified in appropriating ₹26,26,87,000/- from the account of the petitioner and as a corollary whether order dated 22.02.2009 stood vacated for non-admission of MAP and or for failure to re-renew the bank guarantee.*

The Punjab and Haryana High Court held as follows:

The controversy with respect to admission or pendency of MAP stands conceded in favour of the petitioner by the affidavit/reply filed by the Joint Secretary (Foreign Tax and Tax Research Division), Department of Revenue, Ministry of Finance, Central Board of Direct Taxes. The affidavit also clarifies the status of MAP, the mode and manner of filing an application, the procedure of the Double Taxation Agreement/Convention and the mode and manner of considering and deciding a MAP application.

The affidavit, contains an unequivocal admission that MAP proceedings were taken to be pending and discussions were held by the Indian Competent Authority with US Competent Authority on 16/18-09-2009 and 05/08-01-2010. It is also averred that collection of demand was required to be suspended on satisfaction of conditions, namely, furnishing of bank guarantee, and confirmation of pendency of MAP from the Foreign Tax and Tax Research Division of the Central Board of Direct Taxes. The Indian competent Authority having admitted pendency of MAP, puts at rest this part of the controversy thereby negating contents of the show cause notice, based upon failure to intimate "admission of MAP". It would be appropriate to once again point out that relating to this very demand of tax, the Assistant Commissioner of Income Tax, Circle 12(1), Bangalore, had already accepted pendency of MAP while granting stay of recovery of demand vide order dated 22-02-2009. It is rather

surprising or let us say distressing that respondent no. 2 drew an artificial distinction between "pendency" and "admitted" and using it as a device, proceeded to appropriate an amount, recovery whereof had already been stayed. The assumption of jurisdiction by respondent no. 2, in violation of the treaty is clearly erroneous and bordering on the *malafide*.

The matter, however, does not rest here as the respondents assert and it is apparent from proceedings in the office of the concerned officer and reply filed by the petitioner to the notices that the department had also asserted, though, not in their letters or notices that as the bank guarantee No. 5679063528, dated 04-03-2009, had expired on 28-02-2012, it confers a right upon the revenue to raise a demand and recover ₹26,26,87,000/- from the petitioner.

The question that remains is whether bank guarantee No.5679063528, dated 04-03-2009, had expired and the affect of letter dated 25-03-2013, issued by the CITI Bank to the respondents, confirming validity of the bank guarantee.

The show cause notice, issued under Section 226(3), does not refer to expiry of the bank guarantee as it is based upon failure to intimate "admission" of MAP. However, in proceedings in the office, the respondents pointedly referred to expiry of the bank guarantee. In response, the petitioner addressed letter dated 26-03-2013 specifically asserting that the bank guarantee is in force and CITI Bank has addressed letter dated 25-03-2013, confirming validity of the bank Guarantee.

The letter bearing the title "Confirmation for Issuance of Bank Guarantee No: 5679063528 dated 04.03.2009" contains an unequivocal statement, by and on behalf of Citi Bank, affirming the validity of bank guarantee. The respondents, however, seek to interpret this letter as a mere confirmation of issuance of bank guarantee and not a renewal of the bank guarantee. The respondents asserts that a perusal of the bank guarantee furnished on behalf of the petitioner reveals that the bank guarantee expired on 28-02-2012 and required the assessee and the bank to furnish a fresh bank guarantee. The absence of fresh bank guarantee or renewal, after 28-02-2012, establishes that the bank guarantee expired on 28-02-2012, thereby conferring a right upon the revenue to demand and recover tax from the petitioner.

The petitioner per-contra submits that a perusal of the bank guarantee reveals that the CITI Bank has undertaken that the bank shall renew the bank guarantee for another three years and in case the tax payer does not renew the agreement between the assessee and the bank, it shall inform the government 60 days prior to the expiry of the bank guarantee. The bank has, admittedly, addressed letter dated 25.03.2013, informing the respondents that bank guarantee remains in force, and is valid.

A perusal of these paragraphs reveals that the bank guarantee was valid between 04-03-2009 and 28-02-2012. The bank, agreed that the bank guarantee would stand renewed for another three years except if "the bank will provide the government with written

notice no later than 60 days prior to the expiration date of this bank guarantee if the taxpayer has not renewed the agreements between the assessee and the bank that underlie this bank guarantee for an additional period of 3 years. If the government does not receive a renewal of this bank guarantee or a substitute bank guarantee for the amounts of tax and interest in dispute prior to 30 days before the expiration date of this bank guarantee, the government may instruct the bank to pay the guaranteed amounts prior to expiration of the bank guarantee....." The bank has not sent any communication to the revenue that the assessee did not execute necessary documents in favour of the bank with respect to the bank guarantee, 60 days prior to expiry of the bank guarantee, thereby clearly proving that the bank guarantee stood renewed for a further period of three years. Clause 4 of the Bank Guarantee enumerates the circumstances in which obligation of the bank shall terminate upon events. The revenue does not allege any of these events. It is, thus, apparent that the bank guarantee would be automatically renewed for a period of three years except if the assessee does not execute documents in favour of the bank that underline the bank guarantee or on the happening of events enumerated in Clause 4 of the Bank Guarantee. The revenue does not allege or assert that it received any communication from the bank at any time before the expiry date of 28-02-2012, informing it that the assessee has not executed documents in favour of the bank and the bank guarantee is to expire on 28-02-2012. The revenue does not allege or assert that even between 28-02-2012 and 25-03-2013 when the revenue issued notice of demand, though, not based upon expiry of the bank guarantee, it received any communication from Citi Bank that the assessee has not executed any document in favour of the bank with respect to the bank guarantee. The revenue does not allege the happening of any event referred to in Clause 4 of the Bank Guarantee. The CITI Bank has instead addressed a letter dated 25-03-2013, to the revenue, before the revenue appropriated the amount from the petitioner's account with Standard Chartered Bank, reiterating the validity of the bank guarantee. A reference to the letter, cannot, as urged by counsel for the respondents, be read as a mere confirmation of issuance of the bank guarantee. A perusal of the letter reveals that the CITI Bank has clearly stated that the bank guarantee No. 5679063528, dated 04-03-2009, for ₹17,63,46,462/- is valid in

their records and has been issued on behalf of the "Motorola India Private Limited." It is not denied by the respondents that letter dated 25.03.2013, was received by the respondents before they appropriated money from the petitioner's account. It is, therefore, rather surprising as to how and why notices were issued, under Section 226(3), treating the petitioner as an assessee in default and, thereafter, directing the Standard Chartered Bank to remit an amount of ₹26,26,87,000/- to the department.

A further perusal of the aforesaid bank guarantee reveals that renewal does not require any formal format, as the clauses reproduced above clearly envisage an automatic renewal for a period of three years except if the assessee does not furnish requisite documents regarding the bank guarantee to the bank and the bank, thereafter intimates the government 60 days before expiry of the bank guarantee that the guarantee shall expire on 28-02-2012 or on the happening of events enumerated in Clause 4 of the bank guarantee. In the absence of any intimation by the bank to the respondents that the assessee has not furnished documents in favour of the bank regarding the bank guarantee. The bank guarantee, therefore, stood automatically renewed for a further period of three years. The plea of not furnishing a bank guarantee in the prescribed format appears to be a mere after thought.



Service Tax

LD/62/65

**Commissioner, Customs & Central
Excise**

vs.

**Hindalco Industries Ltd.
July 23, 2013 (ALL)**

Section 65(25) read with Sections 71A & 73 of the Finance Act, 1994 - Clearing and Forwarding Agents Services

Where assessee received services of clearing and forwarding agents during period 16-7-1997 to 31-8-1999 and did not fulfil service tax liability and show-cause notice for realisation of service tax was issued on 11-10-2002 i.e., after retrospective amendment made by Finance Act, 2000, but before amendment made by Finance Act, 2003 and 2004 and show-cause notice was not revised and same was adjudicated after amendment of provisions of erstwhile Section 73, substantial liability of service tax based on

said show-cause notice would be invalidated as liability to file return was cast on the appellants only under Section 71A and class of persons who come under Section 71A was not brought under net of Section 73

During period 16-07-1997 to 31-08-1999, assessee received services of clearing and forwarding agents. However, the assessee did not fulfill service tax liability. Service tax demand was raised under provisions of Rule 2(1)(d) on assessee along with interest and penalty under sections 76, 77 and 75A.

The Tribunal found that the show-cause notice in this case was issued after the retrospective amendment made by the Finance Act, 2000, but before the amendment made by Finance Act, 2003 and 2004. The retrospective amendment by Finance Act, 2000 had raised a question as to whether the amendment was good enough to issue demands under Section 73 of Finance Act, 1994 on persons, who had not paid tax during the period as per Rule 2 (1) (d). The dispute related to the period when the transport service recipients were not required to file any return under Section 70 nor they

were required to disclose any information because they were not assessee within the meaning of the word under Sections 70 and 71.

The Allahabad High Court held as follows:

The Finance Act 1994 was amended again by Finance Act, 2003 to insert a clause 71A retrospectively from 16-7-1997 and ending with 16-10-1998.

The Tribunal was of the opinion supported by the decisions of Delhi High Court in *L.H. Sugar Factories Ltd vs. CCE*, [2007] 8 STT 295 (New Delhi-CESTAT) which was affirmed by the Apex Court in *CCE vs. L.H. Sugar Factories Ltd.*, [2005] 2 STT 282 in favour of the service recipients. It was held that the demand issued in the year 2002 for the period from 16-11-1997 to 6-2-1998 under Section 73 of the Finance Act was not sustainable.

Apex Court in *CCE vs. Gujarat Carbon & Industries Ltd.*, [2008] 16 STT 108 in which it was held relying upon *L.H. Sugar Factories Ltd. (supra)* that the amended Section 73 takes in only the case of assessee, who are liable to file return under Section 70. The liability to file return is cast

on the appellants only under Section 71A, which was introduced in the Finance Bill, 2003. The class of persons, who come under Section 71A was not brought under the net of Section 73 and, thus, a show-cause notice invoking Section 73 was not maintainable. In *L.H. Sugar Factories Ltd., [2007] 8 STT 295 (New Delhi-cestat)* the conclusions drawn by the Tribunal were upheld. In the said case the Tribunal had held that even the amended Section 73 takes in only the case of assessee who were liable to file return under Section 70. Admittedly, the liability to file return was cast on the appellants only under Section 71A. The class of persons who come under Section 71A was not brought under the net of Section 73. The above being the position show-cause notices issued to the appellants invoking section 73 were not maintainable.

In the present case it was not denied that the respondent was not required to file the return nor any show-cause notice or demand was issued or was outstanding when the amendment in the Act came into force.

In view of the above discussion and the judgment of the Apex Court there was no error in the judgment of the Tribunal. The question on the facts and circumstances of the case decided against the revenue and in favour of the assessee.

LD/62/66
AIMS Industries Ltd.
vs.
Union of India
August 1, 2013 (GUJ)

Rule 6A of Customs Excise and Service Tax Appellate Tribunal (Procedure) Rules, 1982 read with Section 85 of the Finance Act, 1994– Number of Appeals to be Filed

Where petitioner filed common appeal before the Commissioner (Appeals) in respect of two different orders-in-original within limitation period, petitioner should be allowed to file separate appeals

Being aggrieved by and dissatisfied with the Order-in-Original dated 23-11-2012 passed by Additional Commissioner passed in Order-in-Original No.62-63/2012-13, the petitioner had filed common appeal before the Commissioner (Appeals). It is not in dispute that as such the said appeal is within the prescribed period of limitation. However, it appears that the Commissioner (Appeals) was

of the opinion that though the appeal has been preferred against the common order, there were two different Orders-in-Original i.e. Order-in-Original No. 62/2012-13 and Order-in-Original No.63/2012-13. The Commissioner (Appeals) was of the opinion that two separate appeals were required to be filed and, therefore, the Commissioner (Appeals) is considering the appeal already preferred, treating it as challenging the Order-in-Original No.62/2012-13 and has refused to consider the appeal against the Order-in-Original No.63/2012-13. Hence, the petitioner has preferred the present Special Civil Application.

The petitioner has submitted that considering Rule 6A of the Customs Excise and Service Tax Appellate Tribunal (Procedure) Rules, 1982 and relying upon the same, the petitioner was under a bona fide impression that a common appeal would suffice.

Assuming that Rule 6A would not be applicable to the Commissioner (Appeals), considering the aforesaid bona fide mistake, the petitioner is ready and willing to file separate appeal.

The Gujarat High Court held as follows:

Without further entering into the larger question whether Rule 6A would be applicable to the proceedings before the Commissioner (Appeals) or not, in the instant case, if the petitioner prefers separate appeal before the Commissioner (Appeals) within the period of two weeks, the Commissioner (Appeals) shall decide the same.



Companies Act

LD/62/67
R. P. Khosla
vs.

Company Law Board
October 1, 2013 (DEL)

Regulation 32 of the Company Law Board Regulations, 1991 read with Section 10F of the Companies Act, 1956 corresponding to Section 421 of the Companies Act, 2013 and Section 148A of the Code of Civil Procedure, 1908 - Powers and duties of the Bench Officer

Failure by the CLB to provide notice to the petitioners as caveators under Section 148A of the CPC renders those proceedings, and the orders passed therein, a nullity

The petitioners claim to have filed a caveat before the CLB on 10.09.13 in the case of *Vikram Bakshi vs. Connaught Plaza Restaurants* for notice of any hearings scheduled to take place in the matter, and for the provision of all documents tendered by the parties to the CLB. In the caveat application under Section 148A of CPC the caveat petitioners also sought to establish their interest in the matter, as also indicating an intention to request for impalement as an intervenor.

The CLB heard the matter and made orders without the requisite papers being served or made available to the caveators. It is argued that a Judicial Member of the CLB noted in open court that the petition would not be served upon the caveators. This, contend the caveator petitioners, amounted to an impermissible review of the earlier decision of the Bench Officer to register the caveat, which carried with it the requirement that the petition be served upon the caveator. The petitioners argue that this amounted to the orders of the CLB being a nullity and consequently without force of law.

The limited question requiring consideration for the purposes of this Petition is *whether a failure by the CLB to provide notice to the petitioners as caveators under Section 148A of the CPC renders those proceedings, and the orders passed therein, a nullity.*

The Delhi High Court held as follows:

There is no specific provision with regard to applicability of Section 148A of the CPC. Therefore, the petitioners contend that the CLB should be directed to frame regulations in that regard. A look at the The Company Law Board Regulations, 1991 would clarify that they cater to a specific class of proceedings; there is no indication of the applicability of provisions pertaining to caveats. Yet, Regulation 44 entitles the Bench of the CLB, in the given facts of any particular case, to make such orders as it may deem expedient to secure the ends of justice:

The phraseology employed in Section 148A CPC is wide enough to enable the lodging of a caveat, on behalf of a third party litigant, who may not be impleaded in a particular proceeding. However, the lodging of that caveat itself would only entitle the caveator under such circumstances to bring to the notice of the court that such caveat is lodged. As to whether he is entitled to be heard, especially when the parties to the litigation do not admit or recognise his right to be heard, is a matter to be determined by the concerned court. Analogically, therefore, even if it is assumed that the petitioner's caveat was indeed lodged with the CLB, as is contended here, it would not automatically follow that the caveators would have a right to be heard, when they are not shown as parties.

A general proposition of law is that the failure to provide notice under Section 148A does not, *ipso facto*, render the order a nullity. One must also see whether any special prejudice has been caused to the caveator apart from the mere fact of not being served, which is in itself insufficient to vitiate the entire proceedings.

Where the caveators have not disclosed any special damage or prejudice caused to them by the proceedings undertaken by the CLB warrant no interference by this Court under Article 226 of the Constitution of India. In such a case, holding that the entire proceedings before the CLB in which the litigating parties themselves have been represented are a nullity would be inapposite.

Indeed, the writ petitioners in this case also have an alternate remedy available under Section 10F of the Companies Act, 1956 for any grievances that may arise from the orders of the CLB. In such a case, to bypass the relevant statutory framework and engage the High Court's writ jurisdiction would be incorrect.

LD/62/68

Swapna Bhattacharya

vs.

M-Tech Developers Ltd

January 22, 2014 (DEL).

Section 433 of the Companies Act, 1956 – Winding Up – Circumstances in which a Company may be Wound Up

Where petitioner deposited booking amount for purchase of residential flat, but developer had not yet initiated construction of building in question respondent-company should be ordered to pay booking amount along with interest; otherwise winding up petition would stand to be admitted

The respondent company was engaged in the business of developing real estate and housing projects. The respondent company issued receipt in favour of the petitioner confirming the payment of the booking amount. The petitioner further paid a sum of ₹2,25,000/- to the respondent company as the first installment and the respondent company also issued a receipt confirming the receipt of payment as the first installment. The respondent company provisionally allotted a flat vide allotment letter. The respondent company issued another letter demanding the balance payment from the petitioner stating that petitioner could take possession of the flat in question and get the title deed registered. However, on visiting the site, the petitioner found that construction of the relevant tower had not commenced at all and, therefore, there was no possibility of the petitioner being given the possession of a flat in the said Tower. The petitioner issued a statutory legal notice under Section 433 & 434 of the Companies Act, 1956, calling upon the

respondent company to pay the sum of ₹,75,000/- along with interest.

The Delhi High Court held as follows:

Admittedly, the respondent received the payment of the booking amount and the first installment. The respondent was obliged to carry out the construction and demand further payments according to the schedule as agreed. However, admittedly, the respondent did not carry out any construction in respect of the relevant tower and no further demands were made on the petitioner till 09-01-2012. The respondent invited the petitioner to make the balance payment immediately by its letter dated 09-01-2012. It was apparent that the said demand was completely unjustified as the respondent had not even commenced construction of the tower in question. The respondent had also not issued any other communication with regard to altering the previous provisional allotment. In the circumstances, the contention that cause of action arose in 2007 and was barred by limitation was wholly erroneous.

There was no justifiable reason or ground on which the respondent could resist the claim of the petitioner and withheld the payment of ₹3,75,000. The said amount had been paid by the petitioner for purchase of the flat, which the respondent was, admittedly, not in a position to deliver and consequently could not withhold the amount paid by the petitioner. The contention that the allotment was only a provisional one and the respondent could amend the same also cannot be accepted as, admittedly, there was no flat measuring 1,500 Sq. ft. that had been built and was available with the respondent in the residential development. The respondent could not now compel the petitioner to accept a smaller flat in another tower. The contention canvassed on behalf of the respondent was clearly without any merit and was *ex-facie* a sham defence raised only to avoid the obligation to refund the amount collected by the respondent.

The petitioner would also be entitled to a reasonable interest as the sums paid by the petitioner had been utilised by the respondent. The respondent had itself demanded interest at the rate of 20% in the event the first installment of ₹2,25,000 was not paid within a period of 30 days from the date of the demand. Further, interest at the rate of 12% p.a. would be reasonable and the respondent was liable to pay the same. ■

Advertisement

Positioning Indian Accountancy Profession on the Global Pedestal — A Report on Meetings with IFAC and Leading Accounting Institutes



ICAI President CA. K. Raghu and past-President CA. G. Ramaswamy along with IFAC President Mr. Warren Allen, President, IFAC CEO Mr. Fayezul Choudhury and Dy. President Ms. Olivia Kirtley

Taking forward the ICAI Action Plan 2014-15's all important agenda of putting the Indian accountancy profession on the global pedestal, ICAI President CA. K. Raghu brought to fore the Indian accountancy perspective at the recent International Federation of Accountants (IFAC) Board and Council meetings held from 25th-28th February, 2014 at New York. ICAI Past President CA. G. Ramaswamy and Additional Secretary ICAI Mr. Rakesh Sehgal accompanied him. India is one of the founding members of the IFAC, which is the global organisation for the accountancy profession comprising of 179 members and associates in 130 countries and jurisdictions. It represents approximately 2.5 million accountants.

The occasion was used for a one-to-one interaction with senior functionaries of the IFAC and a host of the leading accounting institutes over the developments taking place in India on the regulatory front, the aspirations of stakeholders and the membership community, and how the IFAC & ICAI could lead a co-mentorship role in pushing the public interest agenda.

Far reaching India-oriented discussions were held particularly with Mr. Warren Allen, President, IFAC; Ms. Olivia Kirtley, Dy. President, IFAC, Mr. Fayezul Choudhury, CEO, IFAC; Ms. Alta Prinsloo, Executive Director, Governance & Operations and Mr. Paul Thomson, Deputy Director, SME and SMP Affairs. The ICAI leadership also specifically discussed issues of mutual interest with leaders of American Institute of CPAs, Institute of Chartered Accountants of England & Wales, Institute of Chartered Accountants in Australia, New Zealand Institute of Chartered Accountants, CPA Australia, CPA Ireland, CPA Canada, Japanese Institute of CPAs and Consul General of India in New York.

Discussions were also held on ways to utilise the IFAC expertise in percolating the global development as case studies and learning the outcomes of testing times, so as to have their utility context extrapolated in the Indian context. The visit provided a new insight into global accountancy developments in Indian perspective.



ICAI President CA. K. Raghu with AICPA President & CEO Mr. Barry C. Melancon

Meeting with AICPA- the Largest Accounting Body in the World

Besides the IFAC Board and Council meetings, another highlight of the visit was a successful meeting between the leaders of the largest accounting body in the world – The American Institute of Certified Public Accountants (AICPA) and the second largest accounting body – the ICAI. The AICPA side was represented by Mr. Barry C. Melancon, President and CEO; Ms. Susan Coffey, Senior Vice President; and Mr. Jim Knafo, Director, International Affairs.

The highlight of the meeting was the discussions pertaining to mutual recognition of the Indian Chartered Accountants and American CPAs. During the course of the discussions, the two sides also had a detailed empathisation of the changing landscape of the accounting profession in the backdrop of the ICAI and AICPA meeting, the aims and aspirations of the stakeholders community in terms of interests of students, members and varied set of stakeholders mainly from Government/Regulators community.

These two of the largest institutes concurred on the commonality of interest in 'Financial Sector Reforms', 'Financial Reporting Framework', 'Joint research in areas of Contemporary interest like IFRS implementation, Corporate Governance, XBRL, Company Laws', and 'Conducting Joint Programmes and Student Exchange Programmes'. To take the commonality of interests to the next level, it was agreed to make efforts to work together in relatively tangible areas to begin with, like CPD product resource sharing. The AICPA

has more than 4,00,000 members, making it the largest accounting body in the world.



ICAI President CA. K. Raghu with ICANZ CEO Mr. Craig Norgate and ICAA CEO Mr. Lee White

Meeting with Institute of Chartered Accountants in Australia & New Zealand Institute of Chartered Accountants

The ICAI leadership's meeting with Chief Executive Officer, ICAA Mr. Lee White, emphasised the need of joint advocacy roles on the issues which are driven by commonality of interest *i.e.*, Technical Resource sharing; experience sharing on emerging jurisprudence, taking the lead role in promoting the research on areas of mutual interest and using technology to gain professionally from each other. Mr. Craig Norgate, CEO, New Zealand Institute of Chartered Accountants also took part in the discussions in which the two sides dwelled on the ways for promoting the MoU between the two countries.

Meeting with CPA Australia

Interaction with Mr. Alex Malley, CEO, CPA Australia, focused on the renewal of MoU between the two Institutes. The two sides decided to renew the existing MoU on similar terms after ironing out the areas of concern expressed at either end during the preliminary stages of the discussion.

Meeting with CPA Ireland

Discussions with Mr. Eamonn Siggins, CEO,



ICAI President CA. K. Raghu with CPA Canada CEO & President Mr. Kevin Dancey

CPA Ireland pivoted around the development of e-learning modules and to begin with, those related to CPD. It was also indicated that the CPA Ireland was extending a healthy support to the London Chapter of ICAI. It was agreed that the CPA Ireland will furnish a case study on resurrecting the Irish economy and, in particular, the banking and financial institutions in the aftermath of global financial meltdown.

Meeting with CPA Canada

A meeting was also held with Mr. Kevin Dancey, President and CEO, CPA Canada. He informed that the three institutes in Canada, namely CPA Canada, CGA, Canada and CMA, Canada are in the process of a merger. The meeting revolved around the ways and means to improve the induction of ICAI membership to the Canadian membership and how such things could be facilitated through a 'train the trainers' programme to be imparted to ICAI Board of Studies.

Meeting with Institute of Chartered Accountants of England & Wales

The ICAI leadership also had a meeting with Mr. Michael Izza, CEO, ICAEW. The meeting stressed the need for a congruent working in moving towards the goals as set in the G20 forum and the two sides agreed to collaborate on taking forward, areas relating to technical standards, so as to continue to play the lead in public interaction domain by the accounting profession.

Meeting with Japanese Institute of CPAs

In the meeting, the CEO of the Japanese Institute of CPAs Mr. Toshio Kinoshita

was informed that ICAI had correspondence with JICPA with regard to the possible co-operation under the aegis of Ministry of Commerce & Industry, under Comprehensive Economic Partnership Agreement. They were requested to channelise the current dialogue.

Meeting with Consul General of India in New York

The ICAI functionaries also had a detailed interaction with Shri Dnyaneshwar M. Mulay, Consul General of India in New York. During the meeting, the Consulate General was informed about the activities of the New York Chapter and ICAI's commitment to open newer chapters in US. The Consulate General suggested that to begin with, subject to the completion of ICAI's procedure laid in this regard, the new ICAI chapters could be attempted in California, Chicago and Washington, etc. ■

Promoting ICAI in Global Standard Setting Process— A Report on International Forum of Accounting Standard Setters (IFASS) Meeting in New Delhi, 6th-7th March, 2014



ICAI President CA. K. Raghu and Vice-President CA. Manoj Fadnis along with IFASS Chairperson Ms. Tricia O'Malley, and IFASS official Mr. Harry Klompass

IFASS is an informal group of organisations that are committed to working, in the public interest, for improvement of financial reporting. IFASS supports the mission of the International Accounting Standards Board ('IASB') to develop a single set of high quality, understandable and enforceable global accounting standards that require high quality, transparent and comparable information. It provides a platform at which regulators, policy makers, standard setters from different nations exchange their views and share experience about other issues in financial reporting. Tricia O'Malley is the Chairperson of the Group. She is former Chair of the Canadian Accounting Standards Board and former member of the International Accounting Standards Board (IASB).

The IFASS meeting was attended by representatives of standard-setters from 39 countries and the representatives of the International Accounting Standards Board (IASB), European Financial Reporting Advisory Group (EFRAG), Asian-Oceanian Standards-Setters Group (AOSSG), International Public Sector Accounting Standards Board (IPSASB) and the Pan African Federation of Accountants (PAFA). Apart from these representatives, a number of observers also attended the meeting.

Tricia O'Malley, IFASS Chairman and **CA. K Raghu**, President ICAI, welcomed the participants at the meeting. Peter Martin, Technical Director, Canadian Institute of Chartered Accountants, made a brief presentation about IASB Work plan and IFRS Foundation developments. Various projects in progress by IASB such as Financial Instruments, Revenue, Leases, Conceptual Framework, *etc.*, with regard to major issues, developments and timelines of their completion were discussed. At the meeting, discussion on interpretation and implementation guidance took place particularly with regard to the criteria used by IFRS Interpretation Committee to place issues on its agenda and the feedback it gets from stakeholders in this regard.

Another topic discussed was the role of the business model in financial reporting. A Research Paper is being prepared by EFRAG and the French and UK Standard-Setters, which aims to explore the implications of the business model for financial statements. It was discussed as to whether the current *ad-hoc* use of the business model approach in IFRS should be incorporated in the Conceptual Framework as guidance for standard setting. Various attributes of business model were discussed for this purpose.



ICAI President CA. K. Raghu presents bouquet to ICAC (Instituto de Contabilidad y Auditoria de Cuentas) Chairperson Ms. Ana Martinez-Pina, while ICAI Vice-President CA. Manoj Fadnis, among others, share the moment.

An update on the goodwill impairment and amortisation project was provided by EFRAG, Japan, India and Italy. In the session, accounting requirements for treatment of goodwill were discussed, particularly, pertaining to whether goodwill meets the definition of an asset and, if yes, whether goodwill should be amortised with impairment or only tested for impairment as presently required in IFRS.

Another topic on which discussion took place was on role and purpose of Conceptual Framework, as to whether the Framework should assist others to understand and interpret IFRS and develop accounting policies where no IFRS or interpretation applies. In this context, it was noted that the IASB Discussion Paper states that the primary purpose of the Conceptual Framework is to assist IASB in formulation of IFRS. A view was expressed that it should not only be a tool kit for IASB but should be a conceptual framework for General Purpose Financial Reporting.

In view of the issues involved in the identification of items in Other Comprehensive Income and in Profit or Loss, a paper was presented giving an alternative approach of classifying items as operating and non-operating. In this context, this paper proposed the measurement basis related to these operating and non-operating items.

On the second day of the meeting, the updates on major agenda projects, viz., lease, financial instruments and disclosure initiative were given. In these sessions, the IASB staff explained the recent developments in these projects.

In the session on topical issues, presentations were made by the representatives of various countries. The representative from Germany discussed the issue raised with reference to the changes proposed in the IAS 19, *Employees Benefits* with regard to bonds which will be considered as high quality corporate bonds in the light of the recent European Crisis. The issue discussed was, should the depth of the market of High Quality Corporate Bonds be assessed at a country level or at a currency zone level.

From Italy, various issues involved in the application of IFRS 11, *Joint Arrangements*, such as the possibility of structuring a transaction so as to be classified as joint operation, accounting for interest in joint operations through a separate vehicle in SFS, etc., were discussed.

The representative of the host country, India, made a presentation on the issue of separation of derivatives embedded in a non-financial contract, in view of lack of clarity in the relevant requirements of the IFRS 9, *Financial Instruments*.

In another session, concerns with regard to complexity in the financial statements due to avoidable and unavoidable reasons were discussed. It was further discussed that whether there should be an explicit discussion on the different aspects of complexity in the Conceptual Framework. Since this aspect was already covered under 'understandability' in the Conceptual Framework, the majority view was that the individual IFRS need to address the issue of 'complexity'.

An update of International Public Sector Accounting Standards Board (IPSASB) activities was provided by its representative. Reports from Regional Groups were also made at the meeting.



ICAI President CA. K. Raghu presents bouquet to ICASL (Institute of Chartered Accountants of Sierra Leone) Vice-President Mr. Kebbe Ahmed Kouroma; ICAI Vice-President CA. Manoj Fadnis and Central Council member CA. Babu Abraham Kallivayalil, among others, can also be seen

The AOSSG Chairman, Clement Chan, provided an update on the group's activities. Françoise Flores, Chairperson of EFRAG, provided an overview of EFRAG's update on activities during last 5 months, such as field work in Europe, seeking comments on various IASB consultation papers, issuance of research paper *etc.*, were shared at the meeting. Reports of the Group of Latin American Accounting Standard Setters (GLASS) activities and the activities of Pan African Federation of Accountants (PAFA) were also presented.



ICAI President CA. K Raghu addresses the participants while IASB Chairman Mr. Hans Hoogervorst, AOSSG Chairman (and HKICPA President) Mr. Clement Chan and ICAI Vice-President CA. Manoj Fadnis share the dais

IFRS Regional Policy Forum

The 8th IFRS Regional Policy Forum (Forum) was held in New Delhi on 8th – 9th March, 2014, on the theme “Financial Reporting: New Frontiers”. As many as 120 delegates from 21 jurisdictions, in addition to those from India, participated in the Forum, which included senior representatives from international, regional and national accounting standard-setting bodies, oversight bodies, audit regulators financial and other regulators, government, corporate, practitioners, and academia.

The proceedings of the Forum commenced with the inauguration session wherein CA. K. Raghu, President, ICAI, welcomed the dignitaries and the participants to the Forum and shared with them the road map in relation to implementation of Indian Accounting Standards (Ind ASs) converged with the International Financial Reporting Standards (IFRSs) by India.

Hans Hoogervorst, Chairman, IASB, gave a speech on the topic 'Closing the Accounting Chapter of the Financial Crisis' wherein he explained the IASB's feedback to the financial crisis. He also mentioned that convergence was

an unstable means to achieve a single set of global accounting standards.

Clement Chan, Chairman, Asia-Oceanic Standard Setters Group (AOSSG), highlighted the efforts made by different jurisdictions to enlarge the cooperation in regional standard-setting. The inauguration session concluded with **CA. Manoj Fadnis**, Vice-President, ICAI, thanking for providing the ICAI the opportunity to host the Forum in New Delhi, a first ever in India.

The technical deliberations at the Forum comprised of 4 sessions and 3 panel discussions.

CA. Sanjeev K. Maheshwari, Chairman, ASB-ICAI, chaired the first technical session on Developments in IFRS and Alan Teixeira, Senior Director, Technical Activities, IASB, made a brief presentation on the standard setting process and the different stages of standard developments.

CA. Y. H. Malegam, Past President, ICAI, moderated the panel discussion on *Do IFRS ignore 'Prudence'*? Hans Hoogervorst, Chairman, IASB, shared his views as to why IASB felt the need to remove the concept of prudence from the Conceptual Framework. The panelists shared their views on whether prudence should be reinstated in the Conceptual Framework. At the session, the representatives from India and other countries expressed concerns on the removal of the concept of prudence.

Another session was on '*New approach to Lease Accounting*'. During the session, new approach to the lease accounting proposed in the IASB ED was discussed. The session was moderated by the **CA. S. Santhanakrishnan**, Vice-Chairman, ASB-ICAI, and the panelist was **Ms. Sue Lightfoot**, Director, International Activities, Australian Accounting Standards Board (AASB). At the session, Ms. Sue shared the views of **Kevin Stevenson**, Chairman & CEO, AASB, on the approach discussed in the IASB Exposure Draft on Leases.

Another session was on '*Fair Valuation under IFRS – Concerns and Safeguards*'. During the session, deliberations as to how, among others, fair value measurement approach, including its implementation, is one of the major challenges in emerging economies and how it could be addressed to arrive at the fair value measurements that are reliable. The session was moderated by Tricia O'Malley, Chairperson,

IFASS (International Federation of Accounting Standard Setters), and the panelists were **CA. P. R. Ramesh**, FCA, India; Kumar Dasgupta, Technical Director, IASB; and **Dr. Huaxin Xu**, Project Manager, Ministry of Finance, P.R. China. During the session, conceptual limitations, implementation difficulties, challenges such as interpreting and applying the definition of fair value, volatility in fair valuation and the areas of possible improvements in fair valuation were discussed.

In the session on *Challenges of Evolving Nations in Convergence/Adoption of IFRS*, issues of various jurisdictions were discussed. The session was chaired by Clement Chan, Chairman, AOSSG. Chairman, ASB-ICAI, made a presentation on challenges in adopting IFRS in India. He discussed various concerns of the regulators and the reasons of carve-outs in the IFRSs. He also mentioned that in India, in the IFRSs converged Standards, local guidance has been included in certain cases, where, it is felt necessary. **Djohan Pinnarwan**, Board Member, Indonesia, shared Indonesian experiences. He also highlighted the implementation/interpretation issues such as accounting for land rights in Indonesia and accounting for telecommunication towers. **Sungsoo Kwon**, Vice-Chair, KASB (Korean Accounting Standards Board) made a presentation on Korean experience with IFRS Adoption which highlighted the current status of implementation of IFRS and challenges and responses thereto and effects of IFRS adoption.

'Goodwill: Impairment only or with Amortisation', was another topic for panel discussion. **CA. Amarjit Chopra**, Past President, ICAI, moderated the panel discussion. **Filippo Poli**, Deputy Research Director, EFRAG provided the highlights of the research project on the subject being carried out by EFRAG. **Tomokazu Sekiguchi**, Board Member, ASBJ made a presentation on alternative approaches which were considered for goodwill accounting and reasons for considering the impairment and amortisation approach as the most appropriate. **Deahyun Kim**, Senior Technical Manager, KASB, also favoured this approach and shared the views of Korean stakeholders.

