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THE CHARTERED ACCOUNTANT JOURNAL

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

SET UP BY AN ACT OF PARLIAMENT



CA. M. Devaraja Reddy
President, ICAI 2016-17

**COUNCIL YEAR
2016-2017**



CA. Nilesh Shivji Vikamsey
Vice President, ICAI 2016-17

LOOKING FOR NEW HORIZONS

Advertisement

Taking Bank Audit Challenge in Stride

A healthy banking industry is the backbone of sustainable socio-economic growth of an economy. The credit policy and other banking policy decisions can effectively help economies to channelize credit from areas of abundant credit to areas of deficit credit and, hence, set the tone of sectoral development in the economy. The banking industry is also a conduit for the Governments to ensure social justice and equality through its various social welfare schemes. The banking industry is thus an important tool for any country to keep its citizens belonging to a diverse strata of the society in the mainstream.

By lending credibility to their financial statements, audits and auditors have an extremely important role to play in building a resilient banking industry. Further, society now also expects bank auditors to help strengthen the governance practices in the banking industry. The challenge for the Accounting Profession lies in seamlessly integrating these expectations in their role as statutory auditors.

Thus, audit quality, as in any other audit, is of great significance. To help our members carry out statutory audits in the banking industry, an industry that deals with large amounts of public monies and is highly sensitive to reputation risk, the Council of the Institute recently released the Revised 2016 edition of Guidance Note on Audit of Banks. This Guidance Note contains comprehensive guidance on the various critical aspects of the banking industry and the financial statements of a bank that the members need to be wary of while conducting bank audits. It also provides guidance on application of various Standards on Auditing in bank audits. Standards on Auditing (SAs) are a pre-requisite to ensure audit quality. Obtaining adequate understanding about the risks present in the banking system as well as in the internal and external environments in which a bank operates is essential. As a corollary, auditors' understanding of the bank's systems and processes in place to identify and address those risks would help the auditors to focus on critical areas, design appropriate audit procedures, decide optimum time and resource allocation, timely execution of work and avoid any last minute surprises.

Importantly, since a banking company would also be governed by the provisions of the Companies Act, 2013, (to the extent they are not contrary to the Banking Regulation Act, 1949), they would also need to report in terms of provisions of section 143 of the Companies Act, 2013. Accordingly,

the 2016 Guidance Note on Audit of Banks also contains illustrative formats of the auditor's report of a banking company that meets these requirements in addition to the reporting requirements of the Banking Regulation Act, 1949.

Today, the auditors' commitment to audit quality and their close coordination with those charged with governance in the banks, particularly, the audit committees, has assumed added importance. Compliance with the Standards on Auditing not only helps to ensure quality in audits, it also helps audits transform from a mere statutory compliance into a real value-add function. In fact, they can help build a stronger symbiotic between the statutory auditors and audit committees and contribute to effective governance. For example, the information generated during the risk assessments and internal control evaluations carried out by the statutory auditors can be of use to the Audit Committees in discharging their responsibilities relating to review of risks facing the entity, including financial statement risks.

Similarly, in addition, the other very important aspects from the perspective of the Audit Committees of banks include the 'statutory auditor's use of professional skepticism. The auditor procedures with respect to audit of disclosures such as compliance with Accounting Standards, overall presentation of financial statements, adequacy of disclosures in providing necessary information to the users have also special significance.

Effective statutory audits and good governance in banks, therefore, are a collective responsibility/effort of the statutory auditors and those charged with governance in the banks, particularly, the audit committees. A regular and closer interaction between them can go a long way in ensuring that.

On a broader front, the ICAI has been persistently taking up the cause of branch audits as nationally important issue related to country's financial health. Meanwhile, one area of ICAI concern relates to the procedure of selection of Auditors of Banks. The autonomy given to Banks in the current procedure of appointment of Central Statutory Auditors and Branch Statutory Auditors of Public Sector Banks (PSBs) can lead to impairment of independence. ICAI has been recommending that appointment of these Auditors of Public Sector Banks may be done by an independent authority such as Reserve Bank of India or C&AG or any independent authority. ■

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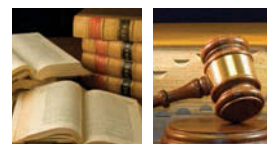
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Our New President



CA. M. Devaraja Reddy
President, ICAI 2016-17

A man of great vision, strong integrity and hard discipline with a firm belief in the inclusive growth of accountancy profession, **CA. M. Devaraja Reddy** has taken over as the supreme torch-bearer of Indian accountancy profession. He has been elected President of The Institute of Chartered Accountants of India (ICAI), for the year 2016-2017 by the 23rd Council of the Institute on 12th February 2016. Being a fellow ICAI member with a prudent professional foresight and more than 28 years of immaculate professional standing, CA. Reddy has served the Indian accountancy profession as Vice President of ICAI for the Council Year 2015-16.

Born in Cheenepalli village of Chittoor district, CA. M. Devaraja Reddy always has a way to dazzle his fellow members with his down-to-earth approach towards profession, his brilliance to observe and his humility towards people around him. With an ingrained interest in academic

matters of accountancy profession, CA. Reddy is widely commended and credited for his prominent and distinguished contribution in the conceptualisation and formulation of a futuristic CA Curriculum during his tenure as the Chairman of ICAI Board of Studies in 2014-2015.

A resident of Hyderabad, CA. Reddy has been elected by his member colleagues for a straight third term of the Central Council of ICAI (2016-2019). As President of the ICAI, he is now the Chairman of all Standing Committees of the ICAI, viz. Examination Committee, Finance Committee and Executive Committee besides being Presiding Officer of the Board of Discipline (Under Section 21-A), Disciplinary Committee (Under Section 21-B) and Chairman Disciplinary Committee (under section 21D). He will also be the ex-officio Member of all Non-Standing Committees of the ICAI and Editor of *The Chartered Accountant* journal. Earlier, as the Vice President of the ICAI, he was the Vice-Chairman of all the Standing Committees of the ICAI, the Member ex-officio in all Non-Standing Committees of the ICAI and Joint Editor of *The Chartered Accountant* journal. He is also Director on the Board of ICAI-ARF as well as XBRL India. In XBRL India, he is also holding membership in important committees namely Taxonomy Development & Review Committee; and Audit Committee. On the international front, he is holding positions of Chairman, Small and Medium Practices Committee of SAFA, and Technical Advisor to Small and Medium Practices (SMP) of IFAC. He is also the technical adviser to the ICAI immediate past President at the CAPA Board. CAPA Board has appointed him as member of the Professional Accounting Organisation Development Committee (PAODC) of CAPA for the term 2016-2019.

Widely known for his pleasant nature and beneficent attitude, an academically excelling CA. Reddy did his schooling from AP Residential School, Kodiginahalli of

Anantpur district and later graduated in Commerce from Pragati Mahavidyalaya Abids, Hyderabad (affiliated to Osmania University, Hyderabad). He gives credit of his professional acumen, aptitude and skills to his *gurus* CA. VS Narayana, CA. BN Raju and CA. G Kalyandas among others. He started his professional journey in November 1987 when he became a Chartered Accountant. He started an independent professional practice in Hyderabad after that. Later, he got elected to the Managing Committee of Hyderabad Branch of SIRC (Southern India Regional Council), and became its Secretary in 1994, Vice-Chairman in 1995 and Chairman in 1996.

CA. Reddy's stint at SIRC started in the year 2004. He served as SICASA Chairman in 2004, Secretary, SIRC Vice-Chairman in 2008 and SIRC Chairman in the year 2009. In 2010, he got elected to the Central Council of ICAI and since then, he has recorded a dynamic professional presence at ICAI while actively functioning in various capacities, viz. as Chairman, Vice-Chairman, etc., at various Committees of the Institute.