CA. N. P. Sarda, Past President, ICAI, chaired the last session on *Post-issuance Review of New IFRS*, and the speakers were Alan Teixeira, Senior Director, IASB; **P.R. Ravi Mohan**, Chief General

Manager, Department of Banking Supervision, Reserve Bank of India; and Kumar Dasgupta, Technical Director, IASB, led the deliberations. **CA. N. P. Sarda** provided a background and briefed about the proposed IFRS on Expected Credit Losses. At the session, the concerns of banks on the proposed topic were discussed by Ravi Mohan. Kumar Das Gupta explained the various measures taken by the IASB to resolve the concerns of the various stakeholders with regard to the proposed "Expected Credit Loss" model under IFRS 9: *Financial Instruments*. **Alan Teixeira** explained the IASB and FASB new proposal to set up a joint implementation group post-issuance of the new IFRS on *Revenue*, which will primarily identify issues which may require interpretation. He mentioned that at present IASB did not have any proposal to set up a similar group for 'expected credit losses', post-issuance of that IFRS.

The deliberations concluded with Chairman of the ASB of the ICAI and Clement Chan wrapping up the discussions and highlighted the points emerging therefrom.



ICAI President CA. K. Raghu presents bouquet to AOSSG Chairman (HKICPA President) Mr. Clement Chan, while ICAI Vice-President CA. Manoj Fadnis shares the moments

AOSSG Interim Meeting

An interim meeting of the AOSSG members was held on 7th March, 2014 in New Delhi which was attended by the delegates from 13 jurisdictions including India. The main agenda for the meeting was to finalise the future strategy to strengthen AOSSG and its members. Clement Chan, Chairman, AOSSG, discussed various aspects of the strategy paper placed at the meeting. However, in view of the paucity of time, the same was deferred for the next meeting. The meeting concluded with giving thanks to all members of AOSSG for their participation. ■

Accounting for Expenditure on Shared Infrastructure Facilities and Depreciation Thereon

The following is the opinion given by the Expert Advisory Committee of the Institute in response to a query sent by a member. This is being published for the information of readers.

A. Facts of the Case

1. A company was incorporated under the Companies Act, 1956 during the year 1984-85 and is engaged in construction and operation of thermal power plant in the State of Odisha. The company had set up two power plants of 2 x 210 MW (Units I and II, i.e., Stage 1) as its maiden venture in the district of Jharsuguda known as IB Thermal Power Station and the Units were commercially operated during December, 1994 and June, 1996, respectively. The company is setting up two new power plants of 2 x 660 MW (Units III and IV, i.e., Stage 2) at same location of IB Thermal Power Station, Jharsuguda. During the year 1999, as a part of power sector reforms, the Government of Odisha disinvested 49% of the shares in favour of XYZ Corporation, USA the strategic investor. The company prepares its annual financial statements as per the provisions of the Companies Act, 1956 as amended from time to time.
2. The querist has stated that power generated from Units I and II is sold to ABC Ltd., a Government of Odisha Undertaking, at a tariff determined as per bulk Power Purchase Agreement (PPA) executed during the year 1996. For determination of tariff, the capital cost has been taken as ₹1060 crore in place of total expenditure around ₹1135 crore. Depreciation @ 7.5% per annum of the cost of assets of ₹1060 crore upto 90% of total cost of such asset has been recovered in the tariff by March, 2008 as per the PPA. As per the querist, at present, there is no depreciation available for charging in the tariff as 90% of cost of asset has already been recovered. However, the company has reassessed the useful life of assets following Accounting Standard (AS) 6, 'Depreciation Accounting' and Accounting Standard (AS) 10, 'Accounting for Fixed Assets' and the balance cost of assets including additional capital expenditure is depreciated over the extended useful life as determined and charged to the statement of profit and loss while preparing its financial statements.
3. The querist has further stated that for setting of new power plant Units III and IV (Stage 2), total capital cost has been estimated at around ₹11,500 crore which will be met out of 75% long terms loans and 25% as equity from the investors. 50% of the power generated from Units III and IV shall be sold to ABC Ltd., a Government company engaged in trading of power and balance 50% of power shall be sold to different power purchasers on long-term and short-term basis. As per regulatory norm, the tariff will be determined as per notifications issued from time to time and based upon number of parameters. Total capital cost is taken for determination of equity for calculation of return on equity and loan for determination of interest which is to be taken as fixed cost per unit in tariff. The new project will share some of the existing infrastructure facilities originally constructed for Units I and II (Stage 1) which are under direct control of the company as given below:
 - (a) Township roads and buildings
 - (b) Administrative building
 - (c) Plant roads
 - (d) Coal Handling plant (CHP)
 - (e) Merry-Go-Round (MGR)
 - (f) Intake channel

The above infrastructure facilities as stated at (a) to (f) require substantial capital expenditure for renovation, improvement and addition to make them usable in support of construction of the new project Units III and IV (Stage 2). Without above proposed expenditure, the infrastructure facilities may not support the construction of Stage 2. In other words, the company was not required to spend additional

capital expenditure if there were no proposal for construction of Units III and IV (Stage 2).

Requirement under Accounting Standard:

- 4 Accounting Standard (AS) 10, 'Accounting for Fixed Assets,' notified under the Companies (Accounting Standards) Rules, 2006, states as follows:

"12.1 Frequently, it is difficult to determine whether subsequent expenditure related to fixed asset represents improvements that ought to be added to the gross book value or repairs that ought to be charged to the profit and loss statement. Only expenditure that increases the future benefits from the existing asset beyond its previously assessed standard of performance is included in the gross book value, e.g., an increase in capacity.

12.2 The cost of an addition or extension to an existing asset which is of a capital nature and which becomes an integral part of the existing asset is usually added to its gross book value. Any addition or extension, which has a separate identity and is capable of being used after the existing asset is disposed of, is accounted for separately."

The company is of the view that the above proposed expenditure shall increase the future benefits from the existing asset beyond its previously assessed standard of performance. Again such expenditure is not creating any new asset having separate identity but such asset will be used beyond useful life assessed for power plants at Stage 1.

Proposed accounting and accounting treatment

5. The querist has also stated that following the requirement of Accounting Standard as reproduced above, the proposed expenditure shall qualify for capitalisation with original assets, but said capital expenditure shall be incurred and required for construction of Units III and IV (Stage 2). It is essential to book such additional expenses to capital cost of Stage 2 as the same will be taken for determination of tariff for power generated and sold as per power purchase agreement executed/to be executed following regulatory norms. The company has developed accounting codes in respect of different assets separately for booking of such capital expenditure related to Stage 1 and Stage

2 separately, so that actual capital expenditure related to Stage 2 will be determined. The company is of the view that the additional capital expenditure incurred for shared facilities will be booked to respective accounting code of asset under Stage 2 even if it has no separate identity which will be finally consolidated with asset cost of Stage 1 and reported in the financial statements.

6. Following the above proposed accounting, the expenditure incurred for common infrastructure facilities as stated above will be depreciated and segregated for charging to operation Stage 1 (original cost of asset taken for calculation) and Stage 2 (additional cost taken for calculation). Depreciation on additional capital cost for Stage 2 upto the date of commercial operation wherever applicable shall be treated as expenditure during construction for capitalisation and from the date of commercial operation, shall be charged to the statement of profit and loss. The querist has illustrated the treatment with the help of following example:

Example:

Particulars of Assets	Amount in ₹	Remarks
Capital cost of Township Road – Stage 1	100	Already accounted under respective accounting code developed for asset head for Stage 1 and depreciation is charged to the statement of profit and loss.
Additional capital expenditure proposed to be incurred to facilitate construction of Stage 2	150	Proposed to be accounted under respective accounting code developed for asset head for Stage 2 and depreciation upto date of commercial production will be treated as expenditure during construction for capitalisation and after commercial production will be charged to the statement of profit and loss.

Particulars of Assets	Amount in ₹	Remarks
Total Cost	250	Will appear under asset head for reporting under fixed assets in the financial statements. (Notes to balance sheet)

B. Query

7. In view of the above facts and accounting requirements, the querist has sought the opinion of the Expert Advisory Committee as to whether the proposed accounting method of additional expenditure incurred for shared infrastructure facilities and calculation of depreciation separately for charging to operation for Stage 1 and expenditure during construction for capitalisation for Stage 2 as well as inclusion in the capital cost of Stage 2 is in consonance with the generally accepted accounting principles and Accounting Standards followed in India.

C. Points considered by the Committee

8. The Committee notes that the basic issue raised in the query relates to accounting for additional expenditure incurred on renovation, improvement and addition to existing infrastructure facilities as mentioned in paragraph 3 above that will support the construction activity of Stage 2, depreciation thereon and inclusion of the same in the capital cost of Stage 2. The Committee has, therefore, considered only these issues and has not examined any other issue that may arise from the Facts of the Case, such as, depreciation on the assets other than infrastructural facilities capitalised under Stage 1 and reassessment of the useful life of such assets, calculation of return on equity, capitalisation of asset other than infrastructure facilities being constructed under Stage 2, etc. Further, the Committee wishes to point out that the opinion expressed hereinafter is purely from accounting point of view and not from the angle of regulatory norms for determination of tariff as the accounting considerations may be different from the considerations for determination of tariff.
9. As far as accounting for expenditure incurred on renovation, improvement and addition to

existing infrastructure facilities is concerned, the Committee notes that paragraph 23 of Accounting Standard (AS) 10, 'Accounting for Fixed Assets', notified under the Companies (Accounting Standards) Rules, 2006 (hereinafter referred to as the 'Rules') states as below:

"23. Subsequent expenditures related to an item of fixed asset should be added to its book value only if they increase the future benefits from the existing asset beyond its previously assessed standard of performance."

10. The Committee is of the view that expenditure on fixed assets subsequent to their installation may be categorised into (i) repairs, and (ii) improvements or betterments. Repairs, the Committee notes, implies "the restoration of a capital asset to its full productive capacity after damage, accident, or prolonged use, without increase in the previously estimated service life or capacity." It frequently involves replacement of parts. On the other hand, betterment is defined as "...an expenditure having the effect of extending the useful life of an existing fixed asset, increasing its normal rate of output, lowering its operating cost, or otherwise adding to the worth of benefits it can yield. The cost of adopting a fixed asset to a new use is not ordinarily capitalised unless at least one of these tests is met. A betterment is distinguished from an item of repair or maintenance in that the latter has the effect of keeping the asset in its customary state of operating efficiency without the expectation of added future benefits." (These definitions are reproduced from the Dictionary for Accountants by Eric C. Kohler, Sixth Edition.)
11. From the above, the Committee is of the view that, normally, expenditure on repairs, including replacement cost necessary to maintain the previously estimated standard of performance, is expensed in the same period. Similarly, the cost of adopting a fixed asset to a new use or modernisation/rennovation of such asset without actually improving the previously estimated standard of performance is also expensed. Accordingly, in the view of the Committee, only such expenditures that add new fixed asset units, or that have the effect of improving the previously assessed standard of performance, e.g., an

extension in the asset's useful life, an increase in its capacity, or a substantial improvement in the quality of output or a reduction in previously assessed operating costs are capitalised. The Committee is of the view that 'previously assessed standard of performance' is not the actual performance of the asset at the time of repair/improvement *etc.*, but the standard performance of the same asset in its original state.

12. The Committee notes from the Facts of the Case that the capital expenditure is being incurred on existing infrastructure facilities which will support the construction as well as operation of Units III and IV of Stage 2. Further, as per the facts given in paragraph 4 above, the expenditure shall increase the future benefits from the existing asset beyond its previously assessed standard of performance and such asset will be used beyond original useful life assessed for power plants at Stage 1. Accordingly, the Committee is of the view that the additional expenditure incurred on common infrastructure facilities during Stage 2 can be capitalised.
13. With regard to whether additional expenditure can be capitalised under a separate accounting code under the respective asset head for the purpose of charging depreciation thereon separately, the Committee notes paragraph 12.2 of AS 10, notified under the 'Rules', which is reproduced below:

"12.2 The cost of an addition or extension to an existing asset which is of a capital nature and which becomes an integral part of the existing asset is usually added to its gross book value. Any addition or extension, which has a separate identity and is capable of being used after the existing asset is disposed of, is accounted for separately."

The Committee also notes paragraphs 9, 23 and 24 of AS 6 as reproduced below:

"9. Any addition or extension to an existing asset which is of a capital nature and which becomes an integral part of the existing asset is depreciated over the remaining useful life of that asset. As a practical measure, however, depreciation is sometimes provided on such addition

or extension at the rate which is applied to an existing asset. Any addition or extension which retains a separate identity and is capable of being used after the existing asset is disposed of, is depreciated independently on the basis of an estimate of its own useful life."

"23. The useful lives of major depreciable assets or classes of depreciable assets may be reviewed periodically. Where there is a revision of the estimated useful life of an asset, the unamortised depreciable amount should be charged over the revised remaining useful life."

24. Any addition or extension which becomes an integral part of the existing asset should be depreciated over the remaining useful life of that asset. The depreciation on such addition or extension may also be provided at the rate applied to the existing asset. Where an addition or extension retains a separate identity and is capable of being used after the existing asset is disposed of, depreciation should be provided independently on the basis of an estimate of its own useful life."

From the above, the Committee is of the view that it is only an addition or extension which retains a separate identity and is capable of being used after the existing asset is disposed of, is accounted for and depreciated independently on the basis of an estimate of its own useful life. However, in the extant case, the Committee notes from the Facts of the Case (paragraph 4 above) that such expenditure is not creating any new asset which is separately identifiable but such asset will be used beyond useful life assessed for power plants at Stage 1. Accordingly, the Committee is of the view that it should be capitalised with the cost of the existing assets concerned. Further, in case such expenditure results into increase in the *useful life* of the concerned asset, the unamortised depreciable amount of the concerned assets alongwith the expenditure incurred should be charged over the revised remaining useful life subject to the useful life implicit from the rates specified in Schedule XIV to the Companies

Act, 1956. The Committee wishes to point out that such depreciation should be charged with reference to the 'useful life' and not with reference to 'physical life' of the asset. The Committee is also of the view that had such expenditure on infrastructure facility resulted into replacement of existing infrastructure facilities, then such expenditure would have been capitalised while de-recognising the carrying amount of the assets that have been replaced. Further, the costs, thus capitalised would have been depreciated over the useful life of replaced asset subject to useful life implicit from the rate specified in Schedule XIV to the Companies Act, 1956.

14. As regards inclusion of the depreciation charged on the assets used in the construction activity of Stage 2 in the cost of the asset(s) capitalised under Stage 2, the Committee is of the view that to the extent the asset is being used for construction activity, depreciation on the asset is a directly attributable cost of bringing the asset to its working condition for its intended use and accordingly, as per paragraph 9.1 of AS 10, notified under the 'Rules', it should be capitalised with the cost of the asset(s) being constructed following the principles of AS 10. However, the Committee wishes to clarify that the directly attributable cost can be capitalised if the same has been incurred for bringing the asset to its working condition for its intended use. Thus, the depreciation should be capitalised only to the extent to which an asset is actually used for construction activity and any further depreciation incurred after the date of commercial production of the asset(s) being constructed should be charged to the statement of profit and loss.

D. Opinion

15. On the basis of the above, the Committee is of the opinion on the issues raised in paragraph 7 above that the proposed accounting treatment of expenditure incurred on infrastructure facilities and calculation of depreciation separately for charging to operation for Stage 1 and expenditure during construction for capitalisation for Stage 2 as well as inclusion in the capital cost of Stage 2 is not in consonance

with generally accepted accounting principles and Accounting Standards followed in India, as discussed in paragraphs 12, 13 and 14 above. The company can capitalise the additional expenditure on common infrastructure facilities during Stage 2 as it shall increase the future benefits from the existing asset beyond its previously assessed standard of performance. However, since such expenditure is not creating any new asset which is separately identifiable, it should be capitalised with the cost of the existing asset concerned. Further, in case such expenditure results into increase in the useful life of the concerned asset, the unamortised depreciable amount of the concerned asset alongwith the expenditure incurred should be charged over the revised remaining useful life subject to useful life implicit from the rates specified in Schedule XIV to the Companies Act, 1956.

1	The Opinion is only that of the Expert Advisory Committee and does not necessarily represent the Opinion of the Council of the Institute.
2	The Opinion is based on the facts supplied and in the specific circumstances of the querist. The Committee finalised the Opinion on 3 rd September, 2013. The Opinion must, therefore, be read in the light of any amendments and/or other developments subsequent to the issuance of Opinion by the Committee.
3	The Compendium of Opinions containing the Opinions of Expert Advisory Committee has been published in thirty two volumes. A CD of Compendium of Opinions containing thirty two volumes has also been released by the Committee. These are available for sale at the Institute's office at New Delhi and its regional council offices at Mumbai, Chennai, Kolkata and Kanpur.
4	Recent opinions of the Committee are available on the website of the Institute under the head 'Resources'.
5	Opinions can be obtained from EAC as per its Advisory Service Rules which are available on the website of the ICAI, under the head 'Resources'. For further information, write to eac@icai.in

Women Empowerment

Scope and Opportunities for Women CAs in Industry and Practice



The importance given by the Institute of Chartered Accountants of India to this area, with the setting up of the “Women Members Empowerment Committee” for the year 2014-15, assumes significance in the light of this background. Today, we have over 2.25 lakh Chartered Accountants, with women members comprising about 21%. What are the opportunities available to women Chartered Accountants today? How best can they equip themselves for employment in the current economic environment? How can they take advantage of emerging business practices? This article addresses some of these questions and more ‘to trigger thinking’ on the ways and means for women members to leverage on their capabilities and potential. There are two sides to consider. On the one side we have the woman member, who can be proactive and make herself more effective and relevant in the face of emerging business trends. On the other side of the equation, we have the stakeholders in the business communities who need to provide ‘equal opportunity’ to women CAs to survive and succeed at the work place.



CA. Anjana Vivek

(The author is a member of the Institute. She can be reached at anjana@venturebean.com.)

“Equality for women is progress for all,” is the UN Women’s theme for International Women’s Day, 8th March, 2014. As Jacki Zehner, CEO Women Moving Millions, says “this theme invites everyone to embrace that a world that is better for women is better for everyone.”

Women Empowerment

UN Women, the United Nations Entity for Gender Equality and the Empowerment of Women created in July, 2010 by the United Nations General Assembly, has also set out The Women's Empowerment Principles in 2010. The CEO Statement of Support for this has been signed by about 700 CEOs around the world till date, including CEOs of leading Indian companies.

A research report in 2012, by Booz & Company, "Empowering the Third Billion: Women and the World of Work" highlights the fact that women are an emerging workforce of 1 billion. The report further goes on to say that this is equivalent to a population of a Third Billion that should get attention, just like the other two, billion plus populations in China and India. The Harvard Business Review Magazine, April, 2013 article "Vision Statement: Women and the Economics of Equality" sets out that, if women in the United States, Japan, and Egypt were employed at the same rates as men, the GDPs of those countries would be higher by 5%, 9%, and 34%, respectively.

Area of Strategic Focus: Women Empowerment

Women: Self-Empowerment

As most CAs acknowledge, qualifying in the CA exams, is empowering, energising and a solid foundation to build on. Through career ups and downs, through times where personal commitments take priority over professional capability, the woman member should not lose sight of this achievement of becoming a Chartered Accountant.

Research has shown that the career track of women is often different from those of similarly qualified men. Women may start alongside men and then take a break when they have small children to attend to. Some women choose to go back to their careers after a phase in life, for example, once children are older. They have different options that they can choose from - getting into practice, seeking employment or even starting an entrepreneurial

venture. There are quite a few examples of women in their late 40s and 50s going on to become successful after a break in their career paths.

To be employable and/or be hired for projects, the woman CA, just like the men CAs, needs to keep herself updated with relevant knowledge, whether or not she has opted for a career break. Here are some illustrative ways in which women members can remain relevant to the business world:

- **Continuous reading and learning:** Content is available in print and online, as books, magazines, blogs and more. Many courses and webinars are also offered online, some from the best of institutions, at a nominal fee or sometimes even free. This reading habit can be built into a daily routine. For example, an hour a day set aside for reading can make a big difference. Even if one manages to read every alternate day, in a month's time there will be significant knowledge accumulation and over time, one can develop a visible expertise.
- **Teaching and writing assignments:** Opportunities abound, as there are many educational institutions, forums and groups, which will welcome CAs on their roles to teach and take sessions. In teaching, one learns, in writing one masters; thus the member will automatically be compelled to keep herself updated and knowledgeable.
- **Network, the traditional way:** Face-to-face meetings at professional forums, such as ICAI programs, study circle meetings etc. help one to stay connected. If interested, one can also participate in other forums in areas of their interest, such as entrepreneur networks for women members who run their own business and practice, Industry Association meetings and more.
- **Network, leveraging on social media:** There are numerous special interest groups and forums, for example these abound in LinkedIn and Facebook. Participating in carefully selected groups, by answering questions and starting discussions can showcase one's expertise. CA Reema Singh (name changed), regularly posted in the women entrepreneur network on Facebook called HEN (Her Entrepreneurial Network), with over 2,500 members. Reema would answer questions pertaining to tax and regulatory matters. Jenny, another group member, found her answers useful and signed

As most CAs acknowledge, qualifying in the CA exams, is empowering, energising and a solid foundation to build on. Through career ups and downs, through times where personal commitments take priority over professional capability, the woman member should not lose sight of this achievement of becoming a Chartered Accountant.

Women Empowerment

Today, one part-time role for CAs that organisations, especially SMEs, have started accepting, is that of the part-time, out-sourced CFO. Women members, based on their area of interest and expertise, can pick the roles that they are capable of delivering as part time CFO. An organisation benefits, as the payment is made on need basis and it gets a specialist, who can add value. The part timer benefits, as there is a flexibility that is accommodated in the job profile.

up as CA Reema's first client. Five years after this, Reema was successful enough to scale her practice and hire a couple of CAs as employees.

- **Creating a personal business model:** CA Kritika, a teacher at a college, was asked to do a Ph.D. and join full time. Kritika decided against this and instead accepted 2-3 teaching assignments in a couple of colleges and alongside started to take part-time jobs in start-ups, where she took an equity stake, but no cash flow. She started by spending half-a-day a week to help the companies with their finance. In this way, Kritika created an opportunity for her own venture, initially as a proprietor, with the intention that, once she was ready to spend more time at work, she would create her own company with other Directors.
- **Thinking entrepreneurially:** One may even think of starting a venture in a non-finance/business area. Whether retail, wellness, education, NGO or other sector, the woman member has the basic understanding of business which can help her tread an entrepreneurial path. This, however, is not an easy option and needs a fair amount of thought and hard work as well as investment of time and sometimes, money. One way could be that the woman CA can test this out by taking small steps initially and then scale as the venture stabilises and she gains in confidence.
- **Thinking beyond traditional Tax/Audit practices:** Some illustrative options include, *inter-alia*, providing value added consulting services in areas related to traditional practice, working in special sectors and addressing a special set of customers who are under served, such as impact and social sector etc. Thus, one can think of creating work to align with one's interests and capabilities, rather than adjusting

to the work normally seen as available for CAs to practice in. One needs to think innovatively and create opportunities for oneself, instead of waiting for opportunities to come. This will not happen in a hurry. One needs patience, faith and belief, as one needs to develop this over time.

- **Focus on consistent quality of output, instead of quantity of time available:** Good quality of work is an important investment for one's future. There is no short cut to hard work, done systematically and with sincerity. Over a period of time, this is bound to yield results and will help the member to stand out from the clutter.

The areas of concern for women are safety and security. There are some simple ways to deal with this. When asked to meet a potential new client, a woman member can take another friend, who may or may not be a CA to the meeting. The meetings can be scheduled during the day time. Some of these could be non-negotiable, *i.e.*, for example, the work times. Let us look at a couple of examples of how women CAs dealt with these concerns that they had:

- CA Julia, working on project based assignments from her home, was asked to meet a potential client from SatTech Co. Pvt. Ltd. at his office. Julia requested Hema, her engineer friend, to join for the meeting. At SatTech, Hema was introduced as a network partner. Hema also provided some technical inputs to Julia. The project report prepared by Julia had a section which covered the industry with these inputs provided by Hema. The report was highly appreciated for their attention to industry detail. Julia also shared a percentage of the revenue with Hema for her contribution. Thus, Julia innovatively converted what many would see as a disadvantage, into an advantage.
- CA Seema accepted meeting appointments only between 10 am – 4 pm. Clients who signed-up knew this and those who did not like this, did not sign up. Seema thus had to pay a price for not being flexible; she did not get too many assignments. However, she continued with limited assignments for 4 years, building valuable experience and keeping in touch with professional work. Post this, she partnered with 3 others including 2 men. Hence, this issue of work hours became irrelevant after this 4 year period.

Women Empowerment

Organisation and Women in Workplace

Attrition is a key problem for most enterprises in India, whether large or small, whether in the profit or non-profit sector. Employee costs are on the increase and enterprises are competing for talent. In such a scenario, employers may like to think beyond the obvious and leverage on the great talent pool of women that is available.

Some roles in organisations can be converted into output and project based work. Some activities may be unbundled from a full time job, though of course, not all. The trick for the business is to get this mix right, *i.e.*, this mix of jobs to be done in-house and projects that may be done by part-time or flexi-time employees or outsourced to third-parties. As these options are built into business models and payment models get linked to deliverables, more and more avenues will open for flexi-time work, including for women CAs. On their part, women members need to scan the ecosystem and look out for such opportunities. Perhaps, they can even create such opportunities for themselves during meetings and brainstorming sessions with decision makers.

Today, one part-time role for CAs that organisations, especially SMEs, have started accepting, is that of the part-time, out-sourced CFO. Women members, based on their area of interest and expertise, can pick the roles that they are capable of delivering as part time CFO. An organisation benefits, as the payment is made on need basis and it gets a specialist, who can add value. The part timer benefits, as there is a flexibility that is accommodated in the job profile. There is a trade-off on both sides, the organisation does not have someone full time on board; the part time CFO takes a salary cut. But this is one trade off that both sides may welcome if they perceive that the advantages outweigh the disadvantages.

Organisations also need to demonstrate their seriousness in hiring women at the workplace. Further, they need to show sensitivity to other aspects such as safety and security. Such organisations which demonstrate that they care for women employees, will become the preferred employer of choice for many career women. These will attract diversity of talent and in turn will grow.

Zinger Co., some years ago, wanted to hire CAs and MBAs. They were not overkeen on hiring women, as some in the senior management had a perception that this could dilute the quality of

the workforce. On review, it was found that the organisation had six senior team members in charge of hiring, who came from environments where women were not working. Hence, due to their social conditioning, these men could not relate to the fact that women could be competent at the work place. Subsequently, a couple of senior women employees joined and over time, the men realised that the quality of the work was not dependent on the gender of the person. In fact, a couple of customers benefited from the diversity with the viewpoint that these women brought to the table. As a result, the management realised that their perception of women as “not as equal to men” when it came to performance, was incorrect. They realised that women were different and that different meant ‘different’ and ‘not less.’ The company, then, became a believer in equal opportunity employment.

Organisations need to encourage women to participate in activities and speak up. As seen in the case of Zinger Co. social conditioning can sometimes lead to incorrect perceptions and habits. Women are sometimes hesitant to speak up or lean in. A young girl, accustomed to keeping a low profile as a student, may find it difficult to speak up at the workplace. She may have insights to share or concerns to air. By initiatives such as training, mentoring, having awareness programs and setting up of women’s networks, *etc.*, companies can leverage upon and tap the potential of their women employees.

Women members, typically, may have different issues at different stages in their lives. Young women, entering the work place may need to be mentored to speak up and lean in. At the next stage, women with limited time for work may appreciate flexi time opportunities. In the later stages, women

Women members, typically, may have different issues at different stages in their lives. Young women, entering the work place may need to be mentored to speak up and lean in. At the next stage, women with limited time for work may appreciate flexi time opportunities. In the later stages, women would like to see opportunities for leadership, including board positions. With the initiatives taken to empower women members and youth and by becoming more inclusive, ICAI can play a much larger role in contributing towards a vibrant and energised India in the years to come.

Women Empowerment

There is an ongoing search for women Board Directors in India today. Women CAs are trained and competent professionals, with an understanding of business issues and can fill this gap. Are the companies listening? Are they willing to hire women? Are they genuinely interested in hiring women, believing in the value added of diversity? Or, are they looking to hire women on Boards to meet a statutory requirement? Companies need to introspect, because, their belief and philosophy in this matter will be reflected in the talent that they can attract to their boards.

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Women in Boards, Leadership

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Recently, there have been initiatives to mentor senior women to become eligible to be appointed to Boards of Indian companies. This may be a good way to encourage and identify women who may otherwise not be on the radar of companies. However, it is not clear if India Inc. has really taken the trouble of innovatively and actively seeking competent women from a wider network, or whether it has only looked for women from an existing, limited, pool. Are companies looking on women just as a quota to add, or do they see the diversity as an advantage to have, which will give their company an edge?

If mentoring programs are mainly for women to occupy Board positions and there is limited or no mentoring for men, this sends a signal that women are seen as “not equal to men” when it comes to suitability for board positions. Such across-the-board perceptions need more debate and

discussion, on what is competence? Are women really not as competent as men? Or is this tag of incompetence, ‘not as capable’ and quota thrust upon them?

Another concern in this mentoring to fill Board positions is that, many times the approach to work and to issues at work may be different for women as compared to men. Many reports abound, showing that companies with more women Board Members, outperform competition and show increased shareholder value. This very diversity and benefit of having women in Board positions, may be lost if one tries to mentor women to fit into roles traditionally held by men, by trying to make women into carbon copies of men. The diversity is important to acknowledge and leverage on, rather than saying that competent women are not available.

Many times, women are overlooked when it comes to leadership roles, including when it comes to being given speaking opportunities and when it comes to payments. Salary paid to women is often lower than those of men in similar positions. As salary is linked to performance, this signals that the competence of the woman is lower than her male counterpart. This also has a ripple effect, at the next stage, when it comes to promotion, as a woman can get overlooked due to this undervaluing of her capabilities as compared to a male peer. Organisations need to look into and address such inequalities that may exist. In a recent post, Sallie Krawcheck, Past Head of Merrill Lynch and Smith Barney, says “there is an investment that women can make that has by far the greatest risk-adjusted return available. And that is asking for a raise.”

In Summary

Just like all fingers are needed for the hand to function efficiently, organisations can benefit from having a diverse set of persons associated with them in different roles. Each finger, the thumb, index, middle, ring and little finger, has a role to play; together the hand is strong. Similarly, having a diverse set of people at work; youth, experienced professionals, across religions, communities and states, will make for a more inclusive, robust and strong India. With the initiatives taken to empower women members and youth and by becoming more inclusive, ICAI can play a much larger role in contributing towards a vibrant and energised India in the years to come. *Jai Hind.* ■

Growth and Challenges for Women in Accountancy



A call from the Editor's office asking me to write an article on Growth and Challenges for Women in Accountancy set me thinking really hard and also a bit amused. A few years back, I may have even been a bit reluctant to accept this engagement, as I would never have believed that a career in accounting would not be gender agnostic. My engagements with women in accountancy in the last one year have been the proverbial eye opener and has significantly changed my beliefs and attitudes on how Women Accountants handle or in some cases, do not handle their professional careers adequately well. It is believed that education is empowerment, but education does not automatically result in empowerment, as empowerment is a state of mind and a result of many factors including education. Education is knowledge enhancement while empowerment is a conscious and continuous act to use the knowledge gained to elevate oneself. Read on...

Unprecedented Buoyancy for Women in Accountancy

The New Companies Act, 2013 heralds a new era for women leadership in India. The Act mandates Woman Directors on the boards of certain specified classes of essentially large companies and listed entities. This is an emphatic acceptance of the need for a gender diversity perspective in organisations and recognition of the need to create more opportunities for women leaders.

It is largely expected that such boards will favour Chartered Accountants and lawyers. The



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tone at the top is well supported by a growing base of women who now account for over 20% of the total Chartered Accountants in the country and the number is only slated to grow further.

This combined effect of affirmative actions at the tip and a social change that propelled the growth of women professionals at the base of the pyramid, will create an unprecedented buoyancy that a woman accountant should capitalise on.

I am not suggesting that all of us, women Chartered Accountants, would become directors, but it is very reasonable to expect that these situations are likely to lower the impact of the glass ceiling and set more conducive conditions, physical and emotional, for women accountants to emerge as business leaders.

The Power of Self-Belief

The Indian civilisation is one of the few in the world to have consistently appreciated and upheld the importance of women. Indian women had electoral rights far earlier than their western counterparts. While women's admission into Churches in the West happened much later, we, in India, were an integral part of all religious rituals. Interestingly, the most powerful portfolios in the 33 crore Hindu Pantheon of Gods are held by women gods. Defence by *Shakthi*, Finance by *Lakshmi*, Education by *Saraswati* and Agriculture by *Uma* to name a few.

Lord Krishna in Chapter 10 of the *Bhagavad Gita* speaks of His seven feminine perfections being *kirtih* or exalted reputation, *srir* or lustrous beauty, *vak* or articulate speech, *smrtih* or excellent memory, *medha* or discerning intelligence, *dhrtih* or fortitude and *kshama* or forgiveness. The interpretation here is that He (and hence mankind) has borrowed these fundamentally effeminate attributes.

Despite mythological and historic sanctions in favour of women's capabilities, women often express the view that they are not too comfortable with their successes. Traditionally, women have been the 'nourishers' while men have been the

'providers'. This is perhaps why, despite overarching achievements, most women professionals seem to feel a sense of uncertainty and are often confused and even guilty as they attempt to constantly examine and re-examine the impact their successful careers may have on their family and children. Hence, they tend to be in a state of eternal cross roads which has an adverse impact on their professional and personal lives. Women, although inherently capable and demonstrative of multitasking refuse to believe that work-life balance is indeed in an operable realm of guilt free existence.

The need of the hour is for women to develop a much larger degree of confidence and self-belief and to constantly reiterate to themselves that there are only three things that matter – Talent, Empathy and Ambition.

The Need to be Super Parent

Most women accountants are confronted with the problem of having to choose between their profession or their family and decide on one over the other. These choices occur mostly after marriage, childbirth, illness of a close elderly relative or during 'milestone board examinations' of children.

The groups we interacted with in the women's conclaves strongly believed that such career altering decisions were made in two contexts – one which was made by a situation created by the families (such as an illness of a relative) and second, those which were reflective of the woman's own need to see herself excel as a super or hyper parent.

The situations, in case one above, were less complicated to handle from a career perspective. On the contrary, in our endeavour and enthusiasm to 'super' and 'hyper' parent to create the world's best top scoring, superstar children and future adults, women professionals often compromise on their dreams and don't realise their potential until they discover that it's perhaps too late. The worst part is that some of us never discover what we have missed. What is needed to succeed in the professional arena is to set reasonable expectations in our personal lives both for ourselves and for those around us. *Imperfection, is after all not life threatening!* Further, whether all cricket moms indeed succeed in rearing the world's best children is highly debatable.

Women often wrongly believe that only undiluted attention can improve and inspire a child. A mother's demonstration of hard work, multitasking,

Women, although inherently capable and demonstrative of multitasking refuse to believe that work-life balance is indeed in an operable realm of guilt free existence.

Compromise is the ability to give in to situations, adjust and adapt regardless of the professional or personal setbacks while synthesis is the ability to negotiate and convert these situations to mutual benefit.

independence, values and the undiluted zeal to continue to pursue professional pursuits and independent endeavours, can make stronger and more self-reliant children that is a must today.