CA. Reddy has shown his professional acumen at all assigned tasks and responsibilities at national as well as international levels. During 2010-2011, he was a Member of the Executive Committee and Vice-Chairman of Direct Taxes Committee. During 2011-2012, he served as Member on the Examination Committee and Board of Disciplinary Committee, as Vice-Chairman of International Taxation Committee and Committee for Members in Entrepreneurship & Public Services. In 2012-13, CA. Reddy was the Chairman of Continuing Professional Education Committee, Vice-Chairman of Committee for Members in Entrepreneurship and Public Services and Member of Disciplinary Committee. During 2013-2014, he was the Chairman of Committee for Members in Entrepreneurship and Public Services and Peer Review Board, and a member on many other important Committees of the Institute. During 2014-2015, he significantly contributed

as Chairman of the Board of Studies and member on the Audit Committee, Continuing Professional Education Committee, Committee on Economic, Commercial Laws and WTO, Editorial Board, Ind AS (IFRS) Implementation Committee, International Affairs Committee, Committee for Members in Industry, Public Relations Committee and Young Members Empowerment Committee.

Being an outstanding facilitator of ICAI as an ardent partner in nation-building, CA. Reddy has been nominated on various Government bodies/ regulators, including on the High Level Steering Committee for Implementation of XBRL-based Data Submission by Banks of RBI, XBRL Technical Advisory Committee of SEBI, Task force at Ministry of Corporate Affairs with regard to Ministry's Plan Budget for 12th Five Year Plan, Advisory Group of National Foundation for Corporate Social Responsibility of IICA (Indian Institute of Corporate Affairs), and Committee on Accounting Issues constituted by IRDA.

An ardent devotee of Lord Sri Venkateswara Balaji, CA. M. Devaraja Reddy has been actively involved in a number of social activities. He has also been an active member in the Federation of Andhra Pradesh Chamber of Commerce & Industry.

Being an ardent academic, CA. M. Devaraja Reddy has attended and contributed at numerous national and international professional platforms including seminars, workshops and conferences, where the professional fraternity has had the advantage of attending to his treasured insight on many core issues including networking, investment strategies, e-learning, initiatives on education for accountancy.

Having the privilege of representing Indian accountancy profession at many international platforms on a number of occasions, CA. Reddy vows to put the Brand Indian CA globally on a very high pedestal. ■

Our New Vice President



CA. Nilesh Shivji Vikamsey
Vice President, ICAI 2016-17

A person of professional vigour, dynamism, high integrity and technical expertise, CA. Nilesh Shivji Vikamsey is the new Vice President of the Institute of Chartered Accountants of India (ICAI) for the term 2016-17. He was elected as the Vice President of the ICAI by the 23rd Council of the Institute on February 12, 2016. Having gained deep insights into the profession as a fellow member of the ICAI with more than 30 years of impeccable professional standing, he has served the ICAI and the profession as a Central Council Member since 2010. A member of the ICAI since 1985 possessing multifarious skills, he is widely commended and credited for his key role in student uplift activities and conceptualisation and devising of a new futuristic CA Curriculum.

A selfless hard-worker and down-to-earth personality bestowed with exceptional professional prudence, organisational,

administrative and leadership skills, he has been elected to the Central Council for three consecutive terms (2010-13, 2013-16, 2016-19). As a Council Member, he has exceptionally served the ICAI and the accountancy profession as Chairman of Board of Studies, Financial Reporting Review Board, Research Committee and Expert Advisory committee. He has also been noted for his distinguished contributions in the capacity of Vice Chairman of Corporate Laws and Corporate Governance Committee, Committee on Accounting Standards for Local Bodies, Committee on Banking Insurance and pension, Committee on Information Technology and Board of Studies in the past.

Besides, he has also effectively served the cause of the accountancy profession as a member of 27 ICAI committees during his tenure as Council Member so far. These committees include the Executive Committee, Finance Committee, Accounting Standards Board, Auditing and Assurance Standards Board, Committee for Cooperatives and NPO sectors, Corporate Laws and Corporate Governance Committee, Committee on Economic, Commercial Laws and WTO, Expert Advisory Committee, Financial Reporting Review Board, Committee on International Taxation, Committee for Members in Industry, Professional Development Committee and Management Committee. Other such committees have been Disciplinary Committee (Under Section 21B), Examination Committee, Audit Committee, Internal Audit Standards Board, Public Interest Advisory Committee, Peer Review Board, Continuing Professional Education Committee, Technology Development Committee, Committee on Vision and Restructuring, Ind AS (IFRS) Implementation Committee, Research Committee, International Affairs committee, Indirect Taxes Committee, Editorial Board, Committee on Government Accounting and Committee on Management Accounting.