Synthesis vs. Compromise

Getting back to work after a maternity break is challenging. Five of the respondents of an interview with 10 women stay at home, professional accountants indicated that they did not have the relevant support systems causing them to quit working and stay that way, while three respondents said they were unable to get the 'right break.' Two mentioned that they had lost interest somewhere along the way. A very 'child-and-family-centric' existence combined with an inability to accept a seemingly 'step down' professional option has seen many unsuccessful women leaders.

A contrary case in point is the story of Madhabi Puri Buch, an alumnus of the Indian Institute of Management, Ahmedabad who had to relocate to the United Kingdom on account of her spouse's transfer. In a very interesting article, she spoke of her limited work options despite her sterling pedigree and her decision to join the British Home Store as a sales girl. She spoke in superlative terms of this stint, a training that she declared held her in good stead in her journey of ascent as the Managing Director and CEO of ICICI Securities.

From the options in the selection of an education stream, maternity breaks, returning to work, handling our professional portfolio, continuing in a chosen vocation and wanting to rise to the top, no woman can say that she has not pondered over the opening lines of the play Hamlet, *"To be or not to be."*

In many cases, we often take what we believe is the easy way out which is to end our professional careers. This explains the large 'pipeline leakage' which is often discussed in the context of attrition of women professionals. Such leakages cause the supply

of women for top positions to be sparse and in the absence of 'inspiring role model women leaders' in the professional arena, there isn't enough motivation for the women in the lower rungs to continue their professional careers and often succumb to the smallest of pressures.

This is essentially an act of compromise while what the situation demands is a synthesis. As women, we are inherently prone to compromise and not synthesise. *Compromise is the ability to give in to situations, adjust and adapt regardless of the professional or personal setbacks while synthesis is the ability to negotiate and convert these situations to mutual benefit.* Synthesis is forward-looking, proactive and balances the interests of all parties *inter se*.

Career Strategies

Women, whether in practice or in employment should have a clear career strategy. Such strategies would include:

- **Goal Setting:** A medium-term plan where one sees oneself, both, in terms of career as well as financial goals. In most cases, women don't tend to be as focussed as they should be in terms of an end result that they seek to accomplish in a defined time frame. Periodic performance measurement and honest evaluation will enable women to stay motivated to continue their professional careers.
- **Choice of Industry/Practice Domain/Clients:** It would be important to assess one's inherent strengths in determining the choice of a practice domain or industry or even a specific enterprise to work in. This should necessarily include an objective assessment of travel related flexibilities and working hours.
- **Part-time vs. Full-time working:** This should include a reasonable assessment of 'good year' and possibly 'not so good years' which would be ideally interlinked with significant academic years for the children. It would also be important to factor in the strength of the support systems, such as parents and in-laws, in these decisions. This would necessarily help a woman to pace herself better and opt for 'flexi' models.
- **Perception Management:** While confidence and outspokenness are often considered as leadership skills in a man, these qualities are not always appreciated in women professionals. This sometimes deters women from displaying

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the confidence levels they need to. But it is only a matter of time when the cream does rise to the top. A firm and a completely professional approach to work is highly recommended.

- **Boutique Approach:** This is particularly relevant for women in practice. It is imperative that we identify unique practice strategies to succeed. Women driven organisations would be better off as being theme based (e.g., IFRS, Risk Consulting, Vertical Specialised Work, Indirect and Internal Taxation) rather than attempting a multidisciplinary approach to practice especially when most women accountants prefer to run proprietary organisations or small partnerships. A boutique style of practice enables higher visibility in the market place and provides specialisation linked advantages in the short term and also creates a more conducive framework for smaller women- driven firms to network or merge with other firms in the medium and longer-term.
- **Self Promotion:** A Zenger and Folkman research study conducted in 2011 reported that women rarely speak about their accomplishments which is a very important factor for growth in an organisational hierarchy. Women Accountants need to be less self-effacing and learn to speak about and showcase their accomplishments much better.
- **Networking:** Professional growth, especially in the accounting profession will hinge on the capability to network with professionals within and outside the accounting fraternity. However, our domestic challenges cause us to be work-focussed and very monochromatic. A Forbes blog had a very interesting quip that I reproduce here, "I notice that many more men than women focus on where they want to take their careers, and regularly use some part of their time to develop the relationships that will support their success, and offer themselves for outside-their-day-job opportunities that will show their superiors they have the bandwidth and the capability to do more. Women, on the other hand, tend to put all their energy into simply doing the best possible job in their current position. We seem much more inclined to believe that work is a meritocracy, and that if you simply work hard and get great results, you'll get noticed and promoted. Admirable, but not very accurate."

Most of us think that our attrition from the professional arena, being an isolated phenomenon, would not make a difference to the society. I am reminded of the story where a king wanted all his people to pour milk to fill a tank. Most people poured water thinking that their solitary contribution could not possibly dilute the tank. All there was at the end was water. Every drop counts in a nation building process and so does the contribution of women accountants. The ICAI has set up a Women Members Empowerment Committee, a truly laudable diversity initiative that will most certainly herald the emergence of more leaders from amongst our midst.



The Will to Succeed

In my view, staying in a professional career and contributing, albeit, even as a small measure is a glowing tribute to the Chartered Accountancy course that we successfully passed.

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"I saw my life as an open empty glowing page and I could fill it up with whatever I wanted," said Jack Kerouac. It is up to us, Women Chartered Accountants, to make the choices that, we believe, will make us not merely happy but will also enable us to contribute usefully to the society we inhabit. ■

Interim Budget: Overview of Important Changes in Indirect Taxes



In the Interim Union Budget, though not many changes are proposed, certain very important changes are made specifically to remove the hardships of important sectors. The article analyses the important changes made in the interim budget with respect to Indirect taxes for the benefit of readers. The changes are divided into three categories i.e., Service Tax, Excise and Custom.

Changes in Service tax

- **Extension of benefit of non-taxability of loading and unloading, packing, storage and warehousing of agriculture produce to RICE:**

The Finance Bill 2012 ushered in a new system in the regime of service tax, wherein the services which fall under the Negative List or under Mega and other Exemption are only out of the purview of Service Tax. In the first case, if falling under the Negative List, the same is not taxable at all and in the second case, i.e., Mega and Other Exemption, the same are though taxable but exempted to address specific benefits or needs. These important changes develop a unique situation wherein if a service {falling in



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the definition of Service under Section 65(44B) of Finance Act, 1994} not covered under Negative List or these Exemptions, then will be subject to Service Tax.

Now, while dealing with the benefits related to Agriculture Sector, in clause (d) of Section 66D of Finance Act which deals with the Non-taxability of various activities related to the Agriculture Sector, a specific exemption was there in which loading and unloading, packing, storage and warehousing of agriculture produce was held as non-taxable (see clause d(iv) of Section 66D). Here, it is very important, that product which we are discussing should be an 'agriculture produce'. In case some product is not defined as an 'agriculture produce', then the activity related to them will be held as taxable. Since rice is not treated as an 'agriculture produce', the said exemption or non-taxability was not available to the service provider related to rice.

Now, in this Finance Bill, 2014 (Interim), to remove this hardship, provisions were made and accordingly a Notification No. 4/2014 dated 17th March, 2014 issued. It is important to note here that rice is not included in the definition of 'agriculture produce' but to provide relief related to loading and unloading, packing, storage and warehousing of Rice a specific exemption is introduced under Mega Exemption. After this notification, Mega Exemption got the 40th clause after 39 existing clauses. It is reminded here again that since rice is not included in 'Agriculture Produce', any other benefit related to processing of rice which is generally available in the Negative List for agriculture produce will not be available.

• Addition of benefit of non-taxability to Cord Blood Bank with Health Care Services:

Specified services provided by Cord Blood Banks have been exempted from levy with effect from 17th February 2014.

- Notification no. 04/2014 dated 17th February, 2014 amends the Notification no. 25/2012 dated 20th June, 2012, i.e., mega exemption notification by introducing new entry numbered 2A which reads as follows:
"Services provided by cord blood banks by way of preservation of stem cells or any other service in relation to such preservation"

Earlier in this list, only *Health care services by a clinical establishment, an authorised medical*

practitioner or paramedics wherein health care services" was defined as *"any service by way of diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognised system of medicines in India and includes services by way of transportation of the patient to and from a clinical establishment, but does not include hair transplant or cosmetic or plastic surgery, except when undertaken to restore or to reconstruct anatomy or functions of body affected due to congenital defects, developmental abnormalities, injury or trauma"*.

Analysis of Important Changes in Service Tax Coupled with Interim Budget

(1) Refund to Service Providers Covered Under Partial Reverse Charge

At the time of introduction of Partial Reverse Charge, Government has inserted *Rule 5B of Cenvat Credit Rules, 2004*. This rule is inserted to provide benefit of refund claim of unutilised Cenvat Credit to Service Providers covered under partial reverse charge. However, notification (Notification No. 12/2014-CE(NT) dated 3rd March, 2014) to provide procedure, safeguards, conditions and limitations for refund claim is issued after lapse of around one and half year of introduction of Rule 5B.

Under this Notification, benefit of refund claim is available in respect of following services covered under Partial Reverse Charge (Partial Reverse Charge Services):

- a. Rent-a-Cab (where service provider has not opted benefit of abatement);
- b. Manpower Supply Service;
- c. Security Service; and
- d. Works Contract Service

What will be Refund Amount?

<u>CENVAT Credit taken on inputs and input services during the half year *</u>	Less	Service Tax paid by the service provider for such partial reverse charge services during the half year
<u>Turnover of output service under partial reverse charge during the half year /</u>		
<u>Total Turnover of the goods and services during the half year</u>		

Maximum Amount of Refund Claim will be:

Amount of service tax liability paid or payable by

the recipient of service with respect to the Partial Reverse Charge Services provided during the period of half year for which refund is claimed.

For Example: Details of Security Services provided by Mr. A during half year:-

Service Receiver	Turnover	Service Tax Liability (Service Receiver)	Service Tax Liability (Service Provider)
Body Corporate	₹ 80 lakh	₹ 7,41,600/-	₹ 2,47,200/-
Individual/ Firm	₹ 20 lakh	Nil	₹ 2,47,200/-

CENVAT Credit Availed: ₹ 10 lakh

Refund Amount as per Formula (A) = ₹ 10*80/100 lakh less ₹ 2,47,200 = ₹ 5,52,800/-

Maximum Amount of Refund Claim (B) = ₹ 7,41,600/-

Refund Amount (A or B, whichever is less) = ₹ 5,52,800/-

Due date of filing of Refund Claim:

Within one year from the due date of filing of return for the half year. If more than one return is required to be filed for the half year, then the time limit of one year shall be calculated from the due date of filing of the return for the later period.

Notification also provides that the last date of filing of application in Form A, for the period starting from the 1st day of July, 2012 to the 30th day of September, 2012 shall be the 30th day of June, 2014. The notification also clarifies that no refund shall be admissible for the Cenvat credit taken on input or input services received prior to the 1st day of July, 2012.

(2) Change in the Definition of Governmental Authority

Central Government *vide Notification No. 02/2014-ST dated 30th January, 2014* has substituted the definition of 'governmental authority' to expand the scope of exemption to an authority or a board or any other body established by Government, with 90% or more participation by way of equity or control, to carry out any function entrusted to a municipality under Article 243W of the Constitution.

After this amendment, organisations like HSIDC, RIICO, which are established by the State Government with 90% or more participation by way of equity or control, fall under the definition

of 'governmental authority' and carrying out any function entrusted to a municipality under Article 243W of the Constitution.

To understand the impact of this amendment, we need to refer to the definition of 'governmental authority' under both scenarios.

Old Definition:

"Governmental Authority" means a board, or an authority or any other body established with 90% or more participation by way of equity or control by Government and set up by an Act of the Parliament or a State Legislature to carry out any function entrusted to a municipality under article 243W of the Constitution.

New Definition:

"Governmental Authority" means an authority or a board or any other body;

(i) set up by an Act of Parliament or a State Legislature; or

(ii) established by Government, with 90% or more participation by way of equity or control, to carry out any function entrusted to a municipality under Article 243W of the Constitution.

Change:

Earlier organisations established by Government to carry out any function entrusted to municipality under article 243W of the constitution were covered under the definition of 'governmental authority' only if these organisations were set up by an Act of the Parliament or a State Legislature. Now after this amendment these organisations fall under the definition of 'governmental authority', even if these are not set up by an Act of the Parliament or a State Legislature.

Impact:

With effect from 30th January, 2014, the following exemptions are available to these organisations:-

A) Services provided by governmental authority
Services by way of any activity in relation to any function entrusted to a municipality under article 243 W of the Constitution are exempt. (Refer Sr. No. 39 of Mega Exemption)

B) Services received by governmental authority

- Specified services as listed in Sr. No. 12 of Mega Exemption relating to construction, erection, commissioning, installation, repair etc.

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- b) Services in relation to any function ordinarily entrusted to a municipality in relation to water supply, public health, sanitation conservancy, solid waste management or slum improvement and upgradation; or repair or maintenance of vessel. (Refer Sr. No. 25 of Mega Exemption)
- c) Services received from a service provider located in a non-taxable territory by such authorities in relation to any purpose other than commerce, industry or any other business or profession. (Refer Sr. No. 34 of Mega Exemption)

Changes in Excise Duty

- Capital goods contained in chapter 84 of Central Excise Tariff Act 1985 ('Excise Tariff') would be dutiable at 10% instead of 12% with effect from 17th February, 2014 till 30th June, 2014.
 - Notification no.04/4014 dated 17th February, 2014 amends Notification no. 12/2012 dated 17th March 2012, by introducing new entry numbered 345 which exempts the Excise duty levied in excess of 10 % on items contained in chapter 84 of the Excise Tariff.

Impact

The impact of Notification no. 04/2014 dated 17th February, 2014 is summarised below:

Chapter heading	Item	Old Rate	New Rate
84	All goods except those mentioned in the following rows:	12%	10%
8424 81 00	Agricultural or horticultural appliances	Nil	Nil
8432	Agricultural, horticultural or forestry machinery for soil preparation or cultivation; lawn or sports ground rollers	Nil	Nil
8433	Harvesting or threshing machinery, including straw or fodder balers; grass or hay mowers; machines for cleaning, sorting or grading eggs, fruit or other agricultural produce, other than machinery of heading 8437	Nil	Nil

Chapter heading	Item	Old Rate	New Rate
8436	Other agricultural, horticultural, forestry, poultry keeping or bee keeping machinery, including germination plant fitted with mechanical or thermal equipment; poultry incubators and brooders	Nil	Nil
8437	Machines for cleaning sorting or grading seed, grain or dried leguminous vegetables; machinery used in the milling industry or for the working of cereals or dried leguminous vegetables, other than farm type machinery.	Nil	Nil
8452 10 12	Sewing machine of household type, complete, with stand or table, hand operated	6%	6%
8452 10 22	Sewing machine of household type, without stand or table, hand operated	6%	6%
8452 30	Sewing machine needles	6%	6%
8452 90	Furniture, bases and covers for sewing machines and parts thereof	6%	6%
8469 00 30	Braille typewriters, electric	Nil	Nil
8469 00 40	Braille typewriters, non-electric	Nil	Nil
8479 89 92	Briquetting plant and machinery intended for manufacture of briquettes from agricultural or municipal waste	6%	6%

- Capital goods contained in chapter 85 of Central Excise Tariff Act 1985 ('Excise Tariff') would be dutiable at 10% instead of 12% with effect from 17th February, 2014 till 30th June, 2014.
 - Notification No.04/4014 dated 17th February,

2014 amends Notification no. 12/2012 dated 17th March, 2012 by introducing new entry numbered 346 which exempts the Excise duty levied in excess of 10 % on items contained in chapter 85 of the Excise Tariff.

Impact

The impact of Notification no. 04/2014 dated 17th February, 2014 is summarised below:

Chapter heading	Item	Old Rate	New Rate
85	All goods except those mentioned in the following row:	12%	10%
8548 10	Waste and scrap of primary cells, primary batteries & electric accumulators; spent primary cells, spent primary batteries & spent electric accumulators		

- Motor vehicles of various segments have been made cheaper by way of reduction in Excise duty levied thereon with effect from 17th February, 2014 till 30th June, 2014.
 - Notification No. 04/2014 dated 17th February, 2014 amends Notification No. 12/2012 dated 17th March, 2012 by introducing new entries numbered 347 to 369 which exempts the Excise duty levied in excess of specified per cent on items contained in chapter 87 of the Excise Tariff.

Item	Old Rate	New Rate
Small Cars, Motorcycle, Scooters and Commercial vehicles	12%	8%
Sports Utility Vehicles	30%	24%
Large and Mid-segment Cars	27%/24%	24%/20%

- Appropriate reductions have been made in rates of Excise duty levied on chassis and trailers of motor vehicles till 30th June, 2014.
- Manufacture or production of all mobile phones in India would now be subjected to a levy of 6% of Excise duty with effect from 17th February, 2014.



- However, an option of lower rate 1% of Excise duty is available with a condition that credit of inputs and capital goods is not availed.

Changes in Custom Duty

- Notification no. 05/2014 dated 17th February, 2014 amends the rate of Custom duty levy in specified cases as follows:
 - Domestic production of soaps and oleo chemicals would now be cheaper as the Custom Duty on non-edible grade industrial oils, fatty acids and fatty alcohols has been reduced to 7.5% from 10% / 12.5% / 20%.
 - In order to boost domestic production of specified road construction machinery, CVD benefit on similar imported machinery has been withdrawn.
 - Benefit extended to Bank Note Paper Mill India Private Limited, to encourage domestic production of security paper for printing currency notes, by way of concessional Custom duty 5% on import of capital goods. ■

Consolidation of Financial Statements and Complying with Accounting and Reporting Standards – New Framework



Of all the accounting standards issued by the International Accounting Standards Board (IASB) from time to time, the standards concerning the consolidation of financial statements and reporting have assumed great importance in the past few years, especially those IFRSs that were issued after the 2007/2008 global financial crisis. Typical norms obtaining for the consolidation of financial statements of the investee companies with those of the investor companies have been given entirely new definitions. Existing International Accounting Standards have been replaced and/or redefined by the introduction of new standards. Thus, IFRS 10, IFRS 11, IFRS 12 have been introduced and IAS 27 and IAS 28 have been revised in 2011, containing new principles of financial consolidation and reporting. These guidelines bring with them a number of challenges for the reporting entities. Nevertheless, along with the other IFRSs, these are increasingly being recognised as global financial reporting standards and more and more countries around the globe have either adopted or plan to adopt these, including India, as a step towards achieving global convergence in financial reporting. In this article, the author briefly touches upon the standards that have been issued by the IASB in respect of consolidation and the related accounting requirements. Read on...



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Consolidation of financial statements is becoming necessary in view of the operations of corporations getting geographically extended with local and overseas acquisitions as a strategy for inorganic growth as well as fresh investments in new projects. Operations of the new entity are tracked and consolidated for legal as well as managerial reporting

purposes. There are well-defined regulatory guidance issued by local and international bodies for legal reporting with a view to bring in uniformity and strict compliance to various standards. Standards issued by the IASB (International Accounting Standards Board) for the consolidation of financial statements are increasingly being adopted by accounting bodies worldwide to ensure compliance with globally accepted standards of financial reporting. There are a handful of standards issued by the IASB that have introduced new principles and concepts in respect of consolidated financial statements.

IFRS guidance relating to financial consolidation

In May 2011, the IASB published a *package of five* new and amended guidance that set out new requirements for consolidation, accounting for joint arrangements and disclosure of interests in other entities:

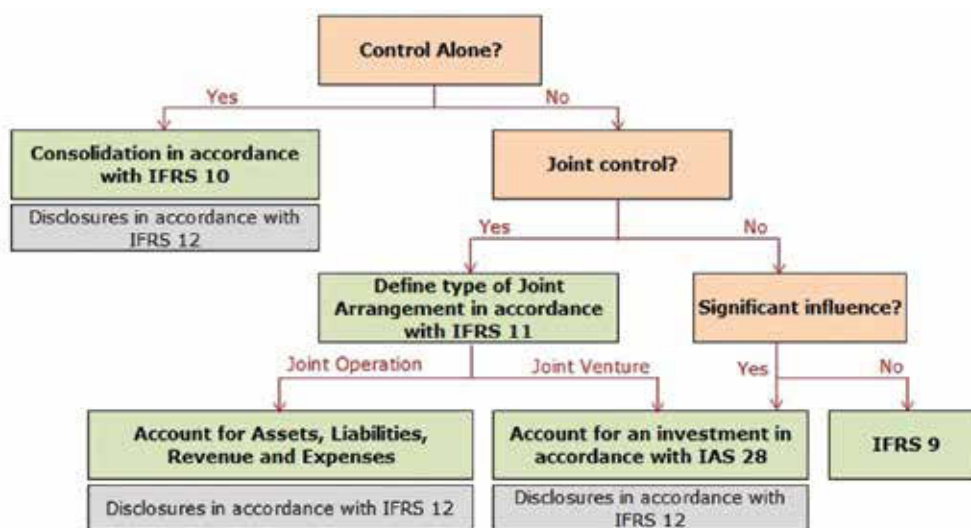
- IFRS 10 *Consolidated Financial Statements* (replacing IAS 27 *Consolidated and Separate Financial Statements* and SIC 12 *Consolidation – Special Purpose Entities*)
- IFRS 11 *Joint Arrangements*
- IFRS 12 *Disclosure of Interests in Other Entities*.
- IAS 27(2011) *Separate Financial Statements* (Revised and renamed following the issuance of IFRS 10, retaining the existing guidance on Separate Financial Statements)
- IAS 28(2011) *Investments in Associates and Joint Ventures* (Revised following the issuance of IFRS 10 and IFRS 11)

The consolidation requirements previously included in IAS 27(2008) *Consolidated and Separate Financial Statements* and SIC-12 *Consolidation – Special Purpose Entities* have been replaced and are set out in a single standard, IFRS 10. The revised IAS 27(2011) now only includes guidance for separate financial statements.

These are effective for annual periods beginning on or after 1st January, 2013, and are required to be adopted as a *package of five*, with earlier application permitted if all the standards in the package are so applied (except for IFRS 12 that can be applied earlier on its own). If it is applied for a period beginning before 1st January, 2013, disclosure is required of that early adoption and the extensive consequential amendments to other IFRSs also need to be applied.

Further, on 31st October, 2012, the IASB also published *Investment Entities (Amendments to IFRS 10, IFRS 12 and IAS 27)* as consolidation exception specific to investment entities as an industry-specific solution. These amendments will be effective for annual periods beginning on or after 1st January, 2014. Accordingly, the *qualifying investment entities* as defined in the Amendment to IFRS 10, upon meeting some tests, need to recognise and account for their investments in controlled entities as well as investments in associates and joint ventures in a single line item in the statement of financial position (balance sheet) measured at *fair value through profit or loss (FVTPL)*.

These five standards should be considered from a holistic point of view as they strongly interact. The IASB has published the following scheme to explain how IFRS 10, 11, 12 and IAS 28 interact:



Source: IFRS Foundation website

IFRS 10 clarifies that the power exists if the investor company has the ability to direct these relevant activities of the investee company even if these relevant activities are performed only when particular circumstances arise or specific events occur.

The revised standards use the principle of *economic entity*, which treats all providers of equity capital as shareholders even if they are not actually shareholders in the parent company.

Key changes introduced in IFRS 10 and their challenging posers

The new IFRS 10 *Consolidated Financial Statements* has introduced two significant aspects that determine when/whether an investee should be consolidated. Accordingly, the new principles are:

1. **Single control model** for all entities: An investor controls an investee when 'the investor is exposed, or has rights, to variable returns from its involvement with the investee and has the ability to affect those returns through its power over the investee.' This summarises that the investor should possess *all the* following three elements to conclude that it controls an investee:
 - *Power over the investee* (whether or not that power is used in reality).
 - *Exposure*, or rights, to *variable returns* from its involvement with the investee.
 - The *ability* to use its power to affect the amount of the investor's returns.

An investor must possess all the three elements to conclude that it controls an investee. On the basis of the existing facts and circumstances, if there are changes to at least one of the three elements, the level of control should be reassessed to determine if the investee should be consolidated or not.

2. The concept of **relevant activities**: These are defined as '*activities of the investee that significantly affect the investee's returns.*' IFRS 10 has introduced a new requirement to analyse the activities of an investee company in order to determine which of these activities most significantly affect its bottom line and ascertain to what extent the investor company has control over these activities. This necessitates the investor company to:
 - Consider the purpose and design of the investee's business activities.
 - Identify and assess the relevant activities that significantly affect the investee's returns.
 - Determine the rights that give the decision making power in respect of the relevant activities, how decisions about these activities are made and who has these rights.
 - Ascertain if the investor company influences these decisions with its power to direct these activities.

IFRS 10 clarifies that the power exists if the investor company has the ability to direct these relevant activities of the investee company even if these relevant activities are performed only when particular circumstances arise or specific events occur.

Three criteria for assessment of control

The evidence of power over the investee: IFRS 10 contains an explicit requirement for investor/investee relationships to be assessed on a continuous basis to determine if the investee company needs to be consolidated. These requirements have necessitated careful analysis on the part of the investor company and it is required to analyse all the facts and circumstances and apply their judgment in making the control assessment to take into account the evidence of power. Although in some cases, it will be straightforward to identify and attribute, in others the approach will be more complex because the scope of certain assessment and analysis may be highly judgmental, especially where an investor company potentially controls an investee company that is not wholly owned or with less than the majority holding of voting shares.

The issue of de facto control: IFRS 10 explicitly includes the concept of *de facto* control, where an investor with less than a majority of voting rights has power over an investee which could result in different consolidation conclusions for groups that have substantial, but not majority, shareholdings in other entities. The investors' size of the holding of voting rights relative to the size and dispersion of holdings of other vote holders is one determining factor for the evidence of power in favour of the investor company, especially where it holds 49% of the voting shares and the remaining voting shares are all held by highly dispersed individuals, with no

IFRS 11 distinguishes two types of Joint Arrangements by the rights and obligations of the parties to the arrangement, which have joint control. In the case of Joint Operation, the joint operators have rights to the assets and obligations for the liabilities of the arrangement and the individual share of assets, liabilities, revenue and expenses must be recognized by each of the joint operator in accordance with the applicable IFRSs.

one holding more than 1% of the voting rights and may conclude that it has power over the investee. Even if an investor holds much less than 49% of the voting shares, it may still reasonably conclude that it has power over the investee if the other shareholders are generally passive in nature at previous shareholder's meetings. The investor company should also consider the existence of rights other than voting rights that control the investee where the investor company holds less than the absolute majority of voting shares.

Exposure or existence of rights to variable returns: The second criterion in the assessment is the variable returns that an investor company gets from its involvement with an investee company and would generally include the dividends, interest, the direct returns on its investment, changes in the value of its investment, management or service fee arrangement, the operational benefits derived from the investee company in the form of reduction in cost, market reach, as well as strategic and logistical advantages. The investor company needs to identify such exposure and rights and acknowledge them as emanating directly from its involvement with the investee company.

The linkage of 'Power' with 'Variable Returns': The third criterion deals with the 'ability' of the investor company to use the 'power' over the investee company that affects the amount or quantum of 'returns' for the investor company. This linkage is the conclusive proof of the power that the investor company has over the investee company that affects the returns for the investor's own benefit.

Changing control level and determination of entity hierarchy

Thus, the consolidation scenario is now dynamic and could be constantly changing due to the fact that the *relevant activities* may be changing and

on the basis of continuous assessment, an investee, during a single year, may or may not be required to be consolidated (but instead, reckoned under *Equity Method* of accounting). This is especially so when more than one investor have the rights to direct different relevant activities. There may be questions as to why an investor does not control the investee even though it holds more than half of the voting rights of the investee or why an investor controls an investee even though it holds less than half of the voting rights of the investee. This may be in addition to the changing equity holding by the investor company during any year.

When it comes to the actual consolidation exercise, the *entity hierarchy* position (entity hierarchy is one where the entities will change according to evolving business needs as opposed to the fixed hierarchy that does not change and is used in management reporting) relevant at the point of time as exists at the end of the reporting period, may be different from what it was at the beginning of the period as a result of the determination of whether an investee company is still under the control of the investor company. The investor company's CFO and his team need to work with the entire management team in the analysis of the relevant transactions, business and operations of the investee company and therefore, require substantial management involvement and co-ordination in this exercise.

IFRS 11 Joint Arrangements

IFRS 11 *Joint Arrangements* deals with jointly controlled entities that were previously included in IAS 31 *Interests in Joint Ventures*. The new standard as per IFRS 11 is that there are only two forms of joint arrangements – 'Joint Operations' and 'Joint Ventures'. As a consequential amendment, the IASB also amended IAS 28, which has been renamed as IAS 28 *Investments in Associates and Joint Ventures*, to describe the application of the equity method to investments in joint ventures in addition to associates.

IFRS 11 distinguishes two types of Joint Arrangements by the rights and obligations of the parties to the arrangement, which have *joint control*. In the case of Joint Operation, the *joint operators* have rights to the assets and obligations for the liabilities of the arrangement and the individual share of the assets, liabilities, revenue and expenses must be recognised by each of the joint operator in accordance with the applicable IFRSs.

In case of a Joint Venture, the *joint venturers* have rights to the net assets of the arrangement and each of the joint venturers must account for its interest by using the equity method of accounting under IAS 28(2011).

As far as accounting is concerned, the following is the new standard:

- Joint operations are accounted for in accordance with IFRS 11.
- Joint ventures are accounted for in accordance with IAS 28 using the equity method of accounting.
- Proportionate consolidation is no longer permitted when accounting for investments in joint ventures.
- Equity accounting is now used when accounting for investments in both associates and joint ventures.

Since the new standard, as required by IFRS 11 does away with the proportionate method of accounting and instead requires the equity method to be used, there are challenges in the year of transformation, that is, the periods beginning on or after 1st January, 2013. While transitioning from the proportionate method to equity method, the investor company has to break up the proportionately consolidated net asset value into a single investment for the restated financial statements.

IFRS 12 Disclosure of Interests in Other Entities

All the disclosure requirements that were included in the individual standards - IAS 27(2008), IAS 28(2008) and IAS 31 under previous guidance - are now set out in IFRS 12 *Disclosure of Interests in Other Entities*. These requirements mandate disclosure in such a way that the information would help the readers of the consolidated financial statements to evaluate the nature, risks and financial effects associated with the investor company's interests in

subsidiaries, associates and joint arrangements as well as unconsolidated structured entities.

The IASB has also issued *Investment Entities (Amendments to IFRS 12)* on 31st October, 2012, specific to investment entities to be effective from the annual periods beginning on or after 1st January, 2014.

To sum up:

- Accounting for investments in the consolidated financial statements is different depending on the control or influence the investor has over the investee.
- Subsidiaries (entities that are controlled by the parent according to criteria defined in IFRS 10) are consolidated using the full consolidation (purchase) method.
- Joint ventures (IFRS 11 *Joint Arrangements*) and associates are accounted for using the equity method as defined in IAS 28.
- Proportionate Consolidation is no longer permitted.
- Investment Entity – *Investment Entities (Amendments to IFRS 10, IFRS 12 and IAS 27)* published by IASB on 31st October, 2012 requires qualifying investment entities to recognise their investments in controlled entities in a single line item in the statement of financial position (Balance Sheet), measured at Fair Value Through Profit or Loss (FVTPL). However, a non-investment entity parent is required to consolidate, line by line, the investment entity it controls, thereby including those other entities controlled through the investment subsidiary, that is, full consolidation.

Mandatory Accounting Standards issued by ICAI and IFRS convergence in India

Here, it is necessary to consider the Indian position in regards to the various accounting standards pertaining to the preparation and presentation of consolidated financial statements.

The Core Group, constituted by the Ministry of Corporate Affairs for convergence of Indian Accounting Standards with International Financial Reporting Standards (IFRS) from 1st April, 2011, that held its meeting on 11th January, 2010 agreed that in view of the roadmap for achieving convergence, there will be two separate sets of Accounting Standards under Section 211(3C) of the Companies Act, 1956:

- The first set would comprise of the Indian

These IFRS-converged accounting standards could be early-adopted by the specified class of companies. However, since these converged standards are yet to be notified and adopted, the financial statements prepared under these standards may not be acceptable as sufficient compliance with Section 211(3C) of the Companies Act, 1956.

Accounting Standards which are converged with the IFRSs which shall be applicable to the specified class of companies - the date on which these will come into force is yet to be notified. Until such time, the existing Indian Accounting Standards as notified under the Companies (Accounting Standards) Rules, 2006 will continue to apply to these companies.

These *IFRS-converged accounting standards* could be adopted early by the specified class of companies. However, since these converged standards are yet to be notified and adopted, the financial statements prepared under these standards may not be acceptable as sufficient compliance with Section 211(3C) of the Companies Act, 1956.

- The second set would comprise of the existing Indian Accounting Standards and would be applicable to other companies, including Small and Medium Companies (SMCs) as currently notified under Companies (Accounting Standards) Rules, 2006.

Besides, for banking and insurance companies, there will be a separate roadmap. As decided by the Council of The Institute of Chartered Accountants of India at its 269th meeting, the process of convergence to IFRS was to begin for the accounting period commencing on or after 1st April, 2011. The Council of the ICAI has finalised 11 new/revised Ind ASs during the first quarter of 2011 which are under consideration of the National Advisory Committee on Accounting Standards (NACAS) and are yet to be notified. These converged standards include:

- Ind AS 110-Consolidated Financial Statements corresponding to IFRS 10
- Ind AS 111-Joint Arrangements corresponding to IFRS 11
- Ind AS 112-Disclosures of Interest in Other Entities corresponding to IFRS 12
- Ind AS 27-Separate Financial Statements corresponding to IAS 27
- Ind AS 28-Investments in Associates and Joint Ventures corresponding to IAS 28

Since the Guidance Note on Audit of Consolidated Financial Statements states that the auditor's objectives in an audit of consolidated financial statements are to satisfy himself that the consolidated financial statements have been prepared in accordance with the requirements of Accounting Standard (AS) 21 *Consolidated*

AS 23 speaks about the preparation and presentation of consolidation of financial statements by using the equity method of accounting where an investor has significant influence over an enterprise which is neither a subsidiary nor a joint venture.

Financial Statements, Accounting Standard (AS) 23 *Accounting for Investments in Associates in Consolidated Financial Statements* and Accounting Standard (AS) 27 *Financial Reporting of Interests in Joint Ventures*, these are the standards that should be followed until a formal notification is made to make the converged standards mandatory.

The existing Accounting Standards that are mandatory now, relating to consolidation of financial statements (AS 21, AS 23 and AS 27) issued by The Institute of Chartered Accountants of India differ in some areas with the corresponding IFRSs and the revised/amended IASs that have been issued in 2011 by the International Accounting Standards Board (IASB). The key differences between the existing mandatory ASs and the IFRSs are noted here.

Accounting Standard AS 21 Consolidated Financial Statements

AS 21 is mandatory *if* an enterprise presents the consolidated financial statements. In other words, the accounting standard does not mandate an enterprise to present the consolidated financial statements, but if the enterprise presents the consolidated financial statements for complying with the requirements of any statute or otherwise, it should prepare and present consolidated financial statements in accordance with AS 21. According to AS 21, the primary test of control of the investor company comes from the ownership, directly or indirectly through subsidiary(es) of more than half of the voting power of an enterprise or control of the composition of the board of directors in the case of a company or of the composition of the corresponding governing body in case of any other enterprise so as to obtain economic benefits from its activities.

AS 21 is rule based whereas IFRS 10 is principle-based. Control is the single basis for consolidation. This difference is quite emphatic when the stress is on the power that arises from the existing *substantive rights* that give the investor company

the *ability* to use the power to affect the investee's *variable returns* from the *relevant transactions*. This principle needs to be applied even if the controlling entity holds less than a majority of voting rights in the controlled entities.