He has always dazzled his fellow members with his humble down-to-earth approach to connect with people, and brilliant and uninterrupted service to the profession. A resident of Mumbai, he has actively partnered in the growth of the nation and the profession as member and first Chairman of the Qualified Audit Report Committee (QARC) of SEBI, and as a member of Committee on Disclosures and Accounting Standards (SCODA) of SEBI, LLP Committee of Ministry of Corporate Affairs (MCA), Committee Constituted by Ministry of Corporate Affairs pertaining to certain issues raised regarding applicability of foreign investment in the LLPs, Committee for Digitization of Balance Sheet & Annual Reports filed with MCA through MCA-21, Working Group for developing Indian Specific ACORD Standards for the Indian Insurance Market of IRDA, Committee on Road Map for Risk Based Solvency Approach in Insurance of IRDA, First Chairman of the then newly formed Corporate Members Committee of The Chamber of Tax Consultants (CTC) and also on the Managing Council of CTC in 2007-08, Project Implementation Committee to pursue the implementation of 'Accrual Accounting' in the Ministry of Road Transport & Highways constituted by Ministry of Road Transport & Highways and Ministry of Shipping, Merger & Acquisition (M&A) Council constituted by ASSOCHAM and Chairman of Audit Committee & member of Taxonomy Development & Review & Membership Development Committee of XBRL India.

A proponent of putting Indian accountancy profession on the global map, he has also passionately represented the profession on the international front at a number of global meetings and conferences. A man with a global outlook and vision, CA. Nilesh Vikamsey is noted for his work as Chairman of Education & CPD Committee of South Asian Federation of Accountants (SAFA) and as Representative

of ICAI on the Committee for Improvement in Transparency, Accountability and Governance (ITAG) of SAFA.

As the Vice President of the ICAI, he is now the Vice-Chairman of all the Standing Committees of the ICAI, the Member ex-officio in all Non-Standing Committees of the ICAI and Joint Editor of The Chartered Accountant journal.

A propagator of harnessing professional skills for the growth of the nation and society, he has also been closely associated with and contributed to Indian Merchants Chamber, WIRC of ICAI, The Chamber of Tax Consultants, Bombay Chartered Accountants Society, Bombay Chamber of Commerce & Industry. He has also been a Member/Convenor of more than 15 Study Groups formed by the ICAI including the Group for suggesting Uniform Accounting Policies to RBI for Asset Reconstruction Companies, Group for Suggestions on Companies Act 2013 and Electoral Reforms Group and Group for Review of Examination Process.

A thorough professional, he holds Diploma in Information System Audit (DISA) of the ICAI besides having done Business Consultancy Studies Course of Bombay Chartered Accountants Society jointly with Jamnalal Bajaj Institute of Management Studies (JBIMS).

As an avid academic, CA. Nilesh Vikamsey has addressed and contributed to numerous national and international seminars and conferences on the issues of professional interest. He has been a Founder Member and Core Committee Member of Chembur Chartered Accountants Study Circle of WIRC, which had won the Best Study Circle Award consistently for over a decade. He is a Trustee in Sayagi U Ba Khin Memorial Trust (Vipassana International Academy) & few educational trusts in Mumbai. ■

From the President



CA. M. Devaraja Reddy
President, ICAI

“As I carry forward the legacy of the profession as its leader, I feel proud of the illustrious journey of our profession so far. Having ensured financial discipline in India for decades, the profession has today emerged as one of the most vibrant forces of socio-economic growth. We have indeed come a long way. Yet, I feel, there are still miles to go. I have embarked on my Presidential journey on that note of challenge.”

Dear Friends,

The wise see knowledge and action as one; they see truly ... so go the words of wisdom in the Bhagavad Gita, which are worth emulating by one and all, specifically in the present scenario when a new cohesive team of elected members is commencing its fresh tenure as representatives of the Indian CA fraternity. A beginning is only the start of a journey to connect another beginning.