Accounting Standard AS 23 Accounting for Investments in Associates in Consolidated Financial Statements

AS 23 speaks about the preparation and presentation of the consolidation of financial statements by using the equity method of accounting where an investor has significant influence over an enterprise which is neither a subsidiary nor a joint venture. The corresponding international standard, IFRS 11 *Joint Arrangements* regulates Joint Operations/Joint Ventures. IFRS 11 focuses more on the nature and substance of the rights and obligations arising from the arrangement that determine whether the joint arrangement is a joint operation or a joint venture.

Accounting Standard AS 27 Financial Reporting of Interests in Joint Ventures

AS 27 recognises three different forms and structures for a Joint Venture - jointly controlled operations, jointly controlled assets, and jointly controlled entities. According to AS 27, this Standard is mandatory in nature only if the enterprise prepares and presents the consolidated financial statements. It is pertinent to note that following a major redefinition and realignment of these three different forms and structures by the IASB with the introduction of IFRS 11 *Joint Arrangements* along with the amendment of IAS 28 and renaming it as 'IAS 28 *Investments in Associates and Joint Ventures*', the financial reporting requirements for jointly controlled operations, jointly controlled assets and jointly controlled entities have undergone a sea change. The new guidance has not retained the proportionate method of accounting for consolidation and requires all joint ventures to be accounted for using equity method. However, AS 27 requires the consolidated financial statements of a venturer to show the interest in a jointly controlled entity using proportionate consolidation method. This is a major difference between AS 27 and IAS 28(2011).

IFRS 11 and IAS 28(2011) give guidance as to how a joint arrangement is to be differentiated

between a joint operation and a joint venture with reference to the legal form, the terms and contractual arrangement and the other facts and circumstances relating to the parties' rights to the assets and obligations for the liabilities in the arrangements. IFRS 11 *Joint Arrangements* seeks to group together jointly controlled operations and jointly controlled assets as Joint Operations that were defined under IAS 31. The defining and differentiating factor is that the parties that have joint control have *rights* to the assets and obligations for the liabilities relating to the arrangement.

A joint arrangement is classified either as a Joint Operation or a Joint Venture depending not just upon the structure or legal form of the joint arrangement but more upon the nature and substance of the rights and obligations of each of the parties to the arrangement. If the legal form, the terms and contractual arrangement and the other facts and circumstances give the parties their rights to the assets and obligations for the liabilities relating to the arrangement, it is a joint operation. If the joint arrangement is initiated through a structured organisational set up, such as a partnership, corporation or other financial structure, but there are no rights to the assets and obligations for the liabilities relating to the arrangement arising from the legal form, the terms and contractual arrangements and the other facts and circumstances, the joint arrangement is a joint venture. Simply put, in a joint venture, the parties to the arrangement have rights to the net assets of the arrangement.

IFRS 11 requires that all parties to joint arrangements evaluate whether the arrangement meets the definition of a joint operation or a joint venture. Once this is determined, IFRS 11 requires that the parties to a joint operation would recognise their share of the assets, liabilities, revenues and expenses in accordance with the applicable IFRSs, whereas the parties to a joint venture would account for their interest using the equity method of accounting under IAS 28(2011). Further, the

The determination of an investee company as a controlled entity is based on the assessment made by the investor company with reference to the various tests for the control, supplemented by the extent of relevant activities. This primarily decides the consolidation method to be applied.

accounting for an interest in a joint venture will depend on whether the party has joint control or not. The party would account for its interest in a joint venture using the equity method of accounting if it has a joint control or significant influence over the joint venture. The other party that does not have the control or significant influence would apply IFRS 9 *Financial Instruments* (or IAS 39 *Financial Instruments: Recognition and Measurement*, as applicable). The corresponding Indian Accounting Standard to this effect is AS 13 *Accounting for Investments*.

Consolidation – scope and methods

Now, it becomes clear that there are only three recognised methods of financial consolidation that could be used for statutory reporting purposes and the new standards issued by the International Accounting Standards Board restrict the adoption of only the following methods of consolidation:

- **Fair-value method** – in cases where the investor company is an investment company coming under the definition as prescribed in the *Investment Entities (Amendments to IFRS 10, IFRS 12, and IAS 27)*. An investment entity is required to measure its subsidiaries at fair value through profit or loss (FVTPL) in accordance with IFRS 9 *Financial Instruments* (or IAS 39 *Financial Instruments: Recognition and Measurement*, if IFRS 9 has not yet been adopted) and not to consolidate its subsidiary or apply IFRS 3 *Business Combinations* when it obtains control of another entity.
- **Equity method** – in cases, where the investor company holds enough voting stock of the investee company that indicates the ability to exercise significant influence over the investee company but *control* is not achieved. The equity holding would normally be between 20% and 50%.
- **Consolidation of Financial Statements** – in cases where the investor company holds more than 50% of the voting stock of the investee company to have a natural *control* that enables the investor company to direct the entire decision-making process. Even in cases where the investor company holds less than 50% of the voting equity of the investee company, if the investor company is able to 'control' the activities of the investee company as stipulated by IFRS 10, then the investee company must



be consolidated. This method is also known as *Purchase Method*.

The determination of an investee company as a *controlled* entity is based on the assessment made by the investor company with reference to the various tests for the *control*, supplemented by the extent of *relevant activities*. This primarily decides the consolidation method to be applied.

The next step forward

Whatever be the method of consolidation hitherto followed by the investor companies, the issuance of the IFRS package of five standards (including the amendment specific to investment companies) has no doubt, increased the complexities in the consolidation realm especially while preparing the financial statements for the period commencing on or after 1st January, 2013 or 1st January, 2014 (for Investment entities). These regulatory requirements have placed tremendous obligations in the matter of assessing the status of the investee company while preparing the consolidated financial statements of an investor company. Given these complexities, it makes perfect sense to reduce the efforts, cycle time, cost and risks as much as possible in preparing the consolidated financial statements. The various modes and tools of consolidation of financial statements available for an investor company are discussed in "*Streamlining Consolidation with Automation and Enhancing Regulatory Compliance and Performance Management*" along with an overview of one of the popular tools available for easing and streamlining the process of financial consolidation. ■

Allowability of Interest Cost on fund acquired for Immovable Property under Various Heads & Sections of Income-tax Act, 1961



Currently, we are passing through the scenario of recession in the real estate sector. Many people have made investment in properties like house, plots, land etc. by forecasting that the return will be high as yield in past. However, the return is very less as compared to forecasted. Many of them have borrowed fund from banks, NBFC's, other sources on which interest is required to be paid. Now what shall be the treatment of interest paid?

The Objective of the analysis is the treatment of interest paid on acquisition of immovable property, as the interest is governed by various heads and sections depending upon the use and treatment of the property. How the interest cost is treated differently under different situations is discussed in this article.

Income House Property

Section 22 of Income-tax Act, 1961 (the Act) requires "The annual value of property consisting of any buildings or lands appurtenant thereto of which the assessee is the owner, other than such portions of such property as assessee may occupy for the purposes of any business or profession carried on by him the profits of which are chargeable to income-tax, shall be chargeable to income-tax under the head "Income from house property".



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Here, the words “*property consisting of building or land appurtenant thereto*” is under scope of Section 22 of the Act. All other types of property are excluded from scope of Section 22 of the Act. This means, income from letting of vacant plot not appurtenant to any building is not chargeable under Section 22 of the Act.

Even though the business of assessee is letting of house property, income earned by assessee out of business of letting of house property is taxable under the head income from house property.

Moreover, it will also not make any difference if the property is stock in trade for assessee. Meaning, if the assessee is engaged in the business of purchase and development of property, any income derived by the assessee from vacant house property which is not sold, shall be taxable under the head income from house property.

Annual Value of house property is computed with reference to provisions of Section 23 of the Act.

Section 24 of the Act provides that income under the head 'house property' shall be computed after making the following deductions, namely:

- (a) Standard deduction *i.e.* Sum equal to 30% of annual value as determined as per Section 23,
- (b) where the property has been acquired, constructed, repaired, renewed or reconstructed with borrowed capital, the amount of any interest payable on such capital.

Section 24(b) lays down the word interest payable on acquisition, construction, repair, renovation or reconstruction of property. Any property which is covered by provision of Section 22 if acquired, constructed, repaired, renovated or reconstructed with borrowed fund, then the interest shall be governed by Section 24(b). Moreover, if the fund is borrowed for acquisition of land and building is constructed with own capital, then the interest on borrowing of land is allowable as deduction subject to *proviso* to Section 24(b).

This means, under the head 'income from house property', interest in respect of only immovable property consisting of building or land appurtenant thereto is allowable, which is not used by assessee

Even though business of assessee is letting of house property, income earned by assessee out of business of letting of house property is taxable under the head income from house property.

in his business or profession subject to provision Section 23(2).

Profit and Gain from Business and Professions

Section 36(1)(iii) provides for deduction of amount paid as interest in respect of capital borrowed for the purpose of business or profession.

Before the insertion of the *proviso* to Section 36(1)(iii), interest paid in respect of capital borrowed for business and profession can be claimed as deduction. The same was settled by various decisions *e.g.*

- *CIT vs. Associated Fibre & Rubber Industries (P.) Ltd. [1999] 102 Taxman 700 (SC)*
- *Dy. CIT vs. Core Health Care Ltd. [2008] 167 Taxman 206 (SC)*
- *Jt. CIT vs. United Phosphorus Ltd. [2008] 167 Taxman 261 (SC)*

However, with effect from 01-04-2004 following *proviso* has been inserted to Section 36(1)(iii) which is as under:

“Provided that any amount of the interest paid, in respect of capital borrowed for acquisition of an **asset** for extension of existing business or profession (**whether capitalised in the books of account or not**); for any period beginning from the date on which the capital was borrowed for acquisition of the asset till the date on which such asset was first put to use, shall not be allowed as deduction.”

The objective behind the insertion of the *proviso* is to make the Section more clear and clarify all the doubts behind this. However, the *proviso* has the possibility of different meanings of various words in it.

- i. “Asset” - *Proviso* says ‘interest paid in respect of capital borrowed from acquisition’ of an **asset**. Definition of asset is neither given in the Act or Section. In general terms, asset means all the assets including current asset, investment and fixed assets.
- ii. “Capitalisation” - The word 'Capitalisation' has also not been defined in the Act. In general terms, 'Capitalisation' means expense is not treated as revenue shall be shown in balance sheet.

Proviso nowhere talks of capitalisation of interest cost incurred in respect of capital borrowed for acquisition of an asset. It only says that interest

shall not be allowable in respect of capital borrowed for extension of existing business or profession for any period beginning from the date on which the capital was borrowed for acquisition of the asset till the date on which such asset was first put to use.

Moreover, *Explanations* 8 to Section 43(1) only says that the actual cost of asset shall not include the cost of interest on acquisition of asset as so much of amount as relatable to period after such asset is first put to use. Explanations only talk of non-addition of cost of interest on acquisition after the date asset is put to use. It never talks of capitalisation cost of interest relating to the period before asset is first put to use.

In case where assessee has acquired immovable property consisting of building and land appurtenant thereto and if the same is not used by assessee during the concerned financial year then in that case property is treated as house property and same shall be governed by provision of Section 22 to Section 25 because Section 22 clearly covers the property which is consisting of land and building and other than such portion which assessee may occupy for the purpose of business and profession. Here, one has to also consider *proviso* to Section 36(1)(iii) i.e. whether such property is acquired for extension of existing business or not. Moreover, one has to also consider situation where assessee is engaged in business of purchase and development of property and income is earned by assessee out of vacant house property, and what shall be the treatment of interest paid for acquisition of property. The same shall be allowable under the head 'house property' or profit and gain from business and profession?

Capital Gain

Section 48 specifies the mode of computation of Capital Gain. As per Section 48,

"The income chargeable under the head "Capital gains" shall be computed, by deducting from the full value of the consideration received

or accruing as a result of the transfer of the capital asset the following amounts, namely :-

- (i) expenditure incurred wholly and exclusively in connection with such transfer,
- (ii) the cost of acquisition of the asset and the cost of any improvement thereto;"

The expression 'expenditure incurred wholly and exclusively in connection with transfer' means expenditure necessary to effect the transfer.

Cost of acquisition of an asset is the value for which it was acquired by the assessee. All the expenses incurred for acquiring title to property are includible in cost of asset. The expression "cost of acquisition" has not been defined in Section 48; while Section 55(2) defines it only in particular cases.

Now the question arises 'whether Interest on amount borrowed for acquisition of capital asset is includible in cost of acquisition or not'?

As held by the various Courts that interest incurred for acquisition capital asset shall form part of cost of asset. For example:

1. *CIT vs. Sri Hariram Hotels (P) Ltd.* 188 *Taxman* 178 (Kar.)

"The Tribunal is justified in granting the relief to the assessee since the property has been purchased out of the loan borrowed from the Directors and any interest paid thereon is to be included while calculating the cost of acquisition of the asset."

2. *CIT vs. Raja Gopala Rao* (2001) 252 *ITR* 459 (Mad)

"4. Here, there can be no doubt that the cost of acquisition to the assessee was not merely the amount that he had paid to the vendors but also the cost of the borrowing made by him for the purpose of paying the vendor and obtaining the sale deed. Without the money borrowed, the assessee would not have been in a position to buy the property. Payment of consideration for the sale indisputably having been made with the borrowed funds, the borrowing directly related to the acquisition and, interest paid thereon would form part of the cost of acquisition."

So, in case where the assessee had acquired immovable property consisting building and land appurtenant thereto out of borrowed fund for

Any Property which is covered by provision of Section 22 if acquired, Constructed, repaired, renovated or reconstructed with borrowed fund then interest shall be governed by section 24(b).

Gifts received by HUF from its members were taxable in the hands of HUF up to 30-09-09.

business and profession and the same is not used by the assessee for his business and profession, then in that case interest in respect of such borrowing can be capitalised.

One has to consider the allowability of same interest cost under the head of income, e.g. income from house property or income from other sources. Meaning, whether interest is allowable under the head Income from house property/Income from other sources or shall be added to cost of asset of both? Whether double deduction of interest is allowable under both heads?

In a recent judgment, the Chennai Tribunal in the case of *ACIT vs. C. Ramabrahmam* (2012) 27 *taxmann.com* 104 (Chennai – Trib.), interest on housing loan which was claimed as a deduction under Section 24(b) (while computing income from house property) was also deducted by the assessee under Section 48 (as cost of acquisition while computing capital gains from sale of such house property). Such treatment was upheld by the Tribunal.

Tribunal allowed the claim for deduction in respect of housing interest under both the provisions. While concluding so, it observed as under:

- Deduction under Section 24(b) and computation under Section 48 are covered by different heads of income;
- Both these provisions do not exclude the operation of other;
- Section 24(b) is claimed only when income is offered under the head 'house property', whereas the cost of the same asset is taken into consideration when the property is sold and capital gains are computed under Section 48; and
- Interest on housing loan is expenditure in acquiring the asset.

However, the Apex Court in the case of *Escorts Ltd & Another vs. Union of India* (1993) 199 ITR 43 (SC) gave its observations on possibility of claiming double deductions under the Income-tax statute:

"In our view, there was no difficulty at all in the interpretation of the provisions. The mere

fact that, a baseless claim was raised by some over-enthusiastic assessee who sought a double allowance or that such claim may perhaps have been accepted by some authorities is not sufficient to attribute any ambiguity or doubt as to the true scope of the provisions as they stood earlier....

...A double deduction cannot be a matter of inference; it must be provided for in clear and express language regard being had to its unusual nature and its serious impact on the revenues of the State."

[Headnote in *Escorts Limited* case]

"There is a fundamental, though unwritten, axiom that no Legislature could have at all intended a double deduction in regard to the same business outgoing. If such double deduction is intended, it will be clearly expressed. In other words, in the absence of clear statutory indication to the contrary, the statute should not be read so as to permit assessee two deductions."

The Karnataka High Court in the case of *CIT vs. Maithreyi Pai* (1985) 152 ITR 247 (Kar) observed as under:

"Mr. Bhat, however, submitted that section 48 should be examined independently without reference to Section 57. Section 48 provides for deducting from the full value of consideration received the cost of acquisition of the capital asset and the cost of improvements, if any. The interest paid on borrowings for the acquisition of a capital asset must fall for deduction under Section 48. But, if the same sum is already the subject-matter of deduction under other heads like those under Section 57, we cannot understand how it could find place again for the purpose of computation under Section 48. No assessee under the scheme of the I.T. Act could be allowed deduction of the same amount is already allowed under twice over. We are firmly of the opinion that if an amount is already allowed under Section 57 while computing the income of the assessee, the same cannot be allowed as deduction for the purpose of computing the "capital gains" under Section 48. "

Income from other sources

Section 57(iii) reads as 'any other expenditure (not being in the nature of capital expenditure) laid out

or expended wholly and exclusively for the purpose of making or earning such income.' This means, any expenditure incurred wholly and exclusively for the purpose of making or earning such income, then such expenditure shall be allowable subject to condition that the expenditure is not of capital nature. For the purpose of claiming deduction under this clause, it is not necessary that expenditure should result in earning of income as held by decision of *CIT vs. Rajendra Prasad Moody 115 ITR 519 (SC)*.

Income from letting of vacant plot or income from letting of machineries, plant or furniture belonging to assessee and building, where letting of building is not separable from letting of machineries, plant or furniture, then in that case, income from renting of such property is covered under the head income from other source if the same is not a business of the assessee. In case where assessee has acquired such vacant plot of land or building which is integrated with plant and machineries out of borrowed fund, then in that case whether interest incurred on acquisition of such property shall be allowable or not? One has to see the objective of the assessee behind the acquisition and actual circumstances. Whether the same was acquired by the assessee for value increment of earning rent income? One has to also consider whether interest cost can be added to cost of asset or not (double deduction)? If the same was acquired for earning income then interest shall be allowable otherwise shall be added to cost of asset. One has to also consider the *Explanation 8* to Section 43(1).

Case Study

Assessee presently in the business of trading has purchased property consisting of factory building and land appurtenant for the expansion of existing business. The same is purchased by assessee out of borrowed capital from various parties. However, the assessee is not able to use the same due to reason of receipt of higher business contract in trading business. As the assessee is not able to utilise the purchased factory building, assessee had let out the building and land appurtenant there to other party. Assessee is paying interest regularly to the parties from whom fund has been borrowed.

Questions:

1) Source under which such income is taxable?

As per Section 22, annual value of property

consisting of building or land appurtenant thereto of which assessee is owner other than such portion of property as assessee may occupy for purpose of any business and profession as carried on by assessee the profit of which are chargeable to income tax, shall be taxable under head income from house property. Hence, shall be taxable under the head Income from house property which shall be computed as per the provisions of Section 23 and Section 24.

2) Whether interest paid for acquisition of property is allowable u/s 36(1)(iii) or not ?

As per Section 36(1)(iii), deduction shall be allowed in respect of interest paid on capital borrowed for the purpose of business and profession. Before 01-04-2004 interest paid for business purpose shall be allowed as deduction. However, with effect from 01-04-2004 due to insertion of *proviso* to section 36(1)(iii), Deduction shall not be allowed in respect of interest paid on capital borrowed for extension of existing business for any period beginning from the date of acquisition till date when such asset is put to use, shall not be allowable as deduction. The same is supported by decision of *Nahar Poly Films Ltd vs. CIT (2011) 41 (1) (P&H)*. Hence, Interest paid shall not be allowed as deduction under Section 36(1)(iii).

3) Whether interest cost can be capitalised to the cost of building and land?

As per Section 48(ii), cost of acquisition of an asset is the value for which it was acquired by assessee. All the expenses incurred for acquiring title to property are includible in cost of asset. As held by the various Supreme Court decisions, interest incurred for acquisition of capital asset shall form part of cost of asset. However, one has also to consider the double deduction i.e. allowability under the head income from house property as well as addition to cost of asset. One has also to consider *Explanation 8* to Section 43(1) i.e. non

Under the head 'income from house property', interest in respect of only immovable property consisting of building or land appurtenant thereto is allowable, which is not used by assessee in his business or profession subject to provision Section 23(2).

addition of interest cost to capital asset after the date when asset is first put to use.

4) What shall be the treatment of interest in Property that is fully vacant?

Tax under the head income from house property is not a tax upon rent of Property. It is tax on inherent capacity of building to yield the income. Annual Value shall be computed as per the provisions of Section 23. As the property is vacant during the whole year, and same is covered by Section 23(1) Gross Annual value shall be arrived at Nil. Even though the Gross annual value is Nil, Interest paid on acquisition shall not be denied. It shall be allowable under Section 24(b). Hence, even though property remain vacant during the entire year, interest paid shall be allowable under head income from house property.

5) What shall be the answer to the above question if the property was only land?

Section 22 covers only building or land appurtenant thereto of which assessee is owner. Here, the property is only land. Property only consisting of only land is not covered under house property. Hence, income shall be chargeable under the head income from other source or Profit and gain from business profession.

Section 57(iii) allows that any expenditure incurred (Other than capital expenditure) wholly and exclusively expended for the purpose of making or earning income. Here, one has to consider the objective and circumstances of acquisition of land and circumstances whether the same was acquired for the purpose of renting or investment or for business purpose. If the land was acquired only with the objective of renting purpose, then interest shall be allowable as deduction against rent income from land. If the same was acquired as investment then interest cost should be capitalised to cost of land. However, if acquired for business purpose i.e. for using in business or as stock-in-trade for land and property developers/Purchasers, then same shall be allowable as deduction. However, if the same is acquired for using in business, but not used due to some circumstances, then interest shall be added to cost of land. One has to also consider explanation to Section 43(1).

6) In the original case, if assessee has borrowed amount not specifically for the acquisition of

In case where assessee has acquired immovable property consisting of building and land appurtenant thereto and if the same is not used by assessee during the concerned financial year then in that case property is treated as house property and same shall be governed by provision of Section 22 to Section 25.

property and at that time capital balance of capital account of the assessee was less than that of cost of property. After two years, assessee's capital balance and interest free fund is in excess of that cost of property by bringing more interest free amount and profit from business. Moreover on application side assessee has not advance any interest free loan for other purpose. Is it necessary for assessee to claim the same under house property?

Here, at a time of acquisition of property, assessee capital balance is less than that of cost of property. But after two years assessee's capital balance is in excess to that of cost of asset. At a time of acquisition of property generally it can be said that assessee has borrowed amount for acquisition of property. Hence, interest paid can be allowed under Section 24b. In case where assessee by bringing amount through interest free loan profit from business, after two years, the assessee may claim the interest paid under Section 36(1)(iii) because assessee may opt that the capital balance is utilised for acquisition of property which is not used by assessee. If amount is borrowed for other purpose and utilised for business purpose, then in that case, interest so paid shall be allowed as deduction under Section 36(1)(iii). It is not necessary to establish a nexus between fund borrowed and utilised.

7) What shall be the treatment of interest paid if assessee is using such property for the purpose of storage goods?

Here, the objective of the assessee for acquisition of property is for extension of existing business. To claim expenditure under Section 36(1)(iii) it is the only condition that asset should be used for business purpose. Hence, interest paid shall be allowable under Section 36(1)(iii).

Reference:-

Professional Edition book of Taxmann (Author V. K. Singhania, Kapil Singhania), Various online sites e.g. CA Club India, ITAT Online, BCAS, Income Tax Act, 1961, Income tax Rules. ■

Gifts to and from HUF- Taxation Aspects



In this article, the author endeavours to prescient the amendment by Finance Act, 2012 in the definition of 'relative' in Explanation (e) to clause (vii) of Section 56. The article also critically analyses the recent judicial decisions on the subject matter of gifts to and from HUF, in light of pre and post amendment scenario with special emphasis on relevant affecting provisions of Hindu Law. The article also explains the need to harmonise provisions of Section 10(2) of Income-tax Act, 1961 (the Act) with Section 56(2)(vii) in case of gifts received from HUF by its members.

Background

In earlier tax regime, up to 30-09-1998 any amount received without consideration was taxable as gift under the Gift-tax Act, 1958, which was abolished w.e.f. 01-10-1998. With effect from 01-10-1998 to 31-08-2004 any amount received without consideration was not liable to tax in the hands of receiver even under the Act. This relaxation gave rise to a debate before Assessing Officer/appellate authorities that whether particular amount is genuine gift or unexplained credit by the assessee in the guise of gift.

Thereafter, in Section 56(2), a clause (v) was inserted by Finance (No.2) Act, 2004 to provide that

a sum of money exceeding ₹25,000/- received by an individual or HUF from any person after 01-09-2004 without consideration will be taxable as income from other sources.

The amount received from 'relative', as defined in Explanation to Section 56(2)(v) is, however, not chargeable to tax.

The above provision was further amended by introduction of a new clause (vi) in Section 56(2) w.e.f. 01-04-2006 to provide that if aggregate amount received during the year is more than ₹50,000/- the same will be chargeable to tax and the other conditions remains same as were provided under clause (v).

Thereafter, Section 56(2)(vi) has been substituted by 56(2)(vii) w.e.f. 01-10-09 which was further amended by Finance Act, 2010, Finance Act, 2012 and Finance Act, 2013.

Income from other sources (Section 56)

At present Section 56 reads as under (*relevant extracts only*):

- (1) Income of every kind which is not to be excluded from the total income under this Act



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shall be chargeable to Income-tax under the head "Income from other sources", if it is not chargeable to Income-tax under any of the heads specified in Section 14, items A to E.

- (2) In particular, and without prejudice to the generality of the provisions of sub-Section (1), the following incomes, shall be chargeable to Income-tax under the head "Income from other sources", namely:

(i)

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- (vii) where an individual or a Hindu undivided family receives, in any previous year, from any person or persons on or after the 1st day of October, 2009,—

- (a) any sum of money, without consideration, the aggregate value of which exceeds fifty thousand rupees, the whole of the aggregate value of such sum;

- (b) any immovable property,—

- (i) without consideration, the stamp duty value of which exceeds fifty thousand rupees, the stamp duty value of such property;

- (ii) for a consideration which is less than the stamp duty value of the property by an amount exceeding fifty thousand rupees, the stamp duty value of such property as exceeds such consideration:

Provided that

Provided further that.....

- (c) any property, other than immovable property,—

- (i) without consideration, the aggregate fair market value of which exceeds fifty thousand rupees, the whole of the aggregate fair market value of such property;

- (ii) for a consideration which is less than the aggregate fair market value of the property by an amount exceeding fifty thousand rupees, the aggregate fair market value of such property as exceeds such consideration:

Provided that.....

Provided further that this clause shall not apply to any sum of money or any property received —

- (a) from any relative; or

.

In earlier tax regime, up to 30-09-1998 any amount received without consideration was taxable as gift under the Gift-tax Act, 1958, which was abolished w.e.f. 01-10-1998.

Explanation.—for the purposes of this clause,—
(a)

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******(e) "relative" means,—

- (i) in case of an individual—

(A).....;

(B).....;

.

.

.

(G).....; and

- (ii) in case of a Hindu undivided family, any member thereof;

[** Substituted by the Finance Act 2012 w.r.e.f. 01.10.2009]

Provisions of sub-Section (2) of Section 10

In order to give justice to the title of the article, it is incumbent on the author to discuss provisions of sub-Section (2) of Section 10, which reads as follows:
Incomes not included in total income.

10. In computing the total income of a previous year of any person, any income falling within any of the following clauses shall not be included—

- (1)

- (2) *subject to the provisions of sub-Section (2) of Section 64, any sum received by an individual as a member of a Hindu undivided family, where such sum has been paid out of the income of the family, or, in the case of any impartible estate, where such sum has been paid out of the income of the estate belonging to the family;*

[It is only if the assessee has received the sum in question by virtue of his position as member of the undivided family to which he claims to belong, that the application of Section 14(1) of the 1922 Act [corresponding to Section 10(2) of the 1961 Act] is attracted — [Maharaj Kumar of Vizianagaram, [1934] 2 ITR 186 (All.)]

Implications under Income-tax Act, 1961

On the combined reading of Section 56(2) and Section 10(2) and literally interpreting the provisions

Taxation

of the Act and specific prospective/retrospective amendments thereto, from time to time as discussed above, following scenario emerges:

- 1) Any sum given by HUF to its members, subject to the conditions prescribed under Section 10(2) is exempt from tax in the hands of recipients.
- 2) Gifts received by HUF from its members were taxable in the hands of HUF up to 30-09-09. (Refer the decision in case of *Harshadbhai D. Vaidhya (HUF)* discussed below)
- 3) With effect from 01-10-2009, gift received by HUF from its members would be excluded from taxable income due to specific amendment to that effect in definition of relative under explanation (e) to clause (vii) of Section 56(2).
- 4) As on date any sum received by members from their HUF is *taxable*, if
 - i) It is above threshold limit as provided in Section 56(2)(vii); *and*
 - ii) It is not in conformity with conditions prescribed under Section 10(2).

In other words, if conditions stipulated in 10(2) are complied then the income itself will not be included in 'total income' and thus it will not reach to the stage of charging/exemptions under Section 56(2). Thus, in context of above statement, for making the income, being received by individual from his HUF, taxable in hands of individual, there should be a non-compliance of conditions of 10(2) and amount should exceed ₹ 50,000/- in aggregate.

[Alert:

- a) If a member of HUF converts his/her individual property (movable/immovable) into HUF property, the income from such property will be clubbed with the income of the Individual (donor) under Section 64(2). Further under Section 4(1A) of Wealth Tax Act, 1957 assets so converted shall be deemed to be the assets of the Individual transferor.
- b) Before granting exemptions as applicable, capacity to pay in case of donor and cross entries in his/her books shall always be

Any sum given by HUF to its members, subject to the conditions prescribed under Section 10(2) is exempt from tax in the hands of the recipients.

subject matter of scrutiny during the course of assessment proceedings.]

Law applicable to gifts under the Hindu Law

- *Definition of Gift*
Gift consists in the relinquishment (without consideration) of one's own right (in property) and the creation of another man's right is completed on that other's acceptance of the gift, but not otherwise.
- *Acceptance of Gift by HUF from its members, coparceners or outsiders:*
There is no restriction for a HUF to accept gifts from any source. However, the intention of the donor should be clear and the gift should be genuine. Gift declaration detailing complete information relating to the donor should be drawn and recorded. Gift by cheque should go in a bank account in the name of the donee HUF for realisation and subsequent realisation.
- *Can a HUF give away its property (movable/immovable) by way of gift?*

Although children acquire by birth rights equal to those of a father (*Karta*) in an ancestral property, both movable and immovable, the father has the power of making, *within reasonable limits*, gifts of ancestral *movable property* without the consent of *coparceners*. Combined reading of the Hindu Law and various judicial precedents show that the position in the Hindu Law is that, whereas, the *Karta* has the power to gift ancestral movables within reasonable limits, he has no such power with regard to ancestral immovable property or coparcenary property. He can however, make a gift within reasonable limits of ancestral immovable property for "*pious purpose*". However, the alienation must be by an act *inter vivos*, and not by will. [*Kuppayee vs. Raja Gounder* (265 ITR 551 at 559) SC]

- *Whether the gift by HUF in violation of above principals is void or voidable?*

The alienation by a *Karta* of joint Hindu Family is not necessarily void but is only voidable if objections are taken to it by the other members of joint Hindu Family. The *Lahore High Court in Imperial Bank of India vs. Maya Devi*, AIR 1935 Lahore 367 observed, "*Where, however, the gift is not for religious purposes, or consists of the whole or large portion of the joint family property (i.e., above reasonable limit or*

Gifts received by HUF from its members were taxable in the hands of HUF up to 30-09-09.

disproportionate distribution), *the transaction is voidable, but only at the instance of the other coparceners.....*"

With the above background of relevant provisions of the Hindu Law, if we analyse the wordings of sub-Section (2) of Section 10 it appears that, the conditional exemption by way of a rider, "..... where such sum has been paid out of the income of the family, or, in the case of any impartible estate, where such sum has been paid out of the income of the estate belonging to the family" is carefully drafted by legislature to save the spirit of concerned affecting provisions of the Hindu Law.

Two recent judgments on the subject matter

- 1) *Vineetkumar R. Bhalodia vs. ITO [2011] 11 taxmann.com 384 (Rajkot) (A.Y. 2005-06)*

Section 56 of the Income-tax Act, 1961 - Income from other sources - Chargeable as - Assessment year 2005-06 - Whether a gift received from 'relative', irrespective of whether it is from an individual relative or from a group of relatives is exempt from tax under provisions of Section 56(2)(vi) - Held, yes - Whether HUF is a group of relatives and therefore, gift received from HUF would be exempt from tax under section 56(2)(vi) - Held, yes

To substantiate its stand, the Hon'ble Tribunal observed that,

".....Further, from a plain reading of Section 56(2)(vi) along with the Explanation to that Section and on understanding the intention of the legislature from the Section, it could be seen that a gift received from 'relative', irrespective of whether it is from an individual relative or from a group of relatives is exempt from tax under the provisions of Section 56(2)(vi) as a group of relatives also falls within the Explanation to Section 56(2)(vi). It is not expressly defined in the Explanation that the word 'relative' represents a single person. And it is not always necessary that singular remains singular. Sometimes a singular can mean more than one, as in the

case on hand. In the instant case the assessee received gift from his HUF. The word 'Hindu Undivided Family' though sounds singular unit in its form and assessed as such for Income- tax purposes, finally at the end a 'Hindu Undivided Family' is made up of 'a group of relatives'. Thus, a singular words/ words could be read as plural also, according to the circumstance/situation."

The Hon'ble Tribunal further allowed the exemption on alternate ground based on Section 10(2) by observing that, for getting exemption under Section 10(2) two conditions are to be satisfied. Firstly, a person must be a member of HUF and secondly, he should receive sum out of income of such HUF, may it be income of earlier year. Accordingly, in the instant case, it was held that, assessee was a member of HUF and received gift from HUF which was out of income of family and *there was no material on record to show that gift amount was part of any assets of HUF*, same would be exempt under Section 10(2).

Having said that, had revenue been able to prove beyond doubt *that amount gifted by HUF to its member was part of any assets of HUF*, whether tribunal would have allowed the case purely on the basis of liberal interpretation of Section 56(2)(vi)?

With all due respect to the authority of the Hon'ble Tribunal, in the author's considered opinion, taxability or otherwise of any sum given by HUF to its members should be decided strictly on the touchstone of provisions contained in Section 10(2) and not by liberally interpreting the provisions of Section 56(2)(vii). If the interpretation of term 'relative', as adopted by the Hon'ble ITAT in *Bhalodia's case (supra)* is adopted, it would render the provisions of Section 10(2) & the conditions prescribed there under, *otiose*.

In fact, amendment by the Finance Act, 2012, amending the definition of term 'relative', to the effect that relative in case of HUF means, any member thereof, itself clarifies that if the legislature further wanted that money exceeding ₹ 50,000/- received by the member of the HUF from the HUF should also not be chargeable to tax, it would have specifically mentioned so in the definition in 'relatives'. However, that has certainly not been done to avoid the conflicts between Section 10(2) and Section 56(2)(vii) and

to harmonise with the spirit of relevant affecting provisions of Hindu Law, as discussed earlier.

To elaborate further, it is the settled canon of interpretation of statute that the entire act should be read as a whole and any interpretation of provision, which would render the other provision inoperable/meaningless, should be avoided.

In *High Court of Gujarat vs. Gujarat Kisan Masdoor Panchayat* [2003] 4 SCC 712 it has been held by the Apex Court that it is a well-settled principle of law that an attempt should be made to give effect to each and every word employed in a statute and such interpretation which would render a particular provision redundant or otiose should be avoided.