Elected as 64th President of the ICAI, this is to acknowledge and aspire that the profession turns a new leaf and makes a robust start with a deep commitment to reach the pinnacle of global success. A journey of a thousand miles begins with a first bold step. Together let's initiate the first stride to dedicate our energies to create opportunities and guarantee excellence to the accountancy profession. And whilst doing so, let's recall the words of Bhagavad Gita verse: *Thou hast power only to act not over the result thereof, act thou therefore without prospect of the result and without succumbing to inaction.*

It is gratifying and a privilege to serve as the President of ICAI for the year 2016-17. The glorious and illustrious history of Indian accounting profession and the reputation of the ICAI envisioned and accomplished by its renowned past leaders over past so many years since its inception, and the responsibility accepted by me is indeed an arduous task. I reverentially acknowledge the contribution of my predecessors, in particular of the immediate past president CA. Manoj Fadnis, for sculpting the profession to its present stature. I am highly indebted to my colleagues in the Central Council, other stakeholders, close friends and fraternity for reposing utmost faith in my leadership abilities for the profession's forward march.

Being the President of this prestigious Institution, I promise to keep up the traditions of the accountancy profession predominantly when it comes to upholding the objectivity, integrity and excellence to enhance the image of our profession and to play a significant role in rendering selfless service to the nation.

Greatly honoured by the compliments showered on the ICAI and on the profession by Hon'ble Union Minister of State for Finance Shri Jayant Sinha as the Chief Guest of ICAI's 66th Annual Day function in New Delhi, I promise on behalf of the CA fraternity to ensure to play the role as *trustee of national interest*. I have complete faith in our mutual capacities and professional wisdom. Srimad Bhagavad Gita states: *Man is made by his belief. As he believes, so he is.*

From the President

ICAI Vice-President 2016-17

I congratulate CA. Nilesh Shivji Vikamsey on his election as the Vice-President of ICAI for the year 2016-17 and I am confident that his rich experience, professional acumen and tact will greatly benefit the members, and help me in dealing with critical responsibilities. I know CA. Vikamsey as a dedicated professional bestowed with exceptional technical, organisational and networking skills and endowed with innovative instincts which are the need of the hour.

Oath of Allegiance to CA Act, 1949

You will appreciate that this year marks the beginning of a unique tradition wherein every member of the Council has been requested, at their discretion, to take an oath of allegiance to the Chartered Accountants Act, 1949 and regulations/rules framed thereunder. Together with the newly-elected Vice-President, we took a solemn oath to mark the beginning of our professional journey and pledged to take our profession to greater heights, ensuring compliance with passion and reliability.

I also heartily welcome the members of the newly elected 23rd Council of ICAI, 22nd Regional Councils, Branch managing committee members and new foreign chapter office bearers. Many new and young faces have joined in and I am sure that the Council with its added wisdom and youthful vigour will go a long way in supporting and consolidating the ever-expanding profession. We have also received the seven out of eight Government nominee names to represent on the 23rd ICAI Council from the Ministry of Corporate Affairs, Government of India. I am sure that their erudite presence will benefit the profession in taking valuable decisions.

Vision 2016-17

As I carry forward the legacy of the profession as its leader, I feel proud of the illustrious journey of our profession so far. Having ensured financial discipline in India for decades, the profession has today emerged as one of the most vibrant forces of socio-economic growth. We have indeed come a long way. Yet, I feel, there are still miles to go.

I have embarked on my Presidential journey on that note of challenge. It is pertinent that even if you are on the right track, you will get run over if you just remain a taciturn onlooker. I have planned this year's vision and mission to build bridges keeping the future in mind.

In a nutshell, the objective is to go hand-in-hand with the Government of India in nation building,

enhancing profession's technical and research activities, infrastructure and HRD initiatives, recommending vibrant and value-added services to members and students, a compact network of reading rooms, rolling out of revised scheme of CA education and training, consolidation of CA Firms and further building of CA brand.

Our distinct emphasis will be not only raising the contour of ICAI internationally, branding *Indian CA*, but also crafting our profession as a facilitating arm of the Government of India with deference to all its flagship programs, particularly the Swachh Bharat Abhiyan.

Overall objective will be the inclusive growth of profession encompassing all those in practice or industry, particularly women and young members, and SMPs in the remotest regions of our country.

The various standing and non-standing committees for the year 2016-17 have been constituted. I am pleased to share with you that we have introduced new Committees this year onwards — *Legal Coordination Committee, Economic Affairs Committee and Digital Transformation and Process Reengineering Committee*.

I call upon my contemporaries in the Council, Regional Councils, Branches, and all the members, staff of ICAI to work seamlessly, benefitting the larger interest of the profession and the nation. Let's not accentuate but also formulate the ultimate ICAI Mission, that is *The Indian Chartered Accountancy Profession will be the valued Trustees of World Class Financial Competencies, Good Governance and Competitiveness*.

Meetings with Hon'ble Ministers

Indian accountancy profession is widely regarded and acknowledged as one of the key enablers and facilitators of Government's socio-economic vision and policies. Indian polity has vouched for this crucial role of our profession for decades. Taking this tradition of 'Partner in Nation Building' forward, I along with Vice President recently met Hon'ble Union Finance Minister Shri Arun Jaitley, Hon'ble Union Railway Minister, CA. Suresh Prabhu and Hon'ble Union Minister of Urban Development Shri M. Venkaiah Naidu. In these meetings we discussed issues of professional and national interest and how the Indian accountancy profession can play a more proactive role as an enabling arm of the Government policies and vision. I am sure these meetings will go a long way in strengthening our ties with the Government.

From the President

Bank Audit Assignment-Expectations from Professionals

Bank Audit, which is a vital assignment for most of the members of the profession, is round the corner. By the time this issue of the journal reaches you, most of the members would be planning an effective strategy for execution of the statutory audit of bank and branches, as the case maybe.

Members are advised to deliver a proficient service adhering to the Central banker's guidelines. ICAI is organizing a series of CPE programs for the advantage of its members and a revised version of *A Guidance Note on Bank Audit 2016* edition has been made available to assist the members. A word of caution to the members is not to consider the bank assignment lightly, since the stakeholders in the society are closely watching the role of auditors of banks to report any non-conformity impacting the banks stability and incurring losses of the public money. I would also like to share with my fraternity that we have been appropriately representing that the autonomy given to banks in the current procedure of appointment of Central Statutory Auditors and Branch Statutory Auditors of public-sector banks (PSBs) can lead to the impairment of independence and thus is not in overall interest.

Members Campus Placement – February/ March 2016

ICAI regularly hosts Campus Placement events at various locations both for the experienced members in industry and also for the new and young members looking for openings in the industry. The Institute's placement programme is a pioneering platform for ICAI members as they get a splendid chance to be interviewed and selected by their dream organizations. At this event, young members get to meet and explore their professional potential in a reciprocally positive environment. I wish to inform that the forthcoming Campus Placement Programme is being organised at 22 centres across India during February-March 2016. I request all the members to share this information among the companies known to them, who may possibly like to recruit CA professionals.

Empowerment of Government Officials

I am happy to share that ICAI is a true partner in nation-building assisting the Government. To technically empower the Government officials, the Institute recently organized a training programme on Implementation of Double Entry, Accrual Accounting and Accounting Standards for the Local Bodies {ASLB} to the representatives and officials of Jodhpur

Municipal Corporation in Jodhpur, where all key issues related to accounting reforms modules, double entry accrual based accounting systems, preparing opening balance sheet, ASLB-1, ASLB-3 and ASLB-17 were explained in detail, highlighting the importance and usefulness of such accounting process.

Proposals on Companies Law 2013 to Ministry of Corporate Affairs

Companies Law Committee of the Ministry of Corporate Affairs (MCA) wherein the ICAI immediate past President CA. Manoj Fadnis represented the Institute was constituted in June 2015 to study and recommend solutions to the complex matters arising out of Companies Act, 2013. The Committee received over two thousand feedbacks from various stakeholders on varied issues including contentious matters. Groups were set up to examine those inputs. Based on the recommendations made by the groups, the Committee evaluated the relevant matters of apprehension, and submitted its report to the Government. Many of our submissions were favourably considered.