The Act has, therefore, to be viewed as a whole and its intention determined by construing all the constituent parts of the Act together and not by taking detached Sections or to take one word here and another there. [*Newspapers Ltd. vs. State Industrial Tribunal* AIR 1957 SC 532]

In order to ascertain the meaning of a clause or a statute, it is a settled rule or, in other words, *a compelling rule that the entire statute must be read as a whole* and thereby, the intention of Legislature and the meaning of different provisions can be ascertained and *all efforts must be made to make a harmonious interpretation* of the different parts of the statute and thereby to reconcile the different parts of the statute even though they apparently appear to be conflicting or contradictory. [*State of UP vs. Prem Singh Vahi* AIR 1986 All. 332]

The Supreme Court in *CIT vs. Hindustan Bulk Carriers* [2003] 259 ITR 449 observed:

“Whenever it is possible to do so, it must be done to construe the provisions which appear to conflict so that they ‘harmonise’. It should not be lightly assumed that Parliament had given with one hand what it took away with the other.

The provisions of one Section of the statute cannot be used to defeat those of another unless it is impossible to effect reconciliation between them. Thus, a construction that reduces one of the provisions to a ‘useless number’ or ‘dead letter’ is not a harmonised construction. To harmonise is not to destroy.”

- 2) *Harshadbhai D. Vaidhya (HUF) vs. ITO* [2013] 33 taxmann.com 483 (Ahd.-Trib.) (A.Y. 2005-06)

Facts in brief were that, the assessee in the capacity of HUF, received a sum of ₹7 lakh

as gift from his uncle. The Hon’ble tribunal, while allowing the case of assessee observed as under:

“For the year under consideration, i.e., assessment year 2005-06 the definition of ‘relative’ was in respect of the relationship by an individual donee with close relatives as defined therein. However, it is very pertinent to note that the operative Section i.e., Section 56(2)(v) was in respect of (i) individual, and (ii) Hindu Undivided Family (HUF). Meaning, thereby, the legislature has clear intention to include both, i.e., individual as well as HUF within its scope. Thus, the Section is applicable in respect of money exceeding ₹25,000/- received without consideration either by an ‘individual’ or by a ‘HUF’.

The *proviso* annexed to sub-Section (v) states that the charging clause shall not apply to any sum of money received from any relative. Meaning, thereby, the *proviso* is applicable to both of them i.e., ‘individual’ as well as ‘HUF’. The donor ‘relative’ can be either relative of ‘Individual’ or ‘HUF’, as the case may be. In other words, if an amount exceeding ₹25,000/- is received as a gift either by ‘individual’ or by ‘HUF’, then such an amount is chargeable to income under the head “Income from other sources” but an exception is provided in the first *proviso* that the said clause of charging the amount to tax should not apply to an amount received from any relative.

Thus, the *proviso* prescribes that the charging of the gifted amount shall not apply to any sum of money received as a gift from a ‘relative’ either by an “individual” or by “HUF”. Naturally, the *proviso* annexed to clause (v) of Section 56(2) does not restrict to an ‘individual’ but it governs ‘individual’ as well as a ‘HUF’. With this understanding/interpretation of the main provisions, one has to examine the definition of ‘relative’

With effect from 01-10-2009, gift received by HUF from its members would be excluded from taxable income due to specific amendment to that effect in definition of ‘relative’ under explanation (e) to clause (vii) of Section 56(2).

given in Explanation annexed to this Section. *The position shall be absolutely clear that even in case of HUF, if a sum of money is received from any relative and that relative is as defined in 'Explanation' then also the case would fall within the exception as prescribed in this Section.*"

Though the issue relates to A.Y. 2005-06, while concluding its verdict, the Hon'ble Tribunal took the cognisance of amendment made by Finance Act 2012 w.r.e.f. 01-10-2009 in the following words,

".....at some later stage, the legislature became conscious of the problem, therefore, while drafting the analogous provisions of Section 56(2)(vii), it was added in the definition of 'relative' (ii) in case of a Hindu Undivided Family, any member thereof..... Although this subsequent change in the Act do not apply for the year under consideration, being incorporated by Finance Act, 2012 but it appears that by insertion of these words the Hon'ble Legislatures have visualised the difficulty, hence streamlined the provisions by removing the doubt."

Thus, by necessary implication, the Hon'ble Tribunal affirmed that the amendment by Finance Act, 2012 [w.e.f. 01-10-09] should be construed as retrospective w.e.f. 01-09-2004 [i.e., from birth of clause (v) of sub-Section (2) of Section 56], being clarificatory in nature and intended for removal of doubts.

The moot question

The amendment by Finance Act, 2012 specifically exempts the gifts received by HUF from its members [explanation (e) to Section 56(2)(vii)] and not from relatives of members. Whereas, the decision of the Hon'ble ITAT in Harshadbhai D. Vaidhya-HUF (*supra*), by adopting a purposive interpretation, went a step further and held that gift received by HUF from relative of *Karta* (or member of HUF) is also exempt within the meaning of Section 56(2)(v)/(vi)/(vii)!

In the author's humble opinion, the decision in case of *Harshadbhai D. Vaidhya (HUF)* (*supra*) may hold good for assessment year concerned, however, in the post amendment scenario, the term 'relative' in case of HUF cannot be stretched so as to include within its ambit, relatives of members of HUF, in view of clear and unambiguous wordings

For making the income, being received by individual from his HUF, taxable in the hands of the individual, there should be a non-compliance of conditions of 10(2) and amount should exceed ₹ 50,000/- in aggregate.

of amended clause (e) of the explanation to Section 56(2)(vii). *Thus, the exemption in case of HUF recipients is restricted to gifts under a will [clause (c)] or in contemplation of death [clause (d)] or gift from members of HUF.*

To put in other words, a statute may not be extended to meet a case for which provision has clearly and undoubtedly not been made. In the case of *State of Jharkhand vs. Govind Singh* [2005] 10 SCC 437 (SC) the court by referring to the rule of *casus omissus* observed that,

"...when the words of the statute are clear, plain or unambiguous, i.e., they are reasonably susceptible to only one meaning, the courts are bound to give effect to that meaning irrespective of consequences. The intention of the legislature is primarily to be gathered from the language used, which means that attention should be paid to what has been said as also to what has not been said."

Conclusion

To summarise, while deciding the issue of taxability or otherwise in case of gifts to and from HUF, clear provisions of the Act (read as a whole) should be resorted to, before taking recourse of any judicial decisions on the subject matter, though in favour of assessee. Further, one should not miss that, though in view of the above amended position, if a member of HUF converts his/her individual property (movable/immovable) into HUF property, the HUF will not have to pay tax under Section 56(2)(vi)/(vii), but at the same time income from such property will be clubbed with the income of the Individual (donor) under Section 64(2).

References

- 1) *Income-tax Act, 1961*
- 2) *Interpretation of Taxing Statutes by Dr. K. N. Chaturvedi (Taxmann)*
- 3) *CTR Encyclopedia on Indian Tax Laws by CCH*
- 4) *151 FAQs' on HUF published by All India Federation of Tax Practitioners, Mumbai.* ■

Guarantee by Holding Company to Banks with Regard to Its Subsidiary Companies

...ions precedent of...
 ...ndment Request. In case...
 ...ndment Request of a Bank Guarantee...
 ...applicable conditions precedent were satisfied...
 ...e Bank may authorize the renewal of a Bank Guarantee or...
 ...ceeding the Duration of that Credit Facility, but this shall not be...
 ...Duration of the entire Credit Facility.

Payments under the Bank Guarantees or Letters of Credit

Each Borrower irrevocably and unconditionally authorizes the Request addressed to and considered by the latter to be in conditions of the Credit Product under which this request is in authorization or confirmation from the Borrower or any other that the Borrower disputes the respective Payment for the validity, genuineness or Bank in relation to the Request sh...

Section 185 of the new Companies Act, 2013, which is applicable on both private and public companies, prohibits a holding company to provide corporate guarantee as a security to a bank for sanctioning loans to its subsidiary. The Section says: no company shall, directly or indirectly, advance any loan, including any loan represented by a book debt, to any of its directors or to any other person in whom the director is interested or give any guarantee or provide any security in connection with any loan taken by him or such other person. The author through his article also examines the issue of applicability of the Section 185 the Companies Act, 2013 and Section 372A of the Companies Act, 1956, which provide corporate guarantee as a security to a bank for sanctioning loans to its subsidiary. Read on...



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Giving a corporate guarantee to banks/lenders by a company, other than the borrower, that the loan will be paid back, is a usual practice in the normal course of trade and commerce across the world. By and large, a larger company (often a known flagship or holding or parent company or another related company) will provide corporate

As per the intent of the legislation, there is a restriction for loans to directors, etc., and to any other person in whom the director is interested, which was earlier permitted under Section 295 of the Companies Act, 1956. But in this connection, if there are no common directors in the Board of the Directors of the companies giving corporate guarantee to bank on behalf of its subsidiary company wherein no directors or directors exercise or control of voting power in excess of 25% in the other company, the said corporate guarantees can be provided to any bank.

guarantee to banks/lenders on behalf of a smaller or its subsidiary company that may not be well-known or have developed a relationship with the banks/lenders.

Corporate Guarantee is a written declaration or guarantee of payment made by a known flagship, or holding or parent company, on behalf of its other business entity who would be normally smaller or a subsidiary company. This guarantee to banks is provided in consideration of bankers/vendors providing credit to a business on whose behalf the guarantee is made. A corporate guarantee is a guarantee in which a flagship or holding or parent company agrees to be held responsible for completing the duties and obligations of a smaller/subsidiary company/debtor to banks/lenders, in the event that the smaller/subsidiary company/debtor fails to fulfill the terms of the debtor-lender contract.

Section 185 of the Companies Act, 2013 which was notified on 12th September, 2013, has replaced the old Section 295 of the Companies Act, 1956 which provides loans to the directors. This Section 185 now applies to all companies including private companies too. While under the old provisions of Section 295 of the Companies Act, 1956, private companies had been exempted. So now, both public and private companies cannot give any loans to directors or to persons in whom the director is interested.

Since Section 185 of the new Companies Act, 2013 became effective in September 2013, there is all-round confusion in the banking sector whether a bank on sanction of certain credit facilities to any company can stipulate and corporate guarantee. Can the banks take corporate guarantee of holding

private limited companies while sanctioning certain credit facilities to subsidiaries of any company, in view of the Section 185 of the new Companies Act, 2013?

Detailed analysis of Sections 185 and 186 of the new Companies Act, 2013 and Section 372A of the Companies Act, 1956 gives us the following inputs:

Relevant provisions of the new Companies Act, 2013 are:

Section 185: Loan to Directors, etc.

(The above section is notified and operative with effect from 12th September, 2013.)

(1) Save as otherwise provided in this Act, no company shall, directly or indirectly, advance any loan, including any loan represented by a book debt, to any of its directors or to any other person in whom the director is interested or give any guarantee or provide any security in connection with any loan taken by him or such other person:

Provided that nothing contained in this sub-Section shall apply to:

(a) the giving of any loan to a managing or whole-time director:

(i) as a part of the conditions of service extended by the company to all its employees; or

(ii) pursuant to any scheme approved by the members by a special resolution; or

(b) a company which in the ordinary course of its business provides loans or gives guarantees or securities for the due repayment of any loan and in respect of such loans an interest is charged at a rate not less than the bank rate declared by the Reserve Bank of India.

Explanation: For the purposes of this section, the expression "to any other person in whom director is interested" means:

(a) any director of the lending company, or of a company which is its holding company or any partner or relative of any such director;

(b) any firm in which any such director or relative is a partner;

(c) any private company of which any such director is a director or member;

(d) any body corporate at a general meeting of which not less than 25% of the total voting power may be exercised or controlled by any such director, or by two or more such directors, together; or

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(e) any body corporate, the Board of directors, managing director or manager, whereof is accustomed to act in accordance with the directions or instructions of the Board, or of any director or directors, of the lending company.

Analysis: In accordance with the Section 185 which is notified and operative with effect from 12th September, 2013, no company, whether public or private, can give any loan or provide any security or guarantee in connection with a loan to a director or any other person in whom he is interested. As per the intent of the legislation, there is a restriction for loans to directors, etc., and to any other person in whom the director is interested, which was earlier permitted under Section 295 of the Companies Act, 1956. But in this connection, if there are no common directors in the Board of the Directors of the companies giving corporate guarantee to bank on behalf of its subsidiary company wherein no directors or directors exercise or control of voting power in excess of 25% in the other company, the said corporate guarantees can be provided to any bank. No legislation or statutory enactment can put speed breakers or bottlenecks for the growth of trade and commerce. Because when corporate guarantees are provided to a bank, the bank lends monies in the economic system of the country and that money, is normally used, in the ordinary course of business for productive purposes in the overall growth the economy of the country. The ultimate purpose of Section 185 of the new Companies Act, 2013 is to put additional restrictions on loan to directors only and not on giving of corporate guarantee by the holding company to its subsidiary company if the Boards of Directors are not common. Even under the (old) Section 295 of the Companies Act, 1956, a corporate guarantee by the holding company to its subsidiary company is permissible.

In accordance with the Section 186 which is yet to be notified, this would be relevant Section/ Proviso in the future (when this Section is notified or made operative by the Government) in dealing with the matter of loan and investment by company including giving of corporate guarantee by the holding company to its subsidiary company.

Section 186: Loan and Investment by Company

(The above section is yet to be notified and not operative.)

(1) Without prejudice to the provisions contained in this Act, a company shall unless otherwise prescribed, make investment through not more than two layers of investment companies:

Provided that the provisions of this sub-Section shall not affect:

- (i) a company from acquiring any other company incorporated in a country outside India if such other company has investment subsidiaries beyond two layers as per the laws of such country;
- (ii) a subsidiary company from having any investment subsidiary for the purposes of meeting the requirements under any law or under any rule or regulation framed under any law for the time being in force.

(2) No company shall directly or indirectly :

- (a) give any loan to any person or other body corporate;
- (b) give any guarantee or provide security in connection with a loan to any other body corporate or person; and
- (c) acquire by way of subscription, purchase or otherwise, the securities of any other body corporate,

exceeding 60% of its paid-up share capital, free reserves and securities premium account or 100% of its free reserves and securities premium account, whichever is more.

(3) Where the giving of any loan or guarantee or providing any security or the acquisition under sub-Section (2) exceeds the limits specified in that sub-Section, prior approval by means of a special resolution passed at a general meeting shall be necessary.

(4) The company shall disclose to the members in the financial statement the full particulars of the loans given, investment made or guarantee given or security provided and the purpose for which the loan or guarantee or security is proposed to be utilised by the recipient of the loan or guarantee or security.

(5) No investment shall be made or loan or guarantee or security given by the company unless the resolution sanctioning it is passed at a meeting

of the Board with the consent of all the directors present at the meeting and the prior approval of the public financial institution concerned where any term loan is subsisting, is obtained:

Provided that prior approval of a public financial institution shall not be required where the aggregate of the loans and investments so far made, the amount for which guarantee or security so far provided to or in all other bodies corporate, along with the investments, loans, guarantee or security proposed to be made or given does not exceed the limit as specified in sub-Section (2), and there is no default in repayment of loan instalments or payment of interest thereon, as per the terms and conditions of such loan to the public financial institution.

Analysis: In accordance with the Section 186 which is yet to be notified, this would be relevant Section/*Proviso* in the future (when this Section is notified or made operative by the Government) in dealing with the matter of loan and investment by a company including giving of corporate guarantee by the holding company to its subsidiary company. It can be observed that giving of corporate guarantee to bank on behalf of its subsidiary company would be in line with the spirit of the said Section 186, provided the respective companies are ensuring with the various compliances mentioned herein including limits specified in Clause (2), passing of special resolutions, approval of public financial institution if required. The spirit of this new Section 186 is in line with the existing Section 372A of the Companies Act, 1956. As of now, the companies must ensure compliance with the existing Section 372A of the Companies Act, 1956 (which is being reproduced and interpreted herein below) and not this Section 186 of the new Companies Act, 2013, which is yet to be notified.

Section 372A: Inter-corporate Loans and Investments (including giving of Guarantee)

(The above Section 372A is still operative)

(1) No company shall, directly or indirectly:

- (a) make any loan to any other body corporate ;
- (b) give any guarantee, or provide security, in connection with a loan made by any other person to, or to any other person by, any body corporate ; and

The aforementioned Section 372A of the Companies Act, 1956 that is still in operation, specifically deals with inter-corporate loans, giving of any guarantee including corporate guarantee or providing any security and exempts the limits applicable for loans advanced by holding company to its wholly-owned subsidiary.

(c) acquire, by way of subscription, purchase or otherwise the securities of any other body corporate, exceeding 60% of its paid-up share capital and free reserves, or 100% of its free reserves, whichever is more:

Provided that where the aggregate of the loans and investments so far made, the amounts for which guarantee or security so far provided to or in all other bodies corporate, along with the investment, loan, guarantee or security proposed to be made or given by the Board, exceeds the aforesaid limits, no investment or loan shall be made or guarantee shall be given or security shall be provided unless previously authorised by a special resolution passed in a general meeting:

Provided further that the Board may give guarantee, without being previously authorised by a special resolution, if:

- (a) a resolution is passed in the meeting of the Board authorising to give guarantee in accordance with the provisions of this section ;
- (b) there exists exceptional circumstances which prevent the company from obtaining previous authorisation by a special resolution passed in a general meeting for giving a guarantee; and
- (c) the resolution of the Board under clause (a) is confirmed within twelve months, in a general meeting of the company or the annual general meeting held immediately after passing of the Board's resolution, whichever is earlier :

Provided also that the notice of such resolution shall indicate clearly the specific limits, the particulars of the body corporate in which the investment is proposed to be made or loan or security or guarantee to be given, the purpose of the investment, loan or security or guarantee, specific sources of funding and such other details.

(2) No loan or investment shall be made or guarantee or security given by the company unless the resolution sanctioning it is passed at a meeting

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of the Board with the consent of all the directors present at the meeting and the prior approval of the public financial institution referred to in Section 4A, where any term loan is subsisting, is obtained.

Provided that prior approval of a public financial institution shall not be required where the aggregate of the loans and investments so far made, the amounts for which guarantee or security so far provided to or in all other bodies corporate, along with the investments, loans, guarantee or security proposed to be made or given does not exceed the limit of 60% specified in sub-Section (1), if there is no default in repayment of loan instalments or payment of interest thereon as per the terms and conditions of such loan to the public financial institution:

(3) No loan to any body corporate shall be made at a rate of interest lower than the prevailing bank rate, being the standard rate made public under Section 49 of the Reserve Bank of India Act, 1934.

(4) No company, which has defaulted in complying with the provisions of Section 58A, shall, directly or indirectly:

- (a) make any loan to any body corporate;
- (b) give any guarantee, or provide security, in connection with a loan made by any other person to, or to any other person by, any body corporate; and
- (c) acquire, by way of subscription, purchase or otherwise the securities of any other body corporate, till such default is subsisting.

(5) (a) Every company shall keep a register showing the following particulars in respect of every investment or loan made, guarantee given or security provided by it in relation to any body corporate under sub-Section (1) namely:

- (i) the name of the body corporate;
- (ii) the amount, terms and purpose of the investment or loan or security or guarantee;
- (iii) the date on which the investment or loan has been made; and
- (iv) the date on which the guarantee has been given or security has been provided in connection with a loan.

(b) The particulars of investment, loan, guarantee or security referred to in clause (a) shall be entered chronologically in the register aforesaid within seven days of the making of such investment or loan, or the giving of such guarantee or the provision of such security.

(6)---

(7)---

(8) Nothing contained in this Section shall apply:

(a) to any loan made, any guarantee given or any security provided or any investment made by:

(i) a banking company, or an insurance company, or a housing finance company in the ordinary course of its business, or a company established with the object of financing industrial enterprises, or of providing infrastructural facilities;

(ii) a company whose principal business is the acquisition of shares, stock, debentures or other securities;

(iii) a private company, unless it is a subsidiary of a public company;

(b) to investment made in shares allotted in pursuance of clause (a) of sub-Section (1) of Section 81;

(c) to any loan made by a holding company to its wholly-owned subsidiary;

(d) to any guarantee given or any security provided by a holding company in respect of loan made to its wholly-owned subsidiary; or _____."

Analysis: The aforementioned Section 372A of the Companies Act, 1956 that is still in operation, specifically deals with inter-corporate loans, giving of any guarantee including corporate guarantee or providing any security and exempts the limits applicable for loans advanced by holding company to its wholly-owned subsidiary. The intent of the legislation is clear as to exempt limits on inter-corporate loans between holding companies to its subsidiaries and also any guarantee given or any security provided by a holding company in respect of the loan made to its wholly-owned subsidiary. In view of all these related *proviso* of Section 372A of the Companies Act, 1956 that is still in operation, holding or parent company can provide corporate guarantee to banks for the loan being provided to its subsidiary company or other smaller group company.

As on date, Section 372A of the Companies Act, 1956 permits giving corporate guarantee by holding or parent company to the bank for the loan being provided to subsidiary company or other smaller group company by any bank. The statutory provisions of Section 372A of the Companies Act, 1956 specifically deals with inter-corporate loans and exempts loans advanced or Corporate Guarantee by holding company to its wholly owned subsidiary.

It should be undoubtedly noted that no law can ever restrict the smooth flow of trade and commerce or create bottlenecks in the economic growth of any nation. The ultimate objective of any economic legislation like the new Companies Act, 2013 is to facilitate and improve the efficacy of the economic structure of a nation in line with the changing and dynamic requirements of a vibrant Indian economy. But, recently a lot of banks in the country, only on account of a narrow interpretation of Section 185 of the new Companies Act, 2013 stopped taking corporate guarantee as a security as one of security from holding companies for sanctioning loans to its subsidiary. Ultimately, this narrow interpretation has created a speedbreaker or bottleneck in the flow of loaned funds from banks to corporations that can definitely and adversely affect the economic growth of the resources-starved nation like India.

Conclusion

Based on the above analysis of Sections 185 and 186 of the new Companies Act, 2013 and Section 372A of the Companies Act, 1956, even after the effectiveness of Section 185 of the new Companies Act, 2013, the bank can take the corporate guarantee from holding or parent company to the bank for the loan being provided to subsidiary company or other smaller group company in accordance with the existing Section 372A of the Companies Act, 1956, which is operative as of now along with ensuring required compliance with the Section 185 the new Companies Act 2013.

But the company needs to maintain the proper documentation of board resolutions, share holder's resolutions, various compliances mentioned in Section 372A of the Existing Companies Act, 1956, passing of appropriate Special Resolutions with permissible limits, approval of public financial institution if required, and ensure other compliances in accordance with the provisions of existing Companies Act, 1956 and New Companies Act, 1956, to ensure at all times the enforceability of corporate guarantee being given by holding or parent company to the bank for the loan being provided to subsidiary company or other smaller group company.

Even as per recent Circular No. 18/2013 dated 19-11-2013, the Ministry of Corporate Affairs has issued a clarification with regard to applicability of provision of Section 372A of the Companies Act,

As on date, Section 372A of the Companies Act, 1956 permits giving corporate guarantee by holding or parent company to the bank for the loan being provided to subsidiary company or other smaller group company by any bank.

in case of a Bank Guarantee, the precedent were satisfied to authorize the renewal of a Bank Guarantee of that Credit Facility, to ensure the Credit Facility.

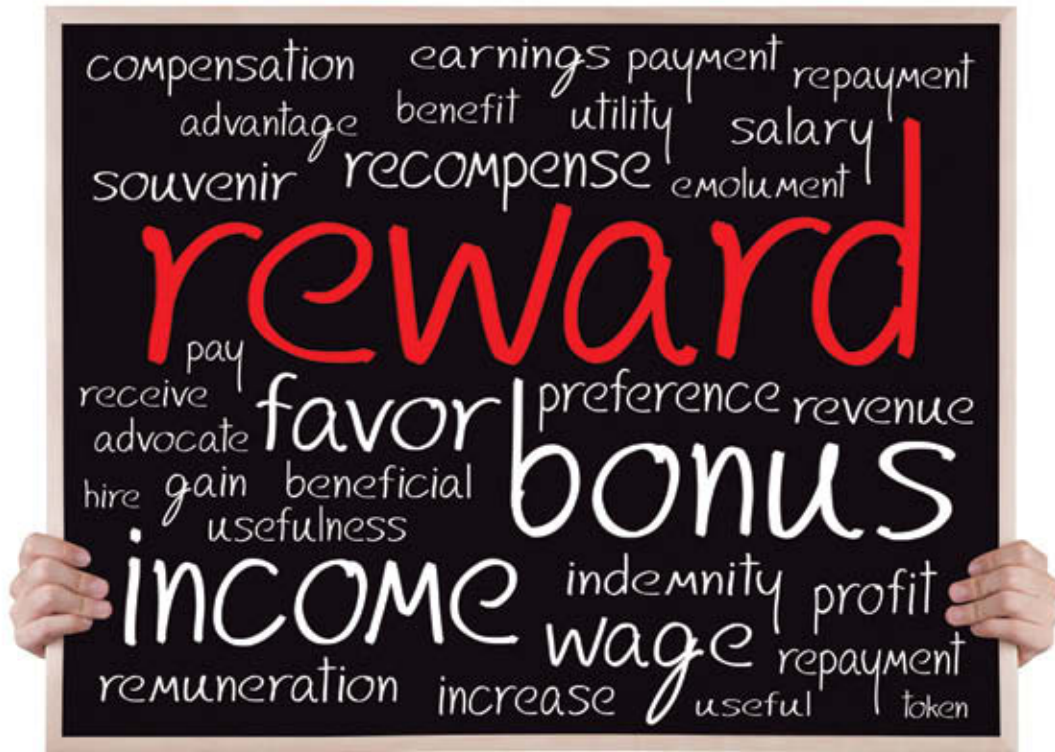
for the Bank Guarantees or Loans

irrevocably and unconditionally entered into and considered by the bank as a part of the Credit Product under which the bank provides the Confirmation from the bank to the borrower.

1956 on account of number of representations received consequent upon notifying Section 185 of the Companies Act, 2013 dealing with loans to directors which is corresponding to Section 295 of the Companies Act, 1956. It was candidly clarified in the said Circular that Section 372A of the Companies Act, 1956 dealing with inter-corporate loans continue to remain in force till Section 186, of the Companies Act, 2013 is notified.

Banking industry is advised to review the narrow interpretation of Section 185 and start taking corporate guarantees from the respective holding or parent companies for the credit facilities/loan being provided to subsidiary company or other smaller group company in accordance with the existing Section 372A of the Companies Act, 1956. ■

Insight on Provisions of Managerial Remuneration in Companies Act, 2013



Director's remuneration had been a tricky issue in the Companies Act, 1956. Despite a presence of many provisions to deal with this issue, some loopholes continued to persuade the Ministry to issue various circulars and notification for more clarity and more transparency on this aspect. But now the Companies Act, 2013 throws a clear light on this complex issue, while entrusting to provide more and more transparency on this issue, so that no one from management could extract funds that belong to shareholders and stakeholders. This transparency is moreover linked with the term Shareholder Democracy, as shareholders are the true owners of a company. Again, shareholders can hardly affect the remuneration of Directors in the present scenario, as most of the remuneration structures are designed by Remuneration Committees comprising a team of Directors. The author in this article tries to explore the scope and issues in the provisions of managerial remuneration under the new Companies Act, 2013. Read on...



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Director's remuneration has always been a tricky part of the Companies Act, 1956. Although the Companies Act, 1956 has provided many provisions for dealing with this issue. But some of the loopholes of the previous act continuously persuaded the Ministry to issue various circulars and notifications for more clarity and transparency on this aspect.

Corresponding to the Section 309 of the Companies Act, 1956, Clause 197 deals with the demarcation line for payment of remuneration to Whole-time Director and Non-whole-time Director. Proviso (i) of Sub-clause (1) of clause 197 retains the ceiling limit of 5% of net profit to Director in whole-time employment, if there is a Managing or Whole-time Director, or else, it would be 10% if more such Directors are there.

But now the Companies Act, 2013 throws a clear light on this complex issue. The new Act entrusts to provide more and more transparency on this issue, so that no one from the management can extract funds, which belongs to not only shareholders but all stakeholders.

This transparency is linked with the term *shareholder democracy*. It has been an established concept that *shareholders* are the exact owners of a company. But it is also true that they can hardly affect the Director's remuneration, since in present scenario, most of the remuneration structures are designed by *remuneration committees*, which are almost a team of Directors, and shareholders have no control over those committees. Therefore, it seems that, on behalf of *stakeholders*, the law itself takes on the responsibility to control the Directors' remuneration so that no one can take additional advantage through the outflow of funds.

Categories of Managerial Person Covered

- a) Managing Director (MD)
- b) Whole-time Director (WTD)
- c) Non-whole time/Part-time Director
- d) Manager

A Snapshot of Provisions of Companies Act, 2013

- (a) Under the Companies Act 2013, Clause 197 would correspond with the existing Section 198 of the Companies Act, 1956 as main charging Section. It deals with the overall ceiling limit of managerial remuneration. As per the charging Section of the Companies Act, 1956, 11% of the net profit is the maximum ceiling limit of managerial remuneration.
- (b) One of the most important features of the new Companies Act is that it tries to put all the relevant provisions regarding

managerial remuneration at a single point. Whereas the Companies Act, 1956 provides various provisions regarding managerial remuneration in a different Section and one has to very carefully reassemble all the provisions to solve an issue, the Companies Act, 2013 has wonderfully consolidated all provisions through a single clause 197.

- (c) Corresponding to the Section 309 of the Companies Act, 1956, Clause 197 deals with the demarcation line for payment of remuneration to Whole-time Director and Non-whole-time Director. Proviso (i) of Sub-clause (1) of clause 197 retains the ceiling limit of 5% of net profit to Director in whole-time employment, if there is a Managing or Whole-time Director, or, else it would be 10% if more such Directors are there. Further again, Proviso (i) of Sub-clause (1) of clause 197 retains the existing ceiling limit of 1% for Non-whole-time Directors. However, one interesting and vital point is to be noted here that the ceiling limit of Non-whole time Directors depends on the factor whether the Company has a Managing Director/Whole-time Directors/Manager. If there is a Managing Director/Whole-time Director/Manager, only 1 % of net profit would be distributed, but if there is no such designation, 3% (higher limit) of net profit can be distributed. A sharp study of this clause reveals that the new-born Act equips to provide a balance between remuneration of whole-time and Non-whole time Director. The prime focus is that Managing/Whole-time Director should get proper remuneration for their whole-time liability as well as no extra or unregulated outflow of fund be there by way of Directors' remuneration.
- (d) Clause 197 of the Companies Act, 2013 deals with the increase in remuneration of Managing or Whole-time Directors. This issue has been dealt with via exercising shareholders right. It specifically indicates that any type of increase in managerial remuneration must be done through approval by the shareholders in general meeting.
- (e) Under the new Act, Schedule V corresponds with the Schedule XIII of the Companies

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Act, 1956, which exercises controlling power regarding criteria to be fulfilled for the appointment of Managing or Whole-time Director as well as the age of the person to be appointed as Managing or Whole-time Director. The schedule deals in 3 parts. Part I deals with the conditions to be fulfilled for appointment as Managing or Whole-Time Director. Part II deals with the remuneration. Again, Section I of Part II deals with remuneration to be payable by companies having profits. Further, Section II of Part II deals with providing guidance for remuneration payable by companies having no profits or inadequate profit which inter-alia contains Part A and Part B. Part A prescribes payment of yearly remuneration depending on the effective capital, and Part B prescribes for the payment of fixed 2.5% of the current relevant profit to a managerial person, who is not a shareholder, employee or a director of the company at any time during the two years prior to his appointment as a managerial person.

Applicability of Managerial Provisions to Public Limited Companies Only

It is very strange to note that all managerial provisions are applied to public companies. Therefore, private companies are still free of stringent regulations in terms of managerial remuneration. However, one thing has to be noted as per the Act, that a company which is a subsidiary of a company, not being a private company, i.e. public company, shall be deemed to be a public company for the purpose of this Act even where such subsidiary company continues to be a private company in its articles. Thus, all stringent provisions would be applicable to a company which is a subsidiary of a company, not being a private company.

With a view to maintain uniformity in the remuneration of Directors, it has been prescribed by the Act that the remuneration shall include all remuneration to be payable to the Director for any kind of service in other capacity. But if a person has a professional qualification beside directorship, he/she also provides services in his/her professional capacity.

Sitting Fees to be Paid to Managerial Personnel is outside the Limit of 11%

One should note that sitting fees for attending board or committee meetings would be outside the purview of the ceiling limit of 11%. Even in case of having no profit or having inadequate profit, sitting fees can be paid regardless of the fact that the usual remuneration cannot be paid in case of loss. In case of loss for paying remuneration to directors, central government approval is required but there is no such requirement for payment of sitting fees. Companies Act, 2013 provides power to the Board for deciding the purpose for which sitting fees may be paid. It may be paid for attending a Board meeting or for attending committee meeting or any other purpose. Compared to the erstwhile provision for payment of sitting fees depending upon the criteria of paid-up capital, the new Act does not prescribe any such kind of slab. The Ministry will prescribe such amount in due course. However, it has been mentioned that different fees for different classes of companies and fees in respect of independent director may be prescribed.

Mode for Payment of Remuneration to MD, WTD and Manager

With the enactment of new law, shareholders will have the right to approve or not, the terms and condition for appointment of MD, WTD and Manager and the remuneration payable to them. The approval should be in the form of special resolution preceded by the formal approval of the Board of Directors, subject to the condition of the appointment and terms. The remuneration has to be determined in accordance with and subject to the provisions of this Section, either by the articles of the company, or by a resolution or, if the articles so require, by a special resolution, passed by the company in the general meeting. Therefore, the prescribed mode may be either of the following:

- (a) Articles of Association
- (b) By a Resolution
- (c) By a Special Resolution.

Articles of Association are to be treated as the main document for determination of managerial remuneration, which provides the manner for determination of managerial remuneration. In case of absence of any provision, it may be determined by a resolution or by a special resolution if required by the articles.

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Remuneration of Directors having Professional Qualifications

With a view to maintain uniformity in the remuneration of Directors, it has been prescribed by the Act that the remuneration shall include all remuneration to be payable to the Director for any kind of service in other capacity. But if a person has a professional qualification besides directorship, he/she also provides services in his/her professional capacity. That means extra remuneration can be paid to professionally qualified Directors. But one has to take approval of the nomination and remuneration committee, if the company is a listed company or the Board of Directors if company is not a listed one that the director possesses the requisite qualification for the practice of the profession, and that the intended person is having requisite professional qualification for the practice of the profession. The erstwhile provision for taking the approval of Central Government has been withdrawn.

Modes of Payment of Remuneration

Whereas the Companies Act, 1956 prescribes a separate manner for payment of remuneration to Managing Director, Whole-time Director, Non-whole-time Director and Manager, sub-clause 6 of Clause 197 prescribes a single manner for payment of remuneration to all Directors. Now, all Directors and Managers may be paid remuneration either by way of a monthly payment or at a specified percentage of the net profits of the company or partly by one way and partly by the other.

Separate Provision for Independent Directors

The Companies Act has put its best efforts to exercise governance at every level. Independent Directors are an integral part of such governance. Independent Directors' duties are always focused on ensuring practice of corporate governance at Board level. In view of this, the new Act has prescribed various provisions to maintain their *independent identity*. As regards the remuneration payable to Independent Directors, the government has tried to maintain a check from all sides, so that *independent identity* should not get divulged. Some of the important provisions regarding remuneration to be paid to Independent Directors are:

- (a) Different sitting fees are proposed to be prescribed for Independent Directors

Remuneration committee has a responsibility of drawing a suitable package for Directors keeping in view the regulatory financial position, industry trend, qualification, experience, past performance and past remuneration, and above all the stakeholder's interest. The committee has to approve the remuneration structure in case of loss. The committee owns primary responsibility for remuneration to be paid under Schedule V.

- (b) Independent Directors are not allowed to receive stock options.
- (c) Reimbursement of expenses for participation in the Board and other meetings are allowed.
- (d) Profit-based commissions are allowed to Independent Directors subject to the condition that the same has to be approved by the shareholders at a general meeting.