ICAI Awards for Excellence in Finance Reporting in Kolkata

A grand annual competition was organized in Kolkata to distribute ICAI Awards for Excellence in Financial Reporting. Hon'ble Auditor General of Bhutan Shri Tshering Kezang was the Chief Guest and Hon'ble Rajya Sabha MP CA. K. Rahman Khan was the Guest of Honour. The event was directed to recognise and encourage excellence in preparation and presentation of financial information. I compliment CA. Subodh K. Agrawal, the then Chairman, Research Committee and ICAI past President for leading to success of the event.

27th Chapter of ICAI in Auckland, New Zealand

I am delighted to notify the members that the Institute has recently inaugurated its 27th Chapter in Auckland (New Zealand). The event was graced by New Zealand Member of Parliament Shri Kanwaljit Singh Bakshi and High Commission of India to New Zealand Chargé d' Affaires Shri Sandeep Sood, among others.

IASB and IFRS Delegations at ICAI

I am keen to communicate to the members of ICAI that an important delegation representing International Accounting Standards Board (IASB) of International Financial Reporting Standards (IFRS) recently visited the ICAI. The delegation included IASB Vice-Chair Mr. Ian Mackintosh, IFRS Foundation Trustees Chair

From the President

Mr. Michel Prada and IASB Technical Director Mr. Kumar Dasgupta. The consultations focused on various matters of interest and perceptions, specifically the issue of copyright in Indian Accounting Standards (IND AS), among other concerns relating to mutual collaborations.

Guidance Notes and Technical Guide Released

It has been the resolute effort of ICAI to keep its members' knowledge in homogeneity with changing times in all the professional matters and hence the fundamental capacity building initiative.

ICAI, in keeping with the principle of continuous updating of professional information, has recently validated and made available to the members the *Revised Guidance Note on Reporting on Fraud under Section 143(12) of the Companies Act, 2013 and Guidance Note on Accounting for Depreciation in companies in the context of Schedule II to the Companies Act, 2013*. Meanwhile, the ICAI has likewise issued a *Technical Guide on Internal Audit of Hotel Industry*, which aims to furnish the internal auditors of the said industry with a comprehensive understanding of the unique and complex transactions, thereby helping them to fortify their professional abilities.

Effective use of Technology for Convocation of Newly-Enrolled Members

I am delighted to remark that the ICAI successfully organized the 2nd round of Convocations for the newly-enrolled members recently at eleven locations embedded under five Regional Offices, viz. Ahmedabad, Mumbai, Pune, Bengaluru, Chennai, Hyderabad, Kolkata, Jaipur, Kanpur, Chandigarh and New Delhi. 9,040 participants were enrolled for the convocations and more than 70 per cent of them attended in person. Harnessing the technology, myself and Vice-President used Google Hangout to convey our messages, which were broadcast simultaneously live at 10 different locations.

Inauguration of ICAI Branches

Branches are important organs linking the institute with the large base of members and students who are spread across the nation. Own infrastructure is important to maintain continuous service to the members and students in all locations. As on date, out of 153 branches only 89 branches have their own building. Suitable infrastructure is an integral component for the growth and fortification of academics. I am pleased to inform that recently the buildings of the Ajmer Branch

of CIRC and Rohtak Branch of NIRC were inaugurated. We also inaugurated the auditorium of the Pondicherry Branch of SIRC. I am sure this initiative will go a long way in improving the infrastructural and related service capabilities of the ICAI.