Payment of Remuneration at Exceeding Rate

- (a) In contrast to the Companies Act, 1956, the new law provides a way for payment of managerial remuneration at a rate exceeding 11% of net profit provided the same has to be approved by members at a general meeting coupled with the approval of the Central Government.
- (b) Payment of remuneration to Managing Director and Whole-time Directors may be made at a rate exceeding 5% or 10% as the case may be, subject to the approval of members at a general meeting.
- (c) Payment of remuneration to Directors who are not Managing Directors or Whole-time Directors may be made at a rate exceeding 1% or 3% as the case may be, subject to the approval of members at a general meeting.

The law seems to be very strict regarding the outflow of fund by way of remuneration of Directors. At the same time, it allows flexibility to change the percentage of Directors' remuneration.

(Note: *The law prescribes extensive power to members of a Company to decide the issues of managerial remuneration.*)

Waiver of Refundable Remuneration

The excess remuneration drawn by any Director is strictly refundable to the company. No waiver of

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remuneration is allowed except with the approval of Central Government.

Increase in Managerial Remuneration

- a) **For companies having adequate profit:** Increase in managerial remuneration has to be read combined with Clause 197 along with Schedule V. As the Act suggests that, for increase of managerial remuneration to Managing or Whole-time Director or even Non Whole-time Director within the limit of 5% and 10% or 1% and 3% as the case may be, no CG approval is required. The company is free to draw a suitable package within the prescribed limit. For increase above the limit, approval of members would be required. One should keep in mind that only for raising the overall limit exceeding 11%, CG approval will be required coupled with members approval.
- b) **For companies having no profit or inadequate profit:** For companies having no profit, remuneration will automatically become non-payable except certain conditions of Schedule V are fulfilled and the slabs of Schedule V are being adopted. Same rule is also applied in case of companies having inadequate profit. The prescribed slab is:
- (A)

Sl no	Where the effective capital is	Limit of yearly remuneration payable shall not exceed (Rs)
1	Negative or less than 5 crore	30 lakh
2	5 crore and above but less than 42 lakh 100 crore	42 lakh
3	100 crore and above but less than 60 lakh 250 crore	60 lakh
4	250 crore and above	60 lakh <i>plus</i> 0.01% of the effective capital in excess of ₹ 250 crore

(B)

In case of a managerial person who was not a shareholder, employee, or, a director of the company at any time during the two years prior to his appointment as a managerial person, — 2.5% of the current relevant profit.

Compared to the provisions of the Companies Act, 1956, the limit for effective capital and yearly remuneration has been raised to a great extent. Further, no-fixed highest limit is prescribed, as for the companies having effective capital of more than 250 crore, 60 lakh plus 0.01% of the effective capital in excess of 250 crore has been prescribed. With a view to provide more option, it has been prescribed that the limits mentioned in the slab shall be doubled if the resolution passed by the Shareholders is a special resolution. Further, it has been prescribed that limits shall be adjusted on *pro-rata* basis for a year. Further, it has been provided that the limits raised on double-scale basis shall be approved by the Board of Directors, if the company is not a listed one and, in case of a listed company, it has to be approved by the nomination committee.

Increase in Remuneration on Appointment or Re-Appointment

Clause 200 corresponding to the Section 311 deals with the increase in remuneration of Managing or Whole-time Director only. It states that normally company itself and Central Government in cases where appointment is made with Government's approval, shall be empowered to fix a limit with regard to remuneration after keeping in view the various matters including the financial position of the company as well.

More Disclosure by Listed Companies

Under the new Companies Act, 2013, Sub-clause (12) of Clause 197 prescribed to disclose the ratio of the remuneration of each Director to the median employee's remuneration. This provision treats Directors and Managing Director as an employee of the company.

In order to provide more and more flexibility and to ensure better corporate governance, it has been prescribed that a Managing Director, Whole-time Director or Manager shall be appointed and the terms and conditions of such appointment and remuneration payable be approved by the Board of Directors at a meeting which shall be subject to approval by a special resolution at the next general meeting of the company and by the Central Government, in case such appointment is at a variance to the conditions specified in that Schedule.

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Role of Remuneration Committee under Schedule XII

Remuneration committee has a responsibility of drawing a suitable package for Directors keeping in view of the regulatory financial position, industry trend, qualification, experience, past performance and past remuneration, and above all the stakeholder's interest. The committee has to approve the remuneration structure in case of loss. The committee owns primary responsibility for remuneration to be paid under Schedule V.

Comparison of Present Provisions with New Companies Bill, 2012

The new Companies Bill, 2013 has brought more transparency and flexibility in terms of managerial remuneration. Some of the important provisions describing the major change in the area of managerial personnel and their remuneration are:

- (a) No Managing Director or Whole-time Director or Manager shall be appointed for a term exceeding 5 years. However, no reappointment shall be made earlier than one year before the expiry of his term.
- (b) Minimum age limit required for appointment as Managing or Whole-time Director or Manager has been reduced to 21 years against the present age limit of 25 years. Maximum age limit of 70 years will also apply to existing Whole-time Director, Managing Director and Manager. And the post will automatically vacate on the attainment of age of 70 years. However, in case of a new appointment, the maximum age limit of 70 years can be relaxed if approved by a special resolution.

In order to provide more and more flexibility and to ensure better corporate governance, it has been prescribed that a Managing Director, Whole-time Director or Manager shall be appointed and the terms and conditions of such appointment and remuneration payable be approved by the Board of Directors at a meeting which shall be subject to approval by a special resolution at the next general meeting of the company and by the Central Government, in case such appointment is at a variance to the conditions specified in that Schedule.

- (c) Prescribed time limit for filing return of appointment has been reduced to 60 days against the present time limit of 90 days.
- (d) In order to have a tight vigil on the corporate decisions, the Act suggests that where an appointment of a Managing Director, Whole-time Director or Manager is not approved by the company at a general meeting, any act done by him before such approval shall not be deemed to be invalid. Therefore, a Managing Director or Whole-time Director cannot disown its liability on the ground that their appointment has not been approved by the shareholders at the next general meeting.
- (e) Overall ceiling limit of managerial remuneration has not been changed. It remains at 11% of the net profit. However, the biggest change is that, subject to certain conditions, the company in a general meeting may, with approval of the Central Government, authorise the payment of remuneration exceeding 11% of the net profits of the company.
- (f) In view of more empowerment of shareholders, it has been decided that an approval of shareholders would be required *for payment of remuneration to any one Managing Director or Whole-time Director* at a rate exceeding 5% or if there is more than one such director, remuneration shall not exceed 10 % of the net profits to all such Directors and Manager taken together.
- (g) As the role of Independent Directors is continuously expanding in maintenance of corporate governance, the law proposes to limit the interest of Independent Directors and as such it proposes that Independent Directors shall not be entitled to any stock option and may receive remuneration only by way of commission or fees payable for attending Board or Committee meetings.
- (h) A new provision regarding insurance on professional liability has been inserted which states that where any insurance is taken by a company on behalf of its Managing Director, Whole-time Director, Manager, Chief Executive Officer, Chief Financial Officer or Company Secretary

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for indemnifying any of them against any liability in respect of any negligence, default, misfeasance, breach of duty or breach of trust for which they may be guilty in relation to the company, the premium paid on such insurance shall not be treated as part of the remuneration payable to any such personnel:

Provided that if such person is proved to be guilty, the premium paid on such insurance shall be treated as part of the remuneration.

- (i) With a view to have better compliance system in a company, it has been decided that, where a company is required to restate its financial statement due to fraud or noncompliance with any requirement under this Act and the rules made there under, the company shall recover from any past or present Managing Director or Whole-time Director or Manager who, during the period for which the financial statements are required to be restated, the remuneration received (including stock option) arisen due to such statement or noncompliance in excess of what would have been paid to the Managing Director, Whole-time Director or Manager under such restated financial statements.

- (j) A provision has been inserted for payment as consideration for retirement or as compensation for loss of office to Managing Director or Whole-time Director or Manager. This facility will not be available to any other Director. Again, this facility would not be available in the following cases:

- Where Directors resign from their office as a result of reconstruction of the company, or of its amalgamation with any other body corporate or bodies corporate and is appointed as the Managing or Whole-Time Director, Manager or other Officer of the reconstructed company or of the body corporate resulting from the amalgamation;
- where Directors resign from their office other than on the reconstruction of the company or its amalgamation;
- where the vacation is under sub-section



(1) of Section 167 which corresponds present section 283 of the Companies Act, 1956;

- where the company is being wound up, whether by an order of the Tribunal or voluntarily, provided the winding up was due to the negligence or default of the director;
- where Directors have been guilty of fraud or breach of trust;
- where Directors have instigated, or taken part directly or indirectly in bringing about the termination of their office;
- where individuals shall not be chairperson of a company as well as the Managing Director or Chief Executive Officer of the company at the same time unless provided in the Articles.

Summary

Maintenance of corporate governance at all levels is the main focus area of the law. Whereas the Companies Act, 1956 is trying to regulate more and more managerial remuneration through various checks and limits, the new Companies Act provides more and more flexibility to companies, to draw a suitable remuneration package as well as regulate the same with more transparency and Shareholders empowerment. ■

[illegible]

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An illustrative list of risks mapped to the financial reporting and compliance objective is constructed to explain the concepts. Important definitions are given in the following table:

Important Terms	Meaning
Risk*	The possibility that an event will occur and adversely affect the achievement of objectives
Risk Assessment Business Function	Risk Assessment Business Function is the profit/cost/responsibility centre of each of the business verticals that has the associated risks mapped to its activities. Mapping Risks to each Business Function and Sub-function is the primary requirement for an efficient risk management process
Risk Assessment Business Sub-Function	Risk Assessment Business Sub-function is a subset of the main function and would essentially cover within its ambit all associated processes. The object of the Risk Business sub-function shall always be aligned to the object of the risk Business function. Conflicts, if any, will have to be resolved before the risk assessment process is commenced

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Important Terms	Meaning
Process	In the simplest of sense, a process would mean series of actions or steps taken to achieve an end. All processes individually and severally shall cover all possible business activities for each of the Risk Assessment Business function and sub-function
Risk Event	Discreet specific occurrence that negatively affects strategy, decision and process and results in a pecuniary loss more often than not
Operational Risk Loss	Operational risk loss is the risk of loss resulting from failed or inadequate internal control process, people, systems or an external event.
Control	Controls are defined as the power to influence or direct people's behaviour or the course of risk events. Controls have to be defined and implemented for specific processes. The test for effectiveness of controls is a good barometer to indicate the direction in which the risk is moving
Response strategy	These are a set of activities that will determine the follow-up measures that will be undertaken by the Risk Assessment Business Function to mitigate the risks.

*Committee of Sponsoring Organisations, Enterprise Risk Management—Integrated Framework (2004)

Inherent and Residual Risk

As per the *Enterprise Risk Management—Integrated Framework (2004)*, COSO defines inherent risk as the risk to an entity in the absence of any actions that management might take to alter either the risk's likelihood or impact. Residual risk is the risk remaining after management response to the risk.

This can be interpreted in different ways, since organisations have their own methods to do that. Inherent risk is the risk associated with a risk object that has to be controlled. The controls that

management has implemented will be evaluated for their effectiveness and the resultant risk that emanates will be residual in nature. This residual risk is nothing but the actual risk and the management has to decide whether it has the necessary appetite to absorb the risk. If not, it has to decide on a strategy to implement the necessary controls to mitigate the risk within a stipulated and agreed timeline.

Risk Assessment

Risk assessment is defined as a systematic process of risk identification, risk assessment, risk prioritisation, and execution of appropriate response strategy. Risk assessment department in each organisation sets direction in terms of organising, assisting and documenting the self-assessment of each risk business function for a consortium of risks. Objective of any risk assessment is to ensure that effective and efficient controls or risk mitigation activities are in place to address potentially high-impact operational risks and take necessary steps to ensure that they are sustainable over a period of time.

Risk Assessment and Objectives of a Company

Risk assessment may be performed across the board or with respect to selective functions aligned to specified organisational objectives. Companies functioning in the BFSI vertical may be keen to do a corruption and fraud risk assessment along with operational risk assessment to ensure compliance with Solvency II and Basel II norms; for a manufacturing company, the focus may shift to performing a risk assessment on new product innovation, operations, supply chain, facilities and treasury; for a dot com, company IT controls, operational and treasury risk assessment may be appropriate.

Management may also shift their focus based on the changing economic, political and social environment and also with respect to changes within the organisation, e.g., high attrition rate among middle management, conflict of interest, poor tone at the top, regulatory non-compliance, data theft, etc.

1. Risk Identification

This is an important aspect of the risk assessment process. A risk assessment professional guides the various risk assessment business functions and their sub-functions to list down all the risks that affect their respective functions. What are the different types of risks that are to be listed down? If there is a remote possibility of the risk event adversely affecting the achievement of the objectives, it qualifies.

2. Establishment of Risk Assessment parameters:

2.1 Likelihood

Likelihood is the probability or frequency of risk event occurring at any given period of time. Period of time could be a year, normal business cycle, estimated useful life of the asset, gestation period of a project, and so on. A list of specified parameters is given in the following table:

Table 2: Likelihood

Rating	Rating description	Frequency	Probability of occurrence of the Risk Event
1	The risk may occur as a tail event.	Less than once in five years	< 20 %
2	Infrequent occurrence of risk. The risk event is far less likely to materialise than not	Once every four to five years	20-25 %
3	The risk may occur intermittently	Once every two to four years	25-50 %
4	The risk is more likely to occur than not and the frequency is more marked	Every one to two years	50-90 %
5	The risk is expected to occur very frequently and at regular intervals.	More than once a year	> 90 %

On identification of risk, it is imperative that we measure the extent of vulnerability that has already been exploited by the system, process and people and the probability by which it could be exploited in the future. Let us not mistake the fact that there is a certain element of looking back that is imminent for performing a Stochastic probabilistic projection.

The probabilistic assumptions that can be made use of are belief type and frequency type probability. It is advisable to use both the types in conjunction. Bayesian probability is a type of belief type probability that tells us how to update our probabilities based on additional pieces of information. Let us see with the help of an example.

Example: Information outsourcing companies process credit card information of customers who want to buy an electronic product, service or an annual maintenance contract. Credit card information is classified as strictly confidential and there is a certain element of vulnerability that goes with the process.

Applicability of Bayes' Theorem

	Total no. of credit cards processed in a year		1,00,000 nos.		Remarks
		W/F	Yes	No	
1	No. of possible fraud cases	F	2,000	98,000	
2	Probability of the customer agent writing down the credit card information	W	0.15	0.7	No information on the balance 15%
What is the probability of a fraud being committed given that the customer service agent writes down the credit card number at the time of processing		P(F/W)	$\frac{P(W/F) \times P(F)}{P(W/F) \times P(F) + P(W/NF) \times P(NF)}$	$\frac{0.15 \times 0.02}{(0.15 \times 0.02) + (0.7 \times 0.98)}$	44% cases

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At first glance, the probability of occurrence of fraud seems to be @ 2%. However, in reality, it is never such an open and shut case. With the help of Bayes' probability and based on additional information provided, risk-management personnel shall estimate the occurrence of fraud to be @ 44% of those cases, where a customer service agent writes down the credit card information.

2.2 Control Effectiveness

The test for effectiveness of internal control over a process includes evaluation in terms of its adequacy, relevance and risk mitigating properties. Generally, controls are of two kinds—preventive and detective. A sharp risk professional will look more for the former. Detective controls are more in vogue, where the process is completely manual and would require a second pair of eyes.

Table 3: Control Effectiveness

Rating	Rating description	Impact	Probability of control failures
1	The internal controls existing in the organisation is highly effective and the evidence of the past has vindicated it	Robust	<5%
2	The internal controls are more effective than normal and the risk mitigation activities are carried out on a sustained and continuous basis	Effective	5%<10%
3	The internal controls are less effective than normal and the process requires methodical treatment	Moderate	10%<40%
4	Controls are less effective than not, lack consistent application and adjustment to the changes in both the external and internal environment and lacks management oversight	Ineffective	40%<60%
5	Controls fail most of the time, are highly ineffective and substantially lack management oversight and intervention.	Failure	>60%

2.3 Financial, Regulatory and Compliance Impact

The impact is the quantifying part of the risk assessment and involves computation of the actual loss occurring due to the risk event. It can be taken as a percentage of EBIT (earnings before interest and tax). An operational risk loss arising out of a risk event will also be considered for the purpose of quantifying the impact.

Table 4: Financial, Regulatory and Compliance Impact

Rating	Impact	Proportion of EBIT
1	Minimal	<0.25%
2	Low	0.25% < 1%
3	Medium	1% < 3%
4	High	3% < 7%
5	Extreme	>7%

2.4 Impact – IT Infrastructure, Administration and People

IT and HR facilities are key support functions that have an impact on the overall risk-assessment framework.

Table 5: IT Infrastructure, Administration and People Impact

Rating	Risk Description	Impact	Impact description (Downtime per week)
1	IT hardware failure,	Minimal	< 1 man hour
2	Power shut down, Water shortage,	Low	1 man hour < 2 man hours
3	Transport disruption,	Medium	2 man hours < 4 man hours
4	Labour unrest, Pandemic, Hygiene issues.	High	50 % man day < 1 man day
5		Extreme	>1 man day

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2.5 Final Rating

It is after all a number game and all the ratings will culminate to a final rating which may be arrived at using the following formula:

$$\text{MIN}(\text{ROUND}(((\text{Financial, Regulatory and Compliance Impact} \times \text{IT Infrastructure, Administration and People Impact}) + (\text{Probability of occurrence} \times \text{Control effectiveness}))/10,0)+1,5)$$

Table 6: Illustrative Pictorial Representation of Final Rating

Financial, Regulatory & Compliance Impact						
X						
Likelihood -Frequency of Event / Probability of Occurrence y		1	2	3	4	5
	1	1	2	2	3	4
	2	2	2	2	3	4
	3	2	2	3	4	4
	4	2	3	4	4	5
	5	4	4	4	5	5
IT infrastructure, Administration and People Impact						
X						
y						
Control effectiveness						
y						
X						
1						
2						
3						
4						
5						

Table 7: Illustrative Summary of Financial Reporting and Compliance Risk Register

Objective	Function	Sub-function	Risk Si. No.	Risk	Financial, Regulatory & Compliance Impact	IT Infrastructure, Administrative and People Impact	Frequency of Event/ Probability of Occurrence	Control Effectiveness	Risk Rating Total	Risk Rating Description
Financial Reporting and Compliance	Procurement	Vendor Identification, Selection and Evaluation	1	Existing vendor master database not updated	3	4	2	3	3	Medium
			2	No defined parameters for vendor evaluation	3	2	5	4	4	High

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Financial Reporting and Compliance	Procurement	Vendor Identification, Selection and Evaluation	3	Financial of vendor not available/ credit worthiness questionable	2	1	4	4	3	Medium
			4	One time vendor	3	2	3	4	3	Medium
		Request for quotation	5	Only from one vendor	3	2	3	3	3	Medium
			6	Compromising the confidentiality	3	2	4	5	4	High
		Vendor performance	7	Parameter not defined	3	4	3	3	3	Medium
			8	Open PO not reviewed	4	1	5	5	4	High
		Purchase Order	9	Same day PO - PO raised after receipt of goods at the Receiving Bay	5	3	5	4	5	Extreme
			10	Invoice rate > PO rate	3	4	4	3	3	Medium
	Payables (AP)	3 way match	11	Received quantity < Invoice quantity	3	3	1	4	2	Low
			12	Purchase Price variance	2	3	4	4	3	Medium
		Invoice & debit note	13	Invoices not generated and residing in interim a/c	5	5	4	3	5	Extreme
			14	Invoice Price variance	4	3	4	2	3	Medium
			15	Debit note not adjusted	5	3	4	4	4	High
		Payment	16	Delay	2	3	3	3	3	Medium
			17	Prepayment not adjusted	4	3	1	4	3	Medium
			18	Cancelled cheque not voided in system	2	3	1	4	2	Low
			19	Manual payments	3	5	4	5	5	Extreme
		Reconciliation of AP books	20	AP GL & SL mismatch	3	4	4	4	4	High

Financial Reporting and Compliance	Payables (AP)	Reconciliation with vendor books	21	Not performed	2	3	4	4	3	Medium
	Receivables (AR)	Invoice and credit note	22	Credit note not adjusted	2	3	4	3	3	Medium
		Cash application	23	Delay and erroneous application	4	3	3	4	3	Medium
		Reconciliation of AR books	24	AR GL & SL mismatch	2	4	3	3	3	Medium
		Receivable Management - Ageing analysis	25	Aged receivables	2	3	4	3	3	Medium
			26	Poor Collection mechanism	5	4	2	3	4	High
	Inventory	Bill of Material	27	Not reviewed periodically	3	3	2	3	3	Medium
			28	Purchasing history without corresponding entry in BOM	2	3	4	3	3	Medium
		Cycle count	29	ABC classification incomplete	4	3	4	4	4	High
			30	System count discrepancy beyond threshold limit	3	4	4	3	3	Medium
			31	Physical count discrepancy not adjusted	2	3	1	3	2	Low
			32	Same part counted twice	3	4	3	3	3	Medium
			33	Bin and part mismatch	2	1	3	4	2	Low
		Inventory & COGS review	34	In transit inventory not accounted for in the books	4	3	3	2	3	Medium
			35	Lack of proper review	2	2	4	3	3	Medium

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Financial Reporting and Compliance	Cash & Bank	Petty cash - Physical count	36	Excess/Shortage of cash	3	2	2	3	2	Low
		Petty cash - Operations	37	'Ghost' payment vouchers	3	2	4	4	3	Medium
			38	High value expenses paid	3	4	2	3	3	Medium
			39	Pending cash advance not settled	3	4	5	3	4	High
			40	Not approved	3	4	5	3	4	High
			41	FCPA/UK Bribery Act violation	3	4	3	3	3	Medium
		Petty cash reconciliation	42	Not periodically performed	3	2	3	2	2	Low
		Bank confirmation	43	Not confirmed by few banks	3	2	4	5	4	High
		Bank Reconciliation	44	Process for periodical reconciliation not in place	4	2	4	3	3	Medium
			45	Open items in the reconciliation not addressed	4	3	1	4	3	Medium
		Capitalisation	46	Delay & Erroneous capitalisation	3	2	3	3	3	Medium
			47	WIP and Repairs and Payment a/c not analysed	3	2	4	4	3	Medium
			48	Govt., Circular 25/2012 dt. Aug 09, 2012 on AS -II not followed	4	2	4	4	3	Medium
		Physical verification	49	Not performed	4	3	5	5	5	Extreme
			50	Movement Register not maintained	3	3	4	4	4	High
		Reconciliation	51	Reconciliation not performed between verification report, Bond Register, FAR and GL	4	3	4	4	4	High

Financial Reporting and Compliance	Fixed Assets	Reconciliation	51	Reconciliation not performed between verification report, Bond Register, FAR and GL	4	3	4	4	4	High
		Impairment	52	Not performed	3	3	3	3	3	Medium
		Disposal	53	No proper approval	3	3	4	4	4	High
	Regulatory, Tax and Compliance	Regulatory	54	Company Secretarial non compliance	2	3	3	3	3	Medium
		Tax	55	Withholding tax not remitted on time	5	2	3	3	3	Medium
			56	VAT/Excise and customs duty non compliance	5	2	3	3	3	Medium
			57	Service tax refund not availed	5	3	3	3	3	Medium
			58	Poor response to department queries	4	3	4	4	4	High
		Compliance	59	FCPA/UK Bribery Act violation	5	3	4	3	4	High
			60	Data theft	5	3	4	5	5	Extreme
			61	Gifts received from vendors/gifts given to government officials not disclosed	5	4	4	5	5	Extreme
	Periodical Reporting	Monthly/Quarterly/Yearly close activities	62	Checklist not maintained	2	1	4	4	3	Medium
			63	GL period not closed	2	1	3	3	2	Low
			64	Statement of AS compliance not documented	3	2	3	3	3	Medium
		Post close activities	65	Reconciliation of balance sheet a/c not performed	3	4	4	4	4	High
			66	Accruals not reversed in the beginning of the next period	3	2	3	3	3	Medium

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3. Risk Prioritisation

Risks are prioritised based on their severity and can be summarised into a pivot table (*see the table below*). There are tools like risk movement matrices and risk interaction maps that can be used to understand the risks that need to be addressed on priority.

Table 8: Illustrative list of Risk prioritisation

Financial Reporting & Compliance Objective	Risk Rating				Risk Total
Function	Extreme	High	Medium	Low	
Cash & Bank		3	5	2	10
Fixed Assets	1	3	4		8
Inventory		1	6	2	9
Payables (AP)	2	2	6	2	12
Procurement	1	3	5		9
Receivables (AR)		1	4		5
Regulatory, Tax and Compliance	2	3	7	1	13
Grand Total	6	16	37	7	66

4. Risk Mitigation Strategy

Risk mitigation strategy is the list of activities that is designed by the *risk assessment business function* with the help of the risk assessment professional to address the risks. It is imperative that strategies are formulated for all risks and not limited to only risks that are of high priority (extreme and high cases), as it is a known fact that today's low risk will become tomorrow's high, if left untreated. Let us take examples of two extreme cases and see what constitutes an appropriate strategy (see Table 9):

Table 9: Illustrative List of Risk Response Strategy

Risk Si. No	Risk	Risk Description	Risk Mitigation Strategy/Action points	Risk Owner	Target Date
9	Same day PO -PO raised after receipt of goods at the Receiving Bay	Goods are ordered over phone. Based on the availability the supplier sends the goods with invoice. Once the goods are received the receiving clerk intimates the procurement department. PO s are subsequently raised	1. Standing instructions to the procurement department not to prepare PO s after receipt of goods 2. No manual PO 3. As all PO release are linked to material planning, ensure that there are no exceptions 4.Enable the vendor to see the PO online with web based solution and similarly request vendor to upload the invoice using the tool 5. Plan awareness training for the receiving clerk 6. As a detective measure generate the PO listing for the month and check for any manual PO	Head of Procurement	Nov. 30, 2013
49	Physical verification of fixed assets not performed	The company has not verified its fixed assets regularly. There have been some assets disposed, but still appearing in the books. Some of the assets do not have tags	1. Fixed assets have to be physically verified 100% at all locations at least once a year 2. The policy is silent and hence has to be amended to include verification 3. Assets have to be identified location wise 4. Movement of assets to be tracked, lest there is a double count 5. Assets to be tagged with bar codes 6. Disposals to be appropriately recognised in the books 7. Software assets to be counted separately and their licenses verified 8. Preferably an outside vendor is identified and assigned the work	Head of Facilities	Sep 2013 - Jan 2014

Conclusion

Risk assessment is a key to unlock the treasure within an organisation. A robust risk management process can give reasonable assurance to the management, the shareholders and other stakeholders that the processes are effective, efficient and adequately controlled. As we have seen controls

are never a foregone conclusion, they require continuous evaluation in relation to the risk event and the risks assessed, prioritised and strategised for appropriate risk mitigation. A robust risk assessment framework will allow the management to concentrate more on achieving their business goals. ■

Report on Campus Placement Programme – February - March, 2014*



The Committee for Members in Industry (CMII) of ICAI organises Campus Placement Programmes for Newly Qualified Chartered Accountants twice in a year and is committed to provide world class placement services to the Members and best accounting and finance talents to the industry.

In its endeavour to provide quality Accounting, Finance, Tax, Audit and Management Consultancy personnel to recruiting entities, the Committee has successfully organised one more round of Campus Placement Programme for Newly Qualified Chartered Accountants at fifteen centres *viz.* Ahmedabad, Bangalore, Bhubaneswar, Chandigarh, Chennai, Coimbatore, Ernakulam, Hyderabad, Indore, Jaipur, Kanpur, Kolkata, Mumbai, New Delhi and Pune in February-March, 2014.

Brief summary of the Campus Placement Programme – February-March, 2014:

Particulars	Campus February-March, 2014
Number of Candidates Registered	2,625
Number of Candidates Shortlisted	2,327
Number of Interview Teams	136
Number of Organisations	80
Number of Jobs Offered	717*
Number of Jobs Accepted	681
Percentage of Jobs offered <i>vis a vis</i> shortlisted candidates	30.81%

Executive Summary

1. Highest salary offered for Domestic posting in the Campus Placement Programme is ₹21

lakh per annum offered by Bharti Airtel at New Delhi centre to 2 candidates, which is highest till date.

2. Highest salary offered for International posting in the Campus Placement Programme is ₹20.25 lakh per annum offered by Sharaf Shipping Agency LLC at Chennai centre to 3 candidates and Hyderabad centre to 2 candidates.
3. The minimum salary paid is ₹3.00 lakh per annum.
4. Average CTC offered in more than ₹7.38 lakh per annum.
5. 717* jobs were offered to the candidates who had participated in Campus Placement Programme.
6. 80 organisations and 136 Interview Teams have participated during the Campus Placement Programme.

Salient Features

1. Candidates were given two chances to meet the recruiting organisations *via* opting for two centres, first at smaller centres and second (if the candidates has not been selected at smaller centres) at bigger centres.
2. The committee organised an Orientation Programme for candidates so as to sharpen their soft skills and to provide them technical updates.
3. All the candidates have been provided eLearning opportunity on two topics, namely Business Etiquette-Gaining That Extra Edge and Mastering the Interview, free of cost during the Campus Placement Programme February-March, 2014.

Career Watch

Top CTC Offered for domestic posting:

Sl No.	Company Name	Job Offered	CTC Offered (INR Per Annum)
1	Bharti Airtel	2	21,00,000
2	Hindustan Unilever Limited	1	20,00,032
3	ITC Limited	1	17,00,000
4	Flipkart Internet Pvt Ltd	12	15,00,000
5	Trident Limited	8	15,00,000
6	ITC Limited	9	14,00,000

Salary Range

Salary Range (per annum)	Number of Candidates
₹9,00,000 and above	145
₹7,50,000 to ₹9,00,000	83
₹6,00,000 to ₹7,50,000	254
₹5,00,000 to ₹6,00,000	174
₹4,00,000 to ₹5,00,000	18
₹3,00,000 to ₹4,00,000	7
Total	681

Top Companies Participating in Campus Placement Programme, February-March, 2014

S. No	Company Name
1	Accenture
2	Axis Risk Consulting Pvt. Ltd.-A Genpact Company
3	Barclays Shared Services Private Limited
4	Bharat Petroleum Corpn. Limited
5	Bharti Airtel
6	Bosch Limited
7	Credit Suisse Services India Pvt. Ltd.
8	Flipkart Internet Pvt. Ltd.
9	Galaxy Surfactants Limited
10	Gujarat Narmada Valley Fertilizers & Chemicals Ltd.
11	Hero MotoCorp Ltd.
12	Hindustan Unilever Limited
13	Honeywell
14	Indiabulls Housing Finance Limited
15	ITC Limited
16	Jindal Steel & Power Limited
17	L&T
18	LANCO Infratech Limited

S. No	Company Name
19	LIC Housing Finance Ltd.
20	Macquarie Global Services
21	MMTC Limited
22	Mphasis an HP Company
23	Neyveli Lignite Corporation Limited
24	RASHTRIYA ISPAT NIGAM LIMITED
25	Reliance Ind Limited
26	Sharaf Shipping Agency LLC
27	Standard Chartered Scope International Pvt. Ltd.
28	Tata Consultancy Services Ltd.
29	The Federal Bank Limited
30	Torrent Limited
31	TVS Motor Company Limited
32	Universal Sompo General Insurance Company Limited
33	UTI Asset Management Company Pvt.Ltd.
34	Vodafone India
35	Whirlpool Of India Ltd.
36	Wipro Ltd.

List is indicative

Spreading Wings-Organisation participating First time in Campus Placement Programme

S. No	Company Name
1	Amazon Development Centre India
2	Axis Bank Ltd.
3	Blue Dart Express Ltd.
4	CIPLA Ltd.
5	Cognizant Technologies Services Pvt. Ltd.
6	Credit Guarantee Fund Trust For Micro And Small Enterprises
7	CRISIL Ltd.
8	Deutsche CIB Centre Private Limited
9	Harman International
10	JET Airways (I) Ltd.
11	Kalpitaru Power Transmission Ltd.
12	SIR Dorabji TATA Trust
13	Smart Chip Limited
14	TATA Capital Limited
15	TATA Motors Ltd.
16	Tega Industries Ltd.
17	The TATA Power Company Ltd.
18	TRIDENT Limited

*Status as on 18th March, 2014, 02:30 PM.

ICAI Reaches Out to the Needy with a Helping Hand — A Report on CABF



“We make a living by what we get. We make a life by what we give” These beautiful words of Winston Churchill inspire all those who believe in giving, including a large number of Chartered Accountants who donate generously for the benevolent initiative of the ICAI called Chartered Accountants Benevolent Fund (CABF).

The CABF is an initiative by the generous CAs for the CAs in distress, which has aided hundreds of needy families of deceased professional brethren and those suffering from terminal/serious ailments in Indian CA fraternity. Proactively considering it as their socio-professional duty to support and stand by the CA families in distress, more and more CAs are coming forward to strengthen the CABF by becoming its life members or contributing generously.

Recently, Vikas Marg CA Study Circle, Delhi donated ₹5,01,000 to the corpus of the fund. More and more Chartered Accountants are invited to join this benevolent initiative.

Following is the brief report on the CABF for the period between 1st April 2013 and 1st March 2014:

Disbursement of the Fund

A sum of ₹1,42,59,500/- was disbursed to members and family under distress for the period of 1st April, 2013 to 1st March, 2014 by way of;

(Year 2013-2014)

S. No.	TYPE OF FINANCIAL ASSISTANCE	NUMBER OF BENEFICIARIES	Amount ₹
1	MONTHLY FINANCIAL ASSISTANCE ON UNNATURAL DEATH OF MEMBER	190	1,09,09,500.00
2	ONE TIME LUMP SUM FINANCIAL ASSISTANCE ON UNNATURAL DEATH OF MEMBER	17	27,50,000.00
3	ONE TIME LUMP SUM FINANCIAL ASSISTANCE ON MEDICAL GROUND	3	6,00,000.00
	TOTAL	210	1,42,59,500.00

It was against the financial assistance of ₹1, 55, 56,000/- disbursed during the period of 1st April, 2012 to 31st March, 2013 to members in distress in the previous year as below;

(Year 2012-2013)

S. No.	TYPE OF FINANCIAL ASSISTANCE	NUMBER OF BENEFICIARIES	Amount ₹
1	MONTHLY FINANCIAL ASSISTANCE ON UNNATURAL DEATH OF MEMBER	207	1,20,56,000.00
2	ONE TIME LUMP SUM FINANCIAL ASSISTANCE ON UNNATURAL DEATH OF MEMBER	15	18,00,000.00
3	ONE TIME LUMP SUM FINANCIAL ASSISTANCE ON MEDICAL GROUND	12	17,00,000.00
	TOTAL	234	1,55,56,000.00

Collection of Fund

S. No.	TYPE OF FINANCIAL ASSISTANCE	For the period of 1 st April 2013 to 1 st March, 2014	For the period of 1 st April 2012 to 31 st March 2013
1	Life Membership Fees (Corpus Fund)	₹1,02,75,000.00	₹1,71,67,150.00
2	Voluntary Contribution	₹23,91,583.00	₹15,40,955.00
3	Annual/Ordinary Contribution	₹19,60,050.00	₹18,64,000.00
	Total	1,46,26,633.00	2,05,72,105.00

RBI Looking at Improving Regulator Architecture

RBI Governor Raghuram Rajan has said there was considerable introspection going on within the central bank on the new regulatory architecture required for the country. A number of internal committees were looking at issues including the level of supervision required, how seamless regulations should be, and the level of regulatory arbitrage required while regulating institutions with similar functions. He was speaking at a conference on banking structure for India. Highlighting the need to upgrade human resources, he said more training institutes and even tests for regulators and officials at higher levels in banks were being given serious thought by the RBI. He said the 'fit and proper' criteria for directors include their grasp over the basics of the business, annual reports, balance sheets and risk management. In what seemed like a significant message for the new Government, he said existing regulators should be used well rather than fragment them. There should not be any attempt to cut regulators' powers or destroy institutions, he said. He said that bankers should be on the warpath to bring inflation down. It was also important to bring down the inflation premium and the credit risk premium.

(Source: www.thehindubusinessline.com)

Finance Ministry Wants RBI Intervention to Curb Rupee Volatility

The finance ministry would like the Reserve Bank of India (RBI) to intervene more frequently in the currency market to smoothen volatility, build reserves when the rupee strengthens and use this to bolster the currency when it weakens. The rupee has strengthened from 63.11 to a dollar at the end of January going past the 61 level, triggering calls for the central bank to use the opportunity to buy dollars for building reserves. India's exports contracted in February after seven months of expansion, which was partly blamed on the stronger rupee even as many of the country's exporting rivals have seen their currencies depreciate. "We don't want to target a level of currency. We would like the central bank to intervene to smoothen volatility," said a senior

finance ministry official. There should be more intervention by the central bank to smoothen the "rough edges" in the currency markets, he said. The RBI has been reluctant to use its reserves of nearly \$300 billion to defend the currency when it depreciates, given that much of this reflects the claims of others or is borrowed money. India is a current account deficit country, a gap that it has met by attracting foreign investment and debt, which will need to be repaid sometime.

(Source: www.economictimes.indiatimes.com)

Govt Unlikely to Meet Tax Collection Targets in Current Fiscal

A slower-than-estimated growth in advance tax receipts from top companies and individuals in the March quarter indicates the finance ministry is unlikely to meet its ambitious tax collection targets for this fiscal year, according to two income tax department officials. Advance tax payments made by 16 Mumbai-based companies rose by 13.5% in the three months to 31st March, said the officials. The city accounts for about 33% of the nation's total tax collections. Companies pay income tax every quarter on their projected earnings and these figures are used as a proxy to estimate financial performance. However, the correlation of earnings with tax paid has at best been mixed.

(Source: *Press Trust of India*)

Finance Minister Pushes for Tax Pacts

In an effort to deliver on his promise of offering tax certainty, Finance Minister P Chidambaram is trying to address the transfer pricing woes of multinational companies by inking a few Advance Pricing Agreements (APAs) before a new government is formed after the Lok Sabha polls in April-May. APAs can help avoid recurrence of transfer pricing disputes between the income tax authorities and MNCs. The tax department is currently embroiled in transfer pricing rows with Vodafone and Shell. The safe-harbour norms (provision in a statute or regulation which specifies in advance something deemed not to violate a given rule) announced in August 2013 got a lukewarm response from industry, with the finance ministry getting barely

36 applications last year. Chidambaram seems keen on closing a few APAs - a deal between taxpayer and department to decide in advance the pricing of a transaction between an MNC and its group companies in India. "We are at an advanced stage in a few APAs. Every effort is being made to close these before 31st March. Wherever companies have come forward with data, we are moving ahead," said a finance ministry official.

(Source: <http://www.business-standard.com/>)

Banks Fail to Catch Up on e-Payment of Service Tax

Thousands of service tax payers are suffering as a number of banks have not been permitted or notified for mandatory e-payment of the tax. As per a fresh notification from the Government of India, the threshold limit for the mandatory e-payment for both central excise as well as service tax has been reduced to ₹1 lakh from the earlier ₹10 lakh. This means the numbers of tax payers mandated for e-payment would increase. However, many of the mainstream banks are yet to be authorised to collect the same. Ironically enough, if a service provider is mandated for electronic payment of service tax and fails to do so, he is likely to face a penalty up to ₹10,000 as per legal provisions. In fact, when it comes to Andhra Pradesh, Andhra Bank is among the banks not notified for collecting service tax. When contacted, a senior bank official said they were awaiting permission from the ministry of finance for collecting the e-payment. "The new limit of ₹1 lakh means there will be more assessee's going for the e-payment and this makes it all the more important for the banks yet to be notified for e-payment to quickly obtain so", said the official. The new threshold limit for e-payment through internet banking came into effect on 1st January, 2014, as per the amendment of Service Tax Rules, 1994 and Central Excise Rules, 2002.

(Source: www.thehindubusinessline.com)

Cenvat Credit (3rd Amend.) Rules, 2014 Notified

Central government has notified Cenvat Credit (Third Amendment) Rules, 2014 w.e.f 1st April, 2014.

It amends Rule 7 pertaining to credit distribution by input service distributor. Accordingly, service tax credit attributable to service used by one or more units exclusively engaged in exempted goods manufacture/exempted service rendition, shall be barred from distribution. Further, credit of service used wholly by a unit shall be distributed only to that unit; *Pro rata* distribution of service tax credit shall be based on turnover of units using said service during relevant period to total turnover of all its units operational in current year, during said relevant period. As per new Explanation 3, "relevant period" means (i) preceding financial year, where assessee's turnover available for that year, or (ii) where such details unavailable for some/all units, last quarter for which turnover details of all units available (previous to month/quarter for which credit distributed).

(Source: News agencies)

Customs to Ask Passengers about Source of Fund for Buying Gold

Seeking to check gold smuggling by courier, the government has tightened baggage rules requiring inbound Indian passengers to provide details like source of funds for importing the metal as well as their air tickets. According to a Revenue Department circular, the baggage receipt issued by Customs will now include the engraved serial number on gold bars and item-wise list of ornaments. "Wherever possible, the field officer, may ascertain the antecedents of such passengers, source for funding for gold as well as duty being paid in the foreign currency, person responsible for booking of tickets, etc," it said, adding, the decision is aimed at preventing misuse of the gold import facility. The Customs say that some people are smuggling gold by hiring eligible passengers to import gold on their behalf. The norms have been tightened following "a spurt in import" of gold by eligible passengers through various airports in the recent past across the country. Eligible passengers are allowed to be import gold up to 1 kg by paying 10% customs duty in foreign currency. Eligible passenger means persons of Indian origin or an Indian returning to India after a period of 6 months of stay abroad.

(Source: <http://www.expressindia.com>)

International Update

IFAC Launches Global Knowledge Gateway

New Online Global Hub Aggregates Accounting Resources, Insights, and News, Connects Global Accountancy Community. The International Federation of Accountants (IFAC) recently announced the launch of the Global Knowledge Gateway, a platform designed to bring together news, views, resources, and thought leadership for the worldwide accountancy profession. The Gateway showcases key accountancy materials and provides a forum to explore thought-provoking issues, participate in discussions, and be part of the global community of accountants that IFAC represents. The Gateway initially focuses on the following topics: Ethics, Business Reporting, Finance Leadership & Development, Performance & Financial Management, Governance, Risk Management & Internal Control, and Sustainability. However, the content of the knowledge gateway ranges from developing areas of the profession to longstanding but continually evolving areas of accountancy. The breadth of topics is meant to serve the diverse sectors of accountancy, including IFAC member organisations, accountancy professionals, the regulatory community, and firms, as well as accounting students. The Gateway includes six key components namely Viewpoints, Accountancy News, Resources, Discussions, Topical News and Upcoming Events. To gain full access to the Gateway's offerings, register at IFAC's website.

(Source: <http://www.ifac.org/>)

Editorial corrections to bound volumes and A Guide through IFRS 2013 published

The editorial team of the IASB recently published a collection of editorial corrections. Editorial corrections were made to Corrections to consequential amendments, Corrections to stand-alone Standards and Corrections to 2013 IFRS (Red Book), A Guide through IFRS 2013 and 2014 IFRS (Blue Book). The corrections consist of those amendments that are needed as a result of an error made when writing or typesetting the documents consisting of spelling errors, grammatical mistakes or unmarked consequential amendments. Any major technical amendments will be made by Standard.

(Source: <http://www.ifrs.org/>)

IFAC Issues Proposed Guidance on Supplementary Financial Measures

The Professional Accountants in Business (PAIB) Committee of the International Federation of

Accountants (IFAC) recently issued proposed International Good Practice Guidance, *Developing and Reporting Supplementary Financial Measures*, for public comment. This guidance seeks to establish a benchmark for the use of supplementary financial measures, in order to improve understanding of an organisation's performance among management, investors, and other stakeholders. The proposed guidance provides principles regarding the qualities measures should have and disclosures that should accompany them if reported externally. The guidance is meant for all organisations that want to use supplementary financial measures, regardless of size or structure, private or public. Supporting the profession and accountants in business is a key objective of the PAIB Committee. This type of principles-based guidance is an important aspect of achieving that objective. Professional accountants, their organizations, and other interested parties are encouraged to respond to the proposed guidance to help improve its applicability in organisations of all sizes. It cover areas of international and strategic importance in which professional accountants in business are likely to engage. In issuing principles-based guidance, IFAC seeks to foster a common and consistent approach to those aspects of the work of professional accountants in business not covered by international standards. IFAC seeks to clearly identify principles that are generally accepted internationally and applicable to organisations of all sizes in commerce, industry, education, and the public and not-for-profit sectors.

(Source: <http://www.ifac.org/>)

Consultative Group for Shariah-Compliant Instruments and Transactions—Call for Papers

In 2011, the IASB conducted a consultation on topics to be included in its technical agenda. As a consequence of that consultation, the Board decided to establish a consultative group on Shariah-Compliant Instruments and Transactions. The Group held an organisational meeting in Kuala Lumpur in July 2013. The Group intends to focus on challenges that may arise in the application to instruments and transactions commonly referred to as Islamic finance and to invite papers on those challenges and, after reviewing those papers, to make recommendations to the Board about steps that it might take. The first topic for papers, is whether some or all of the Islamic products typically owned by Islamic banks qualify for amortised-cost

classification. If the answer is “yes,” on what basis? In the answer is “no”, what steps, if any, the Board should take to either clarify the classification of these contracts or to amend IFRS 9?

(Source: <https://www.ifrs.org/>)

IFRS 9 leaves IASB with impaired convergence

The IASB and the US Financial Accounting Standards Board have failed to develop a common financial instruments accounting standard. The reality about the lack of a single asset impairment model emerged during IASB meeting in January is that there is no convergence. It leaves preparers playing in the middle between the competing IFRS and US GAAP models. The board also voted to fix a new effective date for IFRS 9, Financial Instruments, of 1 January 2018. IASB members were reluctant to delay the standard, or make further changes to it, pending decisions on the linked insurance contracts literature. Later that same meeting, staff reported that the FASB will almost certainly reject two central features of the IFRS 9 classification and measurement approach - the business model and the contractual cashflow assessments for amortised cost. In recent weeks, the European Parliament has shown an increased willingness to challenge the IASB, even going so far as to propose linking funding for the IASB's activities to specific outcomes. Separately, the G20 nations have urged the two boards to come up with a single financial instruments model. At some point in time, Hoogervorst is going to have a very awkward conversation with his political masters.

(Source: <http://www.journalofaccountancy.com/>)

IFRS conference in South Africa announced

The IFRS Foundation, along with the South African Institute of Chartered Accountants (SAICA), has announced an upcoming conference in Johannesburg, South Africa on 13th-14th August 2014. The conference will include discussions on the future of financial reporting, as well as the latest IASB updates on the major IFRSs, implementation issues, conceptual framework and research projects. The conference will feature presentations by IASB Vice-Chairman and IASB members. Some of the topics to be covered at the conference include: The future of financial reporting, IASB update, Major IFRSs, Implementation, Conceptual framework, Research projects, Panel

discussions on IFRS disclosures, the upcoming revenue requirements, and IFRS 9.

(Source: <http://www.iasplus.com/>)

EU Approves IASB Funding with Strings Attached

European Politicians have voted to approve EU funding for the body that oversees the setting of global accounting standards, but with the proviso the funding could be pulled if it fails to meet certain conditions. Questions have been raised by the European Parliament about the governance structures and lack of transparency of these bodies, as well as their close links to the accounting industry. The release of these EU funding streams will therefore only be forthcoming upon sufficient reform to prevent conflicts of interest.

(Source: <http://www.accountancyage.com/>)

FASB Eases Variable Interest Entity Requirements for Private Companies

The Financial Accounting Standards Board recently issued guidance to make it easier for private companies to report on consolidation of variable interest entities. The new guidance applies to the consolidation of lessors in certain common control leasing arrangements for private companies. It comes in response to recommendations from FASB's sister organisation, the Private Company Council, which has also weighed in with recommendations on adjusting the standards on goodwill impairment and interest rate swaps for private companies that were ultimately adopted by FASB. Under current U.S. GAAP, a company is required to consolidate the financial reporting from an entity in which it has a controlling financial interest. The assessment of a controlling financial interest is performed under either a voting interest model or a variable interest entity, or VIE, model. To determine which model applies, a company preparing financial statements must first determine whether it has a variable interest in the entity being evaluated for consolidation and whether that entity is a VIE. The new guidance in *FASB Accounting Standards Update No. 2014-07, Applying Variable Interest Entities Guidance to Common Control Leasing Arrangements*, allows a private company to elect—when certain conditions exist—not to apply VIE guidance to a lessor under common control. Instead, the private company would make certain disclosures about the lessor and the leasing arrangement.

(Source: <http://www.accountingtoday.com/>)

ACCOUNTANT'S BROWSER

'PROFESSIONAL NEWS & VIEWS PUBLISHED ELSEWHERE'

Index of some useful articles taken from Periodicals received during February-March, 2014 for the reference of Faculty/Students & Members of the Institute

1 Accountancy

Accounting Standards: Gaps in Gaap-Accounting for Demerger by Dolphy D'Souza. *Bombay Chartered Accountant Journal*, February 2014, pp.81-83.

Better System of Financial Reporting Needed: More Focused Disclosures by Mark Billington, *IS Chartered Accountant*, February 2014, pp.47-49.

Financial Reporting: Revenue Recognition How Did You Credentialise Your Last Move? By Fergus Condon. *Accountancy Ireland*, February 2014, Vol.46/1, pp.16-18.

2 Auditing

Auditing Standards: SA 540 Accounting Estimates by Bhavesh Dhupelia and Shabbir Readymadewala. *Bombay Chartered Accountant Journal*, February 2014, pp.85-88.

Auditor's Reporting to the Audit Committees-A Global Perspective by Sriraman Parthasarathy. *Bombay Chartered Accountant Journal*, February 2014, pp.26-29.

Forgeries: It's an Art by David Malamed. *CPA Magazine*, January/February 2014, pp.68-69.

UK Gaap: Financial Reporting is Reformed by Steve Collings. *International Accountant*, January/February 2014, pp.14-15.

3 Economics

Continuity amid Change in India's Political Economy from 1980 to 2004 By Diego Maiorano, *Economic & Political Weekly*, March 1st 2014, Vol.49/9, pp.44-54.

Current Thinking about Global Trade Policy By Robert H Wade, *Economic & Political Weekly*, February 8th 2014, Vol.49/6, 18-21.

Global Banking in Glorious Isolation. *The Economist*, February 22nd 2014, pp.61-62.

Global Monetary Policy Countervailing Motion. *The Economist*, February 8th 2014, pp.60-62.

India's Green Industrial Policy: Pursuing Clean

Energy for Green Growth By Ashwini K. Swain, *Economic & Political Weekly*, March 1st 2014, Vol.49/9, pp.19-21.

Ironing Out the Wrinkles: WTO's Trade Facilitation Pact Promises to be a Cure-All. Butt Will India Really Stand to Benefit? By Joe C. Mathew. *Business World*, February 24th, 2014, pp.32-39.

4 Investment

FDI in Railways Arriving Shortly! *The Global Analyst*, February 2014, pp.23-27.

Turmoil in Financial Markets Goldilocks and The Bears. *The Economist*, February 8th 2014, pp.59-60.

5 Law

Hong Kong Corporate Restructuring is Likely to Fall Short of a Model Law By Stephen Briscoe. *A Plus*, February 2014, Vol.10/2, pp.46-47.

Intellectual Property: The Value of IP by Martin Brassell. *International Accountant*, January/February 2014, pp.21-23.

6 Management

Corporate Governance: Anything You Can Do, Icahn Do Better. *The Economist*, February 15th 2014, pp.55-56.

Implementing Public Sector Reform by Bernard Barron. *Accountancy Ireland*, February 2014, Vol.46/1, pp.43-47.

Towards Better Risk Governance: ISCA-KPMG Risk Management Study By Chan Sze & Perrine Oh, *IS Chartered Accountant*, February 2014, pp.36-39.

7 Taxation & Finance

Many Faces of India Taxation: Grasp the Different Forms of Tax Treatments By Michelle Yap, *IS Chartered Accountant*, February 2014, pp.44-46.

MAT-A Conundrum Unsolved by H. Padamchand Khincha and P. Shivanand Nayak. *Bombay Chartered Accountant Journal*, February 2014, pp.10-19. ■

Full Texts of the above articles are available with the Central Council Library, ICAI, which can be referred on all working days. For further inquiries please contact on 011-23370154 or by e-mail at library@icai.in

Quality Review Board: Gazette Notification dated 01.03.2014

THE GAZETTE OF INDIA, EXTRAORDINARY PART II, SECTION 3, SUB-SECTION (i)
PUBLISHED BY AUTHORITY
NEW DELHI, SATURDAY, MARCH 1, 2014]

MINISTRY OF CORPORATE AFFAIRS NOTIFICATION New Delhi, the 28th February, 2014

G. S.R. 131(E).—In exercise of the powers conferred by section 28A of the Chartered Accountants Act, 1949 (38 of 1949), the Central Government, with effect from the date of publication of the notification in the Official Gazette, hereby makes the following amendments in the notification of the Government of India, in the Ministry of Corporate Affairs, number G.S.R. 38 (E), dated the 19th January, 2011, namely:—

In the said notification, for serial numbers (2), (7), (8), (9), (10) and (11) and the entries relating thereto, the following serial numbers and entries shall be substituted, namely:—

“(2) Shri P. Murali Mohana Rao, -Member”
6-3-655/2/3, Somajiguda
Hyderabad-500082.

“(7) CA K. Raghu, -Member”
President,
Institute of Chartered Accountant of India
“(8) CA Manoj Fadnis, -Member”
Indore,
Vice President
Institute of Chartered Accountant of India
“(9) CA Subodh K. Agarwal, -Member”
Immediate Past President
Institute of Chartered Accountant of India
“(10) CA Rajkumar S. Adukia, -Member”
Mumbai
“(11) CA Charanjot Singh Nanda, -Member”
New Delhi

[F. No. 1/15/20 10-PI]
MANOJ KUMAR, Jt. Secy.

Note:—The principle notification was published in the Gazette of India, Extraordinary, Part-II, Section 3, Sub-section (i) vide number G.S.R. 38 (E), dated the 19th January, 2011 and subsequently amended *vide* numbers G.S.R. 684(E), dated the 16th September, 2011, G.S.R. 441 (E), dated the 12th June 2012 and G.S.R. 486(E), dated the 21st June, 2012.

Examination: November 2014: Applicability of the Companies Act, 2013

Important Announcement Attention: Intermediate (IPC) and Final Course students

Applicability of notified sections of the Companies Act, 2013 for November 2014, Examinations

The Companies Act, 2013 has been notified in the Official Gazette on 30th August, 2013 stating that different dates may be appointed for enforcement of different provisions of this Act through notification of the Central Government in this regard.

Having regard to the above development, the Council at its 330th meeting revised the syllabus in a limited manner in the following papers of Intermediate (IPC) and Final Course(s) as per Annexure I (shown in ***Bold cum Italics***).

Intermediate (IPC) Course	Final Course
Paper No. 2- Business Laws, Ethics and Communication	Paper No. 4- Corporate and Allied Laws
Paper No. 6 : Auditing and Assurance	Paper No.3 : Advanced Auditing and Professional Ethics

The Central Government has notified 98 Sections of the Companies Act, 2013 on 12th September, 2013. Accordingly, those 98 notified Sections are applicable for November 2014 examinations corresponding to their bifurcation into the Intermediate (IPC) and Final Course(s), i.e., from these 98 Sections, 53 Sections have been included in the Paper – 2, Business Laws, Ethics and Communication, Intermediate (IPC)

Course, and 45 have been included in the Paper-4, Corporate and Allied Laws, Final Course.

For reference and benefit of our students, the Board of Studies has released the following publications relevant for November, 2014 examinations for Paper – 2, Business Laws, Ethics and Communication, Intermediate (IPC) Course, and Paper- 4, Corporate and Allied Laws, Final Course:

Publication	Links for reference
Supplementary study material for Intermediate (IPC) Course	http://220.227.161.86/32794ssp-p2blec-ipcc.pdf
Supplementary study material for Final Course	http://220.227.161.86/32793ssp-p4final.pdf

Students may also note that the Study Material and Practice Manual of Corporate and Allied Laws, Final Course released in January, 2014 has been prepared keeping in view the amendments brought in by the Companies Act, 2013.

Members are requested to bring this to the kind notice of the students who are undergoing articleship under them.

Chairman, Board of Studies

Annexure-I

Intermediate (IPC) Course SYLLABUS

Paper – 2: Business Laws, Ethics and Communication

(One paper – Three hours - 100 Marks)

Level of Knowledge: Working knowledge

PART I – Business Laws (60 Marks)

Objective:

To test working knowledge of business laws and company law and their practical application in commercial situations.

Contents:

Business Laws (30 Marks)

1. The Indian Contract Act, 1872
2. The Negotiable Instruments Act, 1881
3. The Payment of Bonus Act, 1965
4. The Employees' Provident Fund and Miscellaneous Provisions Act, 1952
5. The Payment of Gratuity Act, 1972.

Company Law (30 Marks)

The Companies Act, 1956 – Sections 1 to 197

- (a) Preliminary
- (b) Board of Company Law Administration - National Company Law Tribunal; Appellate Tribunal
- (c) Incorporation of Company and Matters Incidental thereto

- (d) Prospectus and Allotment, and other matters relating to use of Shares or Debentures
- (e) Share Capital and Debentures
- (f) Registration of Charges
- (g) Management and Administration – General Provisions – Registered office and name, Restrictions on commencement of business, Registers of members and debentures holders, Foreign registers of members or debenture holders, Annual returns, General provisions regarding registers and returns, Meetings and proceedings.
- (i) Company Law in a computerized Environment – E-filing.

Note: If any provision of the Companies Act, 2013 comes into force in place of an existing provision under the Companies Act, 1956 or otherwise by way of new provision, the syllabus would accordingly include the corresponding or new provisions of the Companies Act, 2013, as the case may be.

Part II: Ethics (20 Marks)**Objective:**

To have an understanding of ethical issues in business.

Contents:**1. Introduction to Business Ethics**

The nature, purpose of ethics and morals for organisational interests; Ethics and Conflicts of Interests; Ethical and Social Implications of business policies and decisions; Corporate Social Responsibility; Ethical issues in Corporate Governance.

2. Environment issues

Protecting the Natural Environment – Prevention of Pollution and Depletion of

Natural Resources; Conservation of Natural Resources.

3. Ethics in Workplace

Individual in the organisation, discrimination, harassment, gender equality.

4. Ethics in Marketing and Consumer Protection

Healthy competition and protecting consumer's interest.

5. Ethics in Accounting and Finance

Importance, issues and common problems.

Part III – Communication (20 Marks)**Objective:**

To nurture and develop the communication and behavioural skills relating to business

Contents:**1. Elements of Communication**

- (a) Forms of Communication: Formal and Informal, Interdepartmental, Verbal and non-verbal; Active listening and critical thinking
- (b) Presentation skills including conducting meeting, press conference
- (c) Planning and Composing Business messages
- (d) Communication channels
- (e) Communicating Corporate culture, change, innovative spirits
- (f) Communication breakdowns
- (g) Communication ethics
- (h) Groups dynamics; handling group conflicts, consensus building; influencing and persuasion skills; Negotiating and bargaining
- (i) Emotional intelligence - Emotional Quotient

- (j) Soft skills – personality traits; Interpersonal skills ; leadership

2. Communication in Business Environment

- (a) Business Meetings – Notice, Agenda, Minutes, Chairperson's speech
- (b) Press releases
- (c) Corporate announcements by stock exchanges
- (d) Reporting of proceedings of a meeting

3. Basic understanding of legal deeds and documents

- (a) Partnership deed
- (b) Power of Attorney
- (c) Lease deed
- (d) Affidavit
- (e) Indemnity bond
- (f) Gift deed
- (g) Memorandum and articles of association of a company
- (h) Annual Report of a company

SYLLABUS**Paper – 6: Auditing and Assurance**

(One Paper- Three hours -100 Marks)

Level of knowledge: Working Knowledge

Objective:

To understand objective and concept of auditing and gain working knowledge of generally accepted auditing procedures and of techniques and skills needed to apply them in audit and attestation engagements.

Contents:

- 1. Auditing Concepts** - Nature and limitations of Auditing, Basic Principles governing an audit, Ethical principles and concept of Auditor's Independence, Relationship of auditing with other disciplines.

2. **Standards on Auditing and Guidance Notes** - Overview, Standard-setting process, Role of International Auditing and Assurance Standards Board, Standards on Auditing issued by the ICAI; Guidance Note(s) on - Audit of Fixed Assets, Audit of Inventories, Audit of Investments, Audit of Debtors, Loans and Advances, Audit of Cash and Bank Balances, Audit of Miscellaneous Expenditure, Audit of Liabilities, Audit of Revenue, Audit of Expenses and provision for proposed dividends.
3. **Auditing engagement** - Audit planning, Audit programme, Control of quality of audit work - Delegation and supervision of audit work.
4. **Documentation** - Audit working papers, Audit files: Permanent and current audit files, Ownership and custody of working papers.
5. **Audit evidence** - Audit procedures for obtaining evidence, Sources of evidence, Reliability of audit evidence, Methods of obtaining audit evidence - Physical verification, Documentation, Direct confirmation, Re-computation, Analytical review techniques, Representation by management, Obtaining certificate.
6. **Internal Control** - Elements of internal control, Review and documentation, Evaluation of internal control system, Internal control questionnaire, Internal control check list, Tests of control, Application of concept of materiality and audit risk, Concept of internal audit.
7. **Internal Control and Computerised Environment**, Approaches to Auditing in Computerised Environment.
8. **Auditing Sampling** - Types of sampling, Test checking, Techniques of test checks.
9. **Analytical review procedures.**
10. **Audit of payments** - General considerations, Wages, Capital expenditure, Other payments and expenses, Petty cash payments, Bank payments, Bank reconciliation.
11. **Audit of receipts** - General considerations, Cash sales, Receipts from debtors, Other Receipts.
12. **Audit of Purchases** - Vouching cash and credit purchases, Forward purchases, Purchase returns, Allowance received from suppliers.
13. **Audit of Sales** - Vouching of cash and credit sales, Goods on consignment, Sale on approval basis, Sale under hire-purchase agreement, Returnable containers, Various types of allowances given to customers, Sale returns.
14. **Audit of suppliers' ledger and the debtors' ledger** - Self-balancing and the sectional balancing system, Total or control accounts, Confirmatory statements from credit customers and suppliers, Provision for bad and doubtful debts, Writing off of bad debts.
15. **Audit of impersonal ledger** - Capital expenditure, deferred revenue expenditure and revenue expenditure, Outstanding expenses and income, Repairs and renewals, Distinction between reserves and provisions, Implications of change in the basis of accounting.
16. **Audit of assets and liabilities.**
17. **Company Audit** - Audit of Shares, Qualifications and Disqualifications of Auditors, Appointment of auditors, Removal of auditors, Powers and duties of auditors, Branch audit, Joint audit, Special audit, Reporting requirements under the Companies Act, 1956.
18. **Audit Report** - Qualifications, Disclaimers, Adverse opinion, Disclosures, Reports and certificates.
19. **Special points in audit of different types of undertakings, i.e., Educational institutions, Hotels, Clubs, Hospitals, Hire-purchase and leasing companies (excluding banks, electricity companies, cooperative societies, and insurance companies).**
20. **Features and basic principles of government audit, Local bodies and not-for-profit organisations, Comptroller and Auditor General and its constitutional role.**

Note: If any provision of the Companies Act, 2013 comes into force in place of an existing provision under the Companies Act, 1956 or otherwise by way of new provision, the syllabus would accordingly include the corresponding or new provisions of the Companies Act, 2013, as the case may be.

Final Course SYLLABUS

Paper – 4: Corporate and Allied Laws

(One paper - Three hours - 100 marks)

Section A: Company Law (70 Marks)

Level of Knowledge: Advanced knowledge

Objective:

To be able to analyse and apply various provisions of the Companies Act in practical situations

Contents:

1. The Companies Act, 1956, Rules and Regulations thereunder in its entirety with specific reference to
 - (a) Accounts and audit
 - (b) Dividend
 - (c) Directors - powers, managerial remuneration
 - (d) Meetings, powers of the Board and related party transactions
 - (e) Inspection and Investigation
 - (f) Compromises, Arrangements and Reconstructions
 - (g) Prevention of Oppression and Mismanagement
 - (h) Revival and Rehabilitation of Sick Industrial Companies
 - (i) Corporate Winding up and Dissolution
 - (j) Producer Companies
 - (k) Companies incorporated outside India
 - (l) Offences and Penalties
 - (m) E-governance
2. Corporate Secretarial Practice–Drafting of Resolution, Minutes, Notices and Reports

Section B: Allied Laws (30 Marks)

Objective:

To develop ability to analyse the requirements of laws stated in the Section.

Contents:

3. An overview of the following laws –
 - (a) The Securities and Exchange Board of India Act, 1992, Rules, Regulations and Guidelines issued thereunder.
 - (b) Securities Contracts (Regulation) Act, 1956
 - (c) The Foreign Exchange Management Act, 1999
 - (d) The Competition Act, 2002
 - (e) The Banking Regulation Act, 1949, The Insurance Act, 1938. The Insurance Regulatory and Development Authority Act, 1999. The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002
4. Interpretation of Statutes, Deeds and Documents.

Note: If any provision of the Companies Act, 2013 comes into force in place of an existing provision under the Companies Act, 1956 or otherwise by way of new provision, the syllabus would accordingly include the corresponding or new provisions of the Companies Act, 2013, as the case may be.

SYLLABUS

Paper 3: Advanced Auditing and Professional Ethics

(One Paper- Three hours - 100 marks)

Level of Knowledge: Advanced knowledge

Objectives:

- (a) To gain expert knowledge of current auditing practices and procedures and apply them in auditing engagements,
- (b) To develop ability to solve cases relating to audit engagements.

Contents:

1. **Auditing Standards, Statements and Guidance Notes**
Auditing and Assurance Standards (AASs); Statements and Guidance Notes on Auditing issued by the ICAI; Significant differences

between Auditing and Assurance Standards and International Standards on Auditing.

2. **Audit strategy, planning and programming**
Planning the flow of audit work; audit strategy, planning programme and importance of supervision: review of audit notes and working papers; drafting of reports; principal's ultimate responsibility; extent of delegation; control over quality of audit work; reliance on the work of other auditor, internal auditor or an expert.
3. **Risk Assessment and Internal Control**
Evaluation of internal control procedures; techniques including questionnaire, flowchart; internal audit and external audit, coordination between the two.
4. **Audit under computerised information system (CIS) environment**
Special aspects of CIS Audit Environment, need for review of internal control especially procedure controls and facility controls. Approach to audit in CIS Environment, use of computers for internal and management audit purposes: audit tools, test packs, computerised audit programmes; Special Aspects in Audit of E-Commerce Transaction.
5. **Special audit techniques**
 - (a) Selective verification; statistical sampling: Special audit procedures; physical verification of assets, direct confirmation of debtors and creditors
 - (b) Analytical review procedures
 - (c) Risk-based auditing.
6. **Audit of limited companies**
Statutory requirements under the Companies Act 1956; Audit of branches: joint audits; Dividends and divisible profits % financial, legal, and policy considerations.
7. Rights, duties, and liabilities of auditors; third party liability.
8. Audit reports; Qualifications, notes on accounts, distinction between notes and qualifications, detailed observations by the statutory auditor to the management *vis-a-vis* obligations of reporting to the members.
9. Audit Committee and Corporate Governance
10. Audit of Consolidated Financial Statements, Audit Reports and Certificates for Special Purpose engagements; Certificates under

the Payment of Bonus Act, import/export control authorities, *etc.*; Specific services to non-audit clients; Certificate on Corporate Governance.

11. Special features of audit of banks, insurance companies, co-operative societies and non-banking financial companies.
 12. Audit under Fiscal Laws, *viz*, Direct and Indirect Tax Laws.
 13. Cost audit
 14. Special audit assignments like audit of bank borrowers, audit of stock and commodity exchange intermediaries and depositories; inspection of special entities like banks, financial institutions, mutual funds, stock brokers.
 15. Special features in audit of public sector companies. Directions of Comptroller and Auditor General of India under Section 619; Concepts of propriety and efficiency audit.
 16. **Internal audit, management and operational audit**
Nature and purpose, organisation, audit programme, behavioural problems; Internal Audit Standards issued by the ICAI; Specific areas of management and operational audit involving review of internal control, purchasing operations, manufacturing operations, selling and distribution, personnel policies, systems and procedures. Aspects relating to concurrent audit.
 17. Investigation and Due Diligence.
 18. Concept of peer review
 19. Salient features of Sarbanes – Oxley Act, 2002 with special reference to reporting on internal control.
 20. **Professional Ethics**
Code of Ethics with special reference to the relevant provisions of The Chartered Accountants Act, 1949 and the Regulations thereunder.
- Note:** *If any provision of the Companies Act, 2013 comes into force in place of an existing provision under the Companies Act, 1956 or otherwise by way of new provision, the syllabus would accordingly include the corresponding or new provisions of the Companies Act, 2013, as the case may be.*

On Line Articles Placement Portal

On Line Articles Placement Portal for selection of Articled Assistants by CA Firms

The Board of Studies of the ICAI has been providing Online Articles Placement facility for selection of Articled Assistants by CA Firms through its Articles Placement Portal on pan India basis. It provides a platform to the firms of Chartered Accountants having vacancies for Articled Assistants to shortlist eligible students for selection of articled assistants, and call them for Interview at their offices, as per date and time convenient to them. The eligible candidates who have passed Group-I or both Groups of the Intermediate (Integrated Professional Competence) Course or have been admitted under the Direct Entry Scheme and are willing to join articled training can register themselves on the portal. **The services to the Online Placement Portal are available free of charge for both CA Firms and students and they can register themselves online through the Portal at <http://bosapp.icai.org>.**

The services on the Portal would be available for two months, twice a year, from the date of registration by the firms. Similarly the bio data of a student will also be available on the portal for a maximum period of 2 months from student's registration. The candidates shortlisted by CA Firms would be informed by e-mails through the Portal, to appear for interview at their respective Offices, at the designated date and time.

Detailed guidelines are available at the institutes' website www.icai.org and on the Portal. In case of any further clarification, please contact the Board of Studies, ICAI Bhawan, A-29, Sector-62, Noida-201309, Tel. No. 0120-3045930/931; eMail: bosapp@icai.org.

Chairman, Board of Studies



National Summit On "Indian Economy: Way Forward"

Jointly Organised by: Committee for Capacity Building of CA Firms and Small & Medium Practitioners (CCBCAF&SMP), ICAI and Committee on Management Accounting (CMA), ICAI **Hosted by:** NIRC of ICAI

Date & Time : 5th April, 2014 (Saturday) ; 01.30 P.M. to 07.30 P.M.

Venue : Talkatora Stadium, NDMC Mandir Marg, Connaught Place, New Delhi-110001

Panel of Speakers	CA. K. Raghu , President, ICAI CA. Manoj Fadnis , Vice President, ICAI Swami Ramdevji , Eminent Spiritual Leader CA. Piyush Goyal , Member of Parliament	CA. Suresh P. Prabhu , Former Minister of Power CA. Anuj Goyal , Central Council Member, ICAI & Chairman, CCBCAF&SMP, and CMA, ICAI CA. Dr. Girish Ahuja
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Programme Chairman	Programme Vice Chairman
Chairman , Committee for Capacity Building of CA Firms and Small & Medium Practitioners (CCBCAF&SMP), ICAI and Committee on Management Accounting, ICAI Mobile: 09810041371 E-mail: anujgoyal@icai.org	Vice Chairman , Committee on Management Accounting, ICAI Mobile: 9841040010 E-mail: victorg321@gmail.com Vice Chairman , Committee for Capacity Building of CA Firms and Small & Medium Practitioners (CCBCAF&SMP), ICAI Mobile: 09831015331 E-mail: ca.sumanraguha@gmail.com

Registration Fees: Rs 200/- for Member of ICAI
 Online Registration for the aforesaid programme, click the below given link: <http://www.icai.org/ccm.html?progid=542>

Offline Registration for the aforesaid programme:

- Cheque/ DD should be in favour of "Secretary, The Institute of Chartered Accountants of India" payable at New Delhi. Pls mention name, membership number, Contact details at the back of the DD/Cheque & submit the Cheque either of the office at following addresses.

Complimentary Registration for the Students of ICAI:
 If you are student of ICAI drop a mail at cbcaf.event@icai.org for complimentary registration, with your name, registration number & contact details or submit the same either of the following addresses.

For Registration & Information, please contact: Secretary Committee for Capacity Building of CA Firms and Small & Medium Practitioners (CCBCAF&SMP), ICAI ICAI Bhawan, First Floor, Administrative Block, A-29, Sector-62, Noida, Distt.-Gautam Budh Nagar(U.P.), P.C. 201309 Ph: 0120-3045994; Email: cbcaf.event@icai.org	Secretary Committee on Management Accounting (CMA), ICAI ICAI Bhawan, Third Floor, Administrative Block, A-29, Sector-62, Noida, Distt.-Gautam Budh Nagar(U.P.), P.C.-201309 Ph: 0120-3045905; Email: cma@icai.in	Northern India Regional Council of The Institute of Chartered Accountants of India ICAI Bhawan, NIRC Annexe Building, 4 th Floor Indraprastha marg, New Delhi -110002, Ph 011-30100528, 30100507, 30100532 Email: nirc_seminar@icai.in
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Contact Details

Chairman, Indirect Taxes Committee, E-mail Id: atul@servicetax.net

Secretariat, Indirect Taxes Committee, E-mail id: itdc@icai.in

Phone: 0120-3045954



Commencement of 7th Batch of Certificate Course on Master* in Business Finance (MBF)

In Delhi, Mumbai and Ahmedabad from May 2014 (Registrations Open)

About the Course

The Committee on Management Accounting (CMA) of ICAI will conduct 6th Batch of Master in Business Finance Certificate Course (MBFCC). Course coverage is extensively wide across various topics of advanced financial management like Capital Market, Investment Banking, Fund Raising & Fund Management, Corporate Valuation, Merger & Acquisitions, Banking, Forex Market, Treasury Management, Risk Management etc. with an aim to provide knowledge and skill required for tomorrow's CFO and high end consultancy in finance.

Highlights

- Comprehensive Finance Curriculum
- Skill augmenting to match India Inc Growth
- Unique mix of faculty
- Focus on Indian Market
- Innovative practical and managerial applications

Eligibility

Only the Members of ICAI and the Students of the Institute who have passed the CA Final Examination are eligible to pursue this Course.

Course Contents

LEVEL I

Paper 1 - Financial Management and Advanced Financial Analysis

Paper 2 - Capital Structuring, Fund Raising and Investment Management

LEVEL II

Paper 3 - Capital and Financial Markets Management

Paper 4 - Forex, Treasury and Risk Management

LEVEL III

Paper 5 - Valuations, Merger & Acquisitions, and Restructure

Paper 6 - Banking, Risk management and Business Strategy

Course Duration

This is approximately One year course.
Classes will be held on 2nd and 4th Saturdays (2 pm to 7:30 pm) and Sundays (9 am to 2 pm).
There will be two (one week each) residential programmes as part of Course.

Professional Credit

100 CPE hours credit in completion of course

Two Full Time Residential Programme of One Week Each

The Residential Programme aims at bringing eminent national and international faculty members to guide the students in undertaking practical and innovative project work. The fees for Two Residential Programmes at Centre of Excellence, Hyderabad is Rs. 20,000 (Rs. Twenty thousand only) which includes cost of stay, food etc. Residential programmes are mandatory to attend.

Faculty

The Faculty members for the course are from IIM's, XLRI, NIBM, MDI, premier Universities, Public & Private Sector Banks/ Financial Institutions, Mutual Funds, ICRA, SIDBI, PE Funds, Senior Chartered Accountants from Industry/ Profession and reputed academicians.

Course Registration

The course registration is on receipt of duly filled in and signed Course Registration form with course fee of Rs. 30,000 (Rs. Thirty Thousands only) vide DD/ Pay Order in favour of "The Secretary, ICAI" payable at Delhi. Course fee can also be paid online through ICAI Payment Portal.

Online Payment:

<http://www.icaai.org/ccm.html?progid=107>

Registration Form Submission

The Registration form with course fee has to be sent to :

The Secretary,
Committee on Management Accounting (CMA)
ICAI Bhawan, Administrative Block, 3rd Floor,
A-29, Sector - 62
Noida (U.P) - 201 309
E-mail: cma@icaai.in

Course Details :

Prospectus, Registration Form available in website :
www.icaai.org/post.html?post_id=409

Contact :

CMA Office : cma@icaai.in Ph: 0120-3045905
Mr A P Kar, MBF Coordinator: ap.kar@icaai.org, Ph: 9350799912
Dr Amit K Agrawal . Secretary, CMA: akagrwal@icaai.in
Ph 9350572094

Chairman, Committee on Management Accounting
anuigoel28@sify.com

**Committee on Management Accounting
The Institute of Chartered Accountants of India**

* Master indicates level of expertise and not a post graduate degree.

New Publications

Compendium of Opinions - Volume XXXII (12th February, 2012 – 11th February, 2013)

The Expert Advisory Committee of the Institute of Chartered Accountants of India has published Compendium of Opinions, Volume XXXII including a CD of Compendium of Opinions. This Volume of Compendium of Opinions contains opinions finalised by the Expert Advisory Committee during the period 12th February, 2012 – 11th February, 2013 and the CD contains all the opinions finalised by the Expert Advisory Committee upto 11th February, 2013 as contained in Volume I to Volume XXXII.



The subjects of the opinions contained in this volume include:

- Accounting treatment of cost recoverable in accordance with the provision of Production Sharing Contract (PSC) which is already written off
- Valuation of stock of gypsum, a by-product
- Accounting for preliminary and other pre-operative expenses
- Treatment of toll collections during construction phase of a project on 'DBFOT' basis
- Whether accumulated differences on transition out of the tonnage tax scheme is a permanent difference
- Accounting for amalgamation after the balance sheet date
- Disclosure of foreign exchange gain/loss in segment reporting
- Treatment of mark to market losses on principal

only currency swap

- Presentation of exchange losses in quarterly financial results arising on long-term foreign currency liability pursuant to the adoption of paragraph 46A of AS 11
- Accounting of unspent expenditure towards Corporate Social Responsibility

The salient features of the CD are as follows:

- The CD has been upgraded to make it more user friendly, which provides facilities like simultaneous search of two words/phrases, copy/paste and print facility, search facility on the basis of finalisation date of opinions, etc.
- Contains around 1250 opinions on diverse subjects related to accounting and/or auditing principles and allied matters, issued by the Committee since its inception.
- Contains Advisory Service Rules, in accordance with which the Committee answers the queries received from the members of the Institute.

The opinions are based on the facts and circumstances of each case as presented to the Committee, and the accounting/auditing principles and practices and the relevant laws applicable on the dates the Committee finalised the respective opinions.

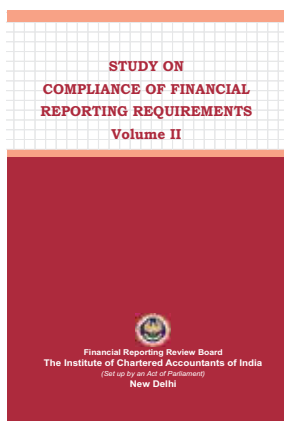
Price ₹325/-

Ordering Information:

The publication can be purchased directly from the sales counters at ICAI's Regional Offices or at Head Office. To order by post, requisition may be sent to the Postal Sales Department of ICAI at postalsales@icai.in

Study on Compliance of Financial Reporting Requirements Volume II (Pages 287+ 8 initial pages+ 2 cover pages)

The Financial Reporting Review Board has recently released the Volume II of 'Study on Compliance of Financial Reporting Requirements' with an objective to educate the preparers of financial statements, auditor and other members about the compliance with various financial reporting requirements thus paving the way for enhancing the quality of the financial statements as well as quality of services rendered by the members.



- For easy reference, the observations have been classified Accounting Standards wise and also include observations on certain Sections of the Companies Act, 1956, Companies (Auditor's Report) Order, 2003 (CARO) and Standards on Auditing (SA) 700 – 'The Auditor's Report on Financial Statements', which should be complied with while preparing the financial statements or expressing opinion thereupon.
- Contains more than 280 observations of the Board on compliance aspects of various Financial Reporting Requirements.
- The publication is written in simple and easy to understand language alongwith reference to various reporting requirements.

Price: ₹ 325

Significant features of this publication are:

- This publication contains common non-compliances as observed by the Board to determine compliance with the reporting requirements of various applicable statutes, accounting standards, and standards on auditing.

Ordering Information

The publication can be purchased directly from the Sales counters at the ICAI's Regional Offices or at the Head office. To order by post, requisition may be sent to the Postal Sales Department of the ICAI at postalsales@icai.in.

Expert Panel to Address Bank Branch Audit Queries

AUDITING & ASSURANCE STANDARDS BOARD CONSTITUTES EXPERT PANEL FOR ADDRESSING BANK BRANCH AUDIT RELATED QUERIES FOR THE FINANCIAL YEAR 2013-14

Dear Members,

The bank audit season is around the corner. Given the fact that the banking industry is typical in terms of its geographical and customer spread, the volume and varied nature of products and services offered, coupled with the strict constraints for completing the audits, the members, many a times, face a lot of issues/queries while conducting Bank Branch Audits. These could include determination of NPA status, implications of complicated data found in a branch audit, unavailability of any relevant RBI circular, implications of the requirements of RBI circular, nature and adequacy of documentation, possible wordings of the audit report on some important matters in bank branch audit, issues relating to LFAR, etc.

With a view to support our members for fast resolution of such queries, the Auditing and Assurance Standards Board (AASB) is pleased to offer an Online support to our members from **24th March, 2014 to 20th April, 2014** for the bank branch audits for the year ended 31st March 2014. The queries can be sent at bankauditfaq@icai.in.

The Online support facility will be managed by an expert panel containing the following members:

Panel Coordinators

CA. Abhijit Bandyopadhyay, Central Council Member (CCM) and Chairman, AASB.

CA. Manoj Fadnis, Vice-President, ICAI, CA. Shriniwas Y. Joshi, CCM, and Vice-Chairman, AASB, CA. Rajkumar S. Adukia, CCM, CA. Pankaj I. Jain,

CCM, CA. Sanjeev Maheshwari, CCM, CA. Nilesh Vikamsey, CCM, CA. Charanjot Singh Nanda, CCM, CA. Naveen N.D. Gupta, CCM, CA. Babu A. Kallivayalil, CCM and CA. Shyam Lal Agarwal, CCM.

CA. Mehul Shah, Member (IT Support)

Other Members on the Panel

CA. Abhay Kamat, CA. Abhijit Sanzgiri, CA. Anagha Thatte, CA. Ashutosh Pednekar, CA. Atul Bheda, CA. Dhananjay Gokhale, CA. Gautam Shah, CA. Giriraj Soni, CA. I.B. Sonawalla, CA. Ketan Saiya, CA. Manish Baxi, CA. Manish Sampat, CA. Mrudul Gokhale, CA. Nilesh Joshi, CA. Niranjan Joshi, CA. Parag Hangekar, CA. Ramesha Shetty, CA. Sandeep Welling, CA. Sanjay Khemani, CA. Sanjay Rane, CA. Shivratn Agarwal, CA. Ulhas Chitale, CA. Vikas Kumar, CA. Vipul Choksi, CA. Nitant Trilokekar, CA. Suhas Deshpande.

The queries so received will be distributed amongst the members of the panel on random basis and they would reply to the same.

Disclaimer

Members are specifically informed that the views expressed by the experts would be their personal views and not necessarily the views of the Auditing and Assurance Standards Board or the Institute of Chartered Accountants of India (ICAI). AASB, ICAI or the members of the Panel, do not accept any responsibility for actions taken by the querists based on such advice.

To enable us to serve you better, you are also advised to:

- Be brief but provide full information and facts.
- Not to mention the name of the Bank or Branch to avoid problem of violation of confidentiality requirements.
- Avoid rejoinders.
- Not to send the same query twice.
- Draft the report on your own.
- Use own judgment.

Invitation for software development

Invitation for Expression of interest from software development companies for providing software relevant to the Practitioners & CA Firms of ICAI by April 20, 2014

The Committee for Capacity Building of CA Firms and Small & Medium Practitioners (CCBCAF&SMP) of the Institute of Chartered Accountants of India (ICAI) is meant to encourage and enhance close links between the Institute and the Chartered Accountants, so as to provide for them, a base of reference in terms of knowledge, expertise, skills and assistance in their professional growth, simultaneously pursuing the goal of providing newer opportunities to the practitioners & CA Firms. One of the major responsibilities of CCBCAF & SMP is to arrange software relevant for the Members of the Institute of Chartered Accountants of India (ICAI).

The CCBCAF & SMP invites Expression of Interest from the various software vendors who are interested to provide the software relevant to the Practitioners & CA Firms of ICAI by April 20, 2014. The intending parties are expected to have appropriate level of practical experience in the relevant area along with the knowledge of various aspects of the CA profession.

Terms of Reference for the Vendors of the software

THE SOFTWARE VENDOR must be willing to rebrand its existing software.

Further, THE SOFTWARE VENDOR shall not use the logo of its Company on the software provided to ICAI members and / or in any ancillary document related to the software except with prior approval of ICAI and for limited purposes only.

THE SOFTWARE VENDOR shall act as a Development and Support Partner to this arrangement and shall provide support through their help desk.

THE SOFTWARE VENDOR shall provide initial license free of cost for first two years activation from date of MOU to CA members and thereafter, provide the software at nominal price. Any registered member with ICAI would be eligible to get single copy of initial license without paying any cost.

THE SOFTWARE VENDOR shall provide free of cost licenses of the software during the period of MOU to all present and future Information Technology Training Centers of ICAI all over India with two years' activation. THE SOFTWARE VENDOR shall also provide free of cost live patches

of the software as and when released during the term of this MOU.

THE SOFTWARE VENDOR shall provide free of cost single license of the software with two years' activation from date of MOU to all present and future offices of ICAI.

THE SOFTWARE VENDOR shall also provide free of cost training to all staffs in the Head Office & other offices of ICAI as well as to provide live patches of the software as and when released during the period of MOU.

Any other terms & conditions, as decided by the Committee from time to time.

Delivery of software products

THE SOFTWARE VENDOR shall make available the Software Setup in the ICAI/Committee website www.icai.org.in and www.icai.org so that software setup may be downloaded from website and installed by the ICAI members.

- i) THE SOFTWARE VENDOR shall upload the extensive documentation in soft form (PDF & HTML) through web links. These documents shall include Installation Manual, Feature List, FAQs, and User Manual etc.
- ii) THE SOFTWARE VENDOR shall provide latest software patches through website www.icai.org.in
- iii) THE SOFTWARE VENDOR shall provide access to the updated documentation, whenever the new update/release of the current version of the products is published if the same is required.
- b) UPLOADING THE SOFTWARE ON COMMITTEE'S WEBSITE:
THE SOFTWARE VENDOR shall make available the Software content through the website of Committee for Capacity Building of CA Firms and Small & Medium Practitioners, www.icai.org.in and www.icai.org so that software setup can be downloaded and installed easily by the members, free of cost.

Training to End Users

The software vendor shall provide free of cost Training to all users of the software.

THE SOFTWARE VENDOR shall not use the name of the ICAI or any of its associates in any manner whatsoever for the promotion of its products. THE SOFTWARE VENDOR shall not publicize directly or indirectly in their advertisements in any manner about the MOU or arrangements with the ICAI except with the prior written

approval of ICAI.

THE SOFTWARE VENDOR shall not state in any manner that any of its software products are endorsed, vetted, approved or developed with the inputs of the ICAI.

THE SOFTWARE VENDOR shall use the data coming to its possession for intended purpose only, in case this data is otherwise used or intended to be so used by THE SOFTWARE VENDOR, the Company shall be liable for the same.

ICAI hereby retains the right to impose any other or relax the existing terms & conditions for the arrangement of the software.

The intending Software vendors are required to send a formal request letter with the following details to Dr. Sambit Kumar Mishra, Secretary, Committee for Capacity Building of CA Firms and Small & Medium Practitioners (CCBCAF&SMP), The Institute of Chartered Accountants of India, ICAI Bhawan, A-29, First Floor, Administrative Block, Sector-62, Noida (U.P.), Pin - 201309, Telephone: 0120-3045994. Sending proposals by email at sambit.mishra@icai.org is preferred:

1. Brief profile of the Company
2. Specific experience and expertise in the software relevant to the Practitioners & CA Firms of ICAI they offer.
3. Proposed coverage of the Software relevant for Practitioners & CA Firms of ICAI
4. Details about the software relevant for Practitioners & CA Firms of ICAI
5. Modalities about the software relevant for Practitioners & CA Firms of ICAI

It may be noted that mere submission of the Expression of Interest shall not entitle the applicant Vendor Company to enter into an arrangement with CCBCAF&SMP, ICAI for its software. CCBCAF&SMP, ICAI reserves the right to invite similar proposal from any other Vendor Company though they may not have offered their expression of interest in this regard. No communications will be entertained from the applicant Vendor Companies in this regard. Only selected vendors will be individually communicated. CCBCAF&SMP, ICAI reserves the right to reject the Expression of Interest received from the applicant Vendor Companies without assigning any reason therefore.

Chairman
Committee for Capacity Building of CA Firms and
Small & Medium Practitioners (CCBCAF & SMP),
ICAI, E-mail: anujgoyal@icai.org

Invitation for Authoring Publications

Invitation for Expression of Interest for Authoring Publications relevant to the Members in Practice of ICAI

The Committee for Capacity Building of CA Firms and Small & Medium Practitioners (CCBCAF&SMP) is meant to encourage and enhance close links between the Institute and the Chartered Accountants in Practice, so as to provide for them, a base of reference in terms of knowledge, expertise, skills and assistance in their professional growth, simultaneously pursuing the goal of providing newer opportunities to the practitioners & Firms.

One of the major responsibilities of CCBCAF & SMP is to bring out publications on various topics relevant for the Members in Practice of the **Institute of Chartered Accountants of India (ICAI)**.

The CCBCAF & SMP invites Expression of Interest from members of the Institute and other experts who are interested in developing / preparing basic drafts of the publications on topics relevant to the Members in Practice of ICAI. The intending authors of the CCBCAF & SMP publications are expected to have appropriate level practical experience in the relevant area along with the knowledge of various aspects of profession.

The CCBCAF & SMP publication has to be prepared as self-learning booklets in the form of handbooks with proper mix of theory and practical case studies or any other form for enhancing the knowledgebase of the Practitioners of ICAI.

Apart from getting recognition, among their professional brethren, for their contribution in preparing the background materials, the authors of the accepted publication materials will get:

1. Their names will be acknowledged in the Publications
2. Honorarium and reimbursement of incidental expenses as per the prevailing policy of the Institute. (Which will depend upon the size, time and efforts to be required to prepare such publication materials).

The intending authors are required to send a formal request letter with the following details, to Dr. Sambit Kumar Mishra, Secretary, Committee for Capacity Building of CA Firms and Small & Medium Practitioners (CCBCAF&SMP), The Institute of Chartered Accountants of India, First

Floor, Administrative Block, ICAI Bhawan, A-29, Sector-62, Noida(U.P.)-201301. Sending proposals by email at sambit.mishra@icai.org is preferred:

1. Brief profile of the author
2. Specific experience and expertise in the relevant topic for which they offer themselves to write the background materials which will enable the CCBCAF&SMP secretariat for allotting the preparation of material for them
3. Proposed coverage of the Publication
4. Sources of primary and secondary data based on which the Publication material will be written
5. Time frame within which they can submit the publication material.

It may be noted that mere submission of the Expression of Interest may not lead to the allotment of the particular publication materials to a particular applicant. The Institute reserves the right to request any other expert (though they might not have offered their expression of interest in this regard) to prepare publication materials. No communications will be entertained in this regard. Only selected authors will be individually communicated.

Indicative topics on which CCBCAF & SMP would like to bring out publications are given below:

1. Mentoring Guidelines for Small & Medium Practitioners
2. Evaluating and Improving Performance : A Guide for Small & Medium Practitioners
3. Handbook for the Practice Management
4. E-Business and the Small & Medium Practitioners
5. Handbook for Information Security Governance : Practitioner/ CA Firms perspectives
6. Issues & Perspectives of Financial Reporting by Small & Medium Practitioners
7. LLP: Practitioner/CA Firms perspective
8. Export Documentation : A Guideline for Small & Medium Practitioners
9. Professional Opportunities: A Snapshot for Small & Medium Practitioners
10. Other topics relevant to Practitioners/ CA Firms

CCBCAF&SMP, ICAI reserves the right to invite similar proposal from any other Member/Members of ICAI though they may not have offered their expression of interest in this regard. No communications will be entertained from the applicant Member/Members in this regard. Only selected applicant Member/Members will be individually communicated. CCBCAF&SMP, ICAI

reserves the right to reject the Expression of Interest received from the applicant Member/Members of ICAI without assigning any reason therefore.

Chairman
Committee for Capacity Building of CA Firms
and Small & Medium Practitioners (CCBCAF &
SMP), ICAI, E-mail: anujgoyal@icai.org

Classifieds

- 5092** Pune based chartered accountants firm seeks professional work on assignment and sub-contract basis. Contact: 9960234616/879656 7758/9765411510 email: cafirm.mka@gmail.com
- 5093** Pune based newly CA firm (proprietor), looking to undertake professional work on assignment/sub-contract/partnership basis. Contact: hiteshca77@gmail.com
- 5094** A nine year old CA firm presently having offices in Assam and Mumbai is looking for new partners in following states - Tamil Nadu & W Bengal. Young CAs who have passed final after 2010 and willing to enter in practice may apply at e-mail goswami255@gmail.com
- 5095** Jamshedpur (Jharkhand) based CA firm, is looking for work on assignment, partnership basis. Jaluka & Associates, jalukaandassociates@gmail.com, 9709138711, 8406000707.
- 5096** Chennai based proprietorship firm J. Sriraman & Co with FCA established in 2004 willing to associate/merge. E-mail: mkdsriram@yahoo.co.in, Mobile No: 99 401 32 402.
- 5097** A CA Firm invites networking proposals from firms practising VAT (Mainly Works Contract) across the country. Interested may please send their profile at statutory@smaca.in.
- 5098** CA with more than 20 years exposure in project financing, working capital finance, structuring looking for alliance/partnership with large/midsize reputed CA firm who want for serving the clients in all verticals. E-mail: cavijay1964@gmail.com
- 5099** Delhi based chartered accountant firm looking for freshly qualified chartered accountants or practicing chartered accountants having 2-3 years experience please e-mail the resume at: vkverma&vkvermaco.com
- 5100** G Jai & Associates, CA's, New Delhi require Articles & Paid Assistants preferably from West Delhi. Interested Candidates get in touch at: gjai@gjai.net 28524571/28524539.
- 5101** A Mumbai based firm seeks partners across the country. Contact: manikanna1985@gmail.com
- 5102** Kerala (Ernakulam) based chartered accountants firm seeks professional work on sharing/assignment/sub-contract/retainership/partnership basis. Contact: 8606280208. E-mail : vasudev.ca@gmail.com
- 5103** Ahmedabad based Chartered Accountant firm invites Chartered Accountants for partnership/assignment/Contract. Contact: jigarshahca@gmail.com
- 5104** A Delhi based CA firm with membership of global network of accounting firms invites expression of interest (EOI) for Partnership from professionals at Mumbai and Bangalore to handle its offices at respective locations. CAs in practice of profession for a period upto 5 years may send their EOI at: partnership.eoi@gmail.com
- 5105** An old CA firm seeks merger offer from fresh/experienced proprietorship/partnership firms and invite proposals for branches all over India e-mail at cabanktds@gmail.com
- 5106** Delhi based CA firm requires fresh and experienced Chartered Accountants. Candidates should have audit and/or taxation experience. Contact M/s. D. G. & Co., Chartered Accountants, 403, Pratap Chambers, Gurudwara Road, Karol Bagh, New Delhi-05, Ph. no. 28751295, email: appointments@dgco.in

Events

Forthcoming Events¹

Sl. No.	Title of the Seminar/Conference	Date	Place	CPE Hours
1.	Certificate Course on Indirect Taxes	26 th April, 2014 to 1 st June, 2014 (Every Saturday and Sunday) Time: 9.30 am to 5.30 pm	Jamshedpur	70 Hours (50 Structured and 20 Unstructured)
Topics	The Certificate Course covers the following topics: • Service Tax • Introduction to Central Excise Law • Introduction to Customs Law • CST/ VAT Laws • Foreign Trade Policy/GST • Case Law • Practical case Studies			
Fees	₹ 15,000			
Contact Person	For Registration visit: http://www.icai.org/post.html?post_id=7382 For Information contact: CA. Anil Kumar Agarwal, Phone: 9334821177, E-mail- ar49@rediffmail.com ; ccidt@icai.in CA. Vivek choudhary, Phone: 9431166681, E-mail- vivek_cal@rediffmail.com			
2.	Certificate Course on Indirect Taxes	3 rd May, 2014 to 8 th June, 2014 (Every Saturday and Sunday) Time: 9.30 am to 5.30 pm	New Delhi	70 Hours (50 Structured and 20 Unstructured)
Topics	The Certificate Course covers the following topics: • Service Tax • Introduction to Central Excise Law • Introduction to Customs Law • CST/ VAT Laws • Foreign Trade Policy/GST • Case Law • Practical case Studies			
Fees	₹ 20,000			
Contact Person	For Registration visit: http://www.icai.org/post.html?post_id=7382 For Information contact: CA. Manoj Agarwal, Phone: 0120-3045954, 9350799932, E-mail: ccidt@icai.in			
3.	Certificate Course on Indirect Taxes	10 th May, 2014 to 15 th June, 2014 (Every Saturday and Sunday) Time: 9.30 am to 5.30 pm	Bilaspur	70 Hours (50 Structured and 20 Unstructured)
Topics	The Certificate Course covers the following topics: • Service Tax • Introduction to Central Excise Law • Introduction to Customs Law • CST/VAT Laws • Foreign Trade Policy/GST • Case Law • Practical case Studies			
Fees	₹ 15,000			
Contact Person	For Registration visit: http://www.icai.org/post.html?post_id=7382 For Information contact: CA. Rajat Agrawal, Phone: 9039020104, E-mail: bilaspur@icai.org ; ccidt@icai.in			
4.	Live Webcast on Indirect Taxes	17 th April, 2014	Online	
Topics	Service Tax Rules, 1994- CA. Ashok Batra			
Contact Person	For Information Visit: http://icaity.com/ Secretariat, Indirect Taxes Committee, ICAI, Mobile: 9350799932, Phone : 0120-3045954, E-mail: itdc@icai.in			

¹ For more details about the forthcoming events please refer the detailed announcements hosted on the ICAI website www.icai.org

Sl. No.	Title of the Seminar/ Conference	Date	Place	CPE Hours
5.	Live Webcast on Indirect Taxes	10 th May, 2014	Online	
Topics	Service Tax (Determination of Value) Rules, 2006			
Contact Person	For Information Visit: http://icaity.com/ Secretariat, Indirect Taxes Committee, ICAI, Mobile: 9350799932, Phone : 0120-3045954, E-mail: idt@icai.in			
6.	Faculty Development Programme	10 th & 11 th May, 2014	New Delhi	
Contact Person	For Information contact: - CA. Atul Gupta, Chairman, Indirect Taxes Committee, Mobile: 9810103611 - CA. Sanjay Agarwal (Central Council Member), Mobile: 9811080342 - CA. Naveen N. D. Gupta (Central Council Member), Mobile: 9810689998 - Secretariat, Indirect Taxes Committee, ICAI, Mobile: 9310542608, Phone : 0120-3045954, E-mail: idt@icai.in			
7.	Faculty Development Programme	17 th & 18 th May, 2014	Hyderabad	
Contact Person	For Information contact: - CA. J. Venkateswarlu (Central Council Member), Mobile: 9392017738, - CA. Raghuraman V., Mobile: 9844114181 - Secretariat, Indirect Taxes Committee, ICAI, Mobile: 9310542608, Phone: 0120-3045954, E-mail: idt@icai.in			
8.	Workshop on Capacity Building Measures of CA Professionals	12 th April, 2012	ICAI Bhawan, Dhanbad	6
Topics	- Emerging Issues in New Companies Act, 2013 - Issues on Service Tax			
Fees	₹ 400/-			
Contact Person	CA Anuj Goyal, Chairman, CCBCAF&SMP, ICAI and CMA, ICAI, E-mail: anujgoyal@icai.org CA. Anant Bhartia, Chairman, Dhanbad Branch of CIRC of ICAI, Mobile: 09431319104 For Registration & Information Dhanbad Branch of CIRC of the ICAI, Phone Nos : 0326-2306336, E-mail: dnb_icai@yahoo.com Dr. Sambit Kumar Mishra, Secretary, CCBCAF&SMP, ICAI, Telephone: 0120-3045994			

ICAI News

Residential Programme on Professional Skills Development

Announcement

ICAI Four Weeks Residential Programme on Professional Skills Development at the Centre of Excellence, (COE), Hyderabad

The Board of Studies is pleased to announce two batches (24th and 25th Batch) of Four Weeks Residential Programme exclusively for Men, on Professional Skills Development at the Centre of Excellence (COE), Hyderabad from 13th June, 2014 to 10th July 10, 2014.

The programme offers a unique opportunity and would focus on development of communication skills, leadership skills, personal traits for effective functioning in business organisation and profession.

More emphasis is given on soft skills, developing personality trait and communication skills of the participants.

For online registration and further details visit the Board of Studies Announcements under the Students Icon on the Home Page of ICAI website: www.icai.org-http://220.227.161.86/32838bos22622main.pdf

Director, Board of Studies

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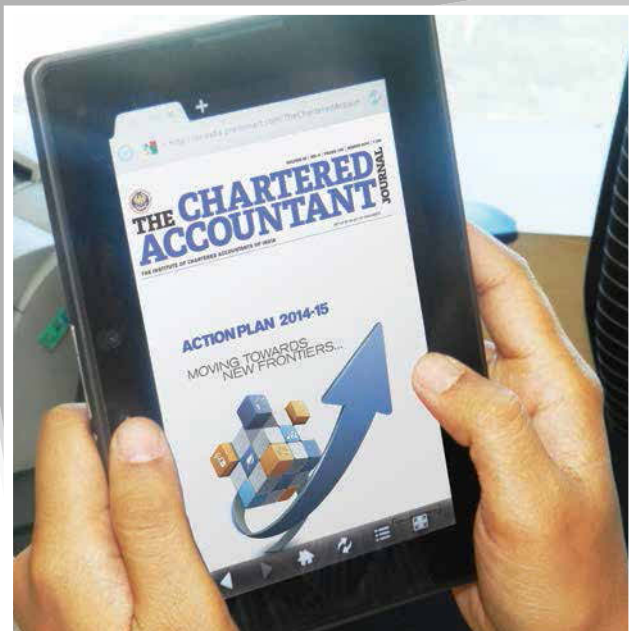
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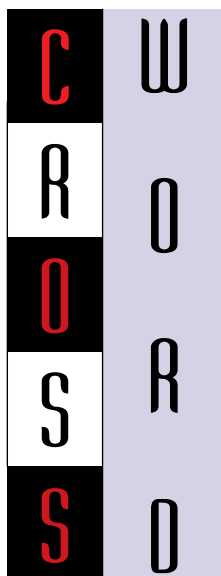
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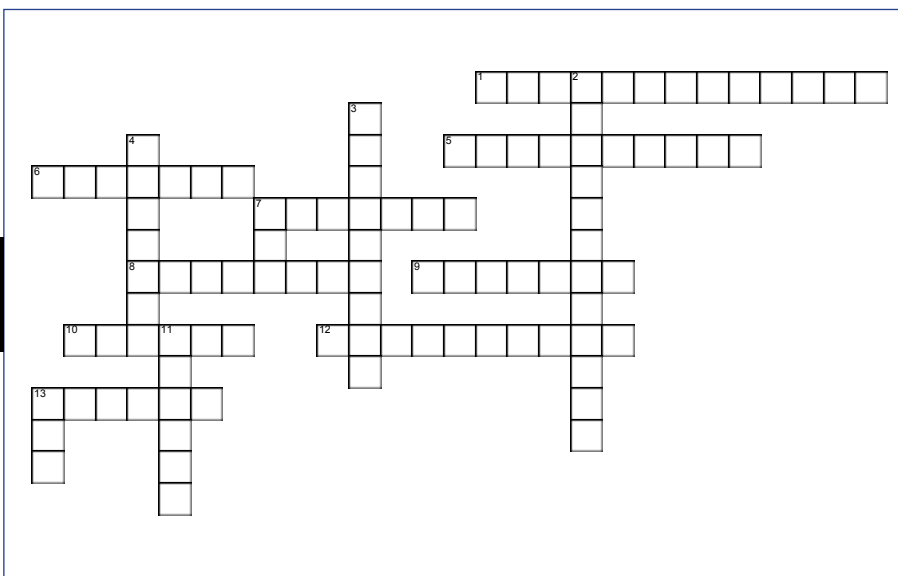


**The Institute of
Chartered Accountants of India**

**'ICAI Bhawan', Post Box Number 7100.
Indraprastha Marg, New Delhi - 110 002**



094



ACROSS

- Gap between the Government's total spending and the sum of its revenue receipts and non-debt capital receipts.
- Duties determined as a certain percentage of the price of products.
- If prices of _____ remain constant, devaluation of currency will be more beneficial.
- The term BSR refers to Bank's _____ Rate.
- _____ taxes are paid by consumers when they buy goods and services.
- The _____ deficit is the fiscal deficit minus Interest payments.
- India's first Free Trade Zone is _____.
- Maximum revenue earned by States is through _____ taxes.
- The ARDC was merged into _____ on July 12, 1982.

DOWN

- The document used in the operation of tramp vessel.
- In case of Mines, Quarries, etc _____ method of depreciation is used.
- In the year 2000, the _____ Trade policy was first introduced.
- A certain ratio required to be maintained by the banks between their cash in the hand and totals assets.
- _____ taxes are levied on the incomes of individuals and corporates.
- International Forum of Accounting Standard Setters (IFASS) was earlier known as _____.

NOTE: Members can claim one hour – CPE Credit – Unstructured Learning for attempting this crossword by filling the details in the self-declaration form to be submitted to your regional office annually to avail CPE hours credit for Unstructured Learning activities under the activity 'Providing Solutions to Questionnaires/puzzles available on Web/Professional Journals'. There is no need to individually send this crossword in hard copy or email.



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