Although there is no agreed definition of a profession, I would like to draw your kind attention to the definition provided by the Australian Council of Professions (Professions Australia): *A disciplined group of individuals who adhere to high ethical standards and uphold themselves to, and are accepted by, the public as possessing specialized knowledge and skills in a widely recognized, organized body of learning derived from education and training at a high level and who are prepared to exercise this knowledge and these skills in the interest of others.*

Inherent in this definition is the concept that responsibility for the welfare, health and safety of the community shall take precedence over all other considerations. As professionals of accountancy, we must rely on and be enthused with *Service before Self* that draws forte from ICAI motto *Ya esa suptesu jagarti* (one who is awake among those who sleep). Members should get inspiration and imbibe the ICAI motto definition because it captures societal expectations from a profession. Sometimes we fail to focus on moral code and social responsibility, and accentuate more on ability. I hope that members of the profession reconsider their practice towards professional accountability in the light of the above definition of a profession.

Now let me take this opportunity to extend my warm wishes to all members on the occasion of *Maha Shivaratri, Holi and Good Friday*. May a variety of colours make your life all the more colourful and happy! May the festivals bring more joy to your life!

Before I conclude, it is proper to observe the words of C. S. Lewis: *Integrity is doing the right thing, even when no one is watching.*

Jai Hind!

Best wishes,

CA. M. Devaraja Reddy
President, ICAI

New Delhi, 23rd February 2016

Council Photo

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

MEMBERS OF THE TWENTY-THIRD COUNCIL & THE SECRETARY [as on 12th February, 2016]



1st Row (L to R) : CA. Sripriya Kumar, CA. Kemisha Soni, CA. Vijay Kumar Gupta, CA. Nilesh Shivji Vikamsey (Vice President), CA. M. Devaraja Reddy (President), Shri V. Sagar (Secretary), CA. Shyam Lal Agarwal, CA. G Sekar, CA. Sushil Kumar Goyal

2nd Row (L to R) : CA. Rajesh Sharma, CA. Mangesh Pandurang Kinare, CA. Jay Chhaira, CA. (Dr.) Debashis Mitra, CA. Shiwaji B. Zaware, CA. Prakash Sharma, CA. Dhiraaj Kumar Khandelwal, CA. Mukesh Singh Kushwah

3rd Row (L to R) : CA. Nihar Niranjan Jambusaria, CA. Tarun Jannadas Ghia, CA. Naveen N. D. Gupta, CA. Anil Satyanarayan Bhandari, CA. Sanjiv Kumar Chaudhary, CA. Prafulla Premeek Chhajed, CA. Sanjay Vasudeva, CA. Nandkishore Chidamber Hegde

Standing (L to R) : CA. Babu Abraham Kallivayalil, CA. Sanjay Agarwal, CA. Ranjeet Kumar Agarwal, CA. Manu Agrawal, CA. Madhukar Narayan Hiregange, CA. M. P. Vijay Kumar, CA. Dhinal Ashwinbhai Shah, CA. Atul Kumar Gupta

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Meeting with Union Finance Minister

ICAI President CA. M. Devaraja Reddy, along with ICAI Vice-President CA. Niles Shivji Vikamsey, presents bouquet and welcomes the Union Finance Minister Shri Arun Jaitley in New Delhi (22nd February 2016)



Meeting with Union Railway Minister

ICAI President CA. M. Devaraja Reddy, along with ICAI Vice-President CA. Niles Shivji Vikamsey, presents bouquet and welcomes the Union Railway Minister CA. Suresh Prabhakar Prabhu in New Delhi (22nd February 2016)



Meeting with Union Minister for Urban Development and Parliamentary Affairs

ICAI President CA. M. Devaraja Reddy presents bouquet and welcomes the Union Minister of Urban Development, Housing and Urban Poverty Alleviation and Parliamentary Affairs Shri M. Venkaiah Naidu, along with ICAI Vice-President CA. Niles Shivji Vikamsey (22nd February 2016)



Meeting with Deputy C&AG of India

ICAI President CA. M. Devaraja Reddy presents bouquet and greets Deputy Comptroller & Auditor General of India Shri Prasenjit Mukherjee, along with ICAI Vice-President CA. Niles Shivji Vikamsey in New Delhi (15th February 2016)



ICAI Awards in Financial Reporting in Kolkata

The-then ICAI Vice-President (now President) CA. M. Devaraja Reddy presents memento to Rajya Sabha MP CA. K. Rahman Khan, while the then ICAI President CA. Manoj Fadnis and Chief Guest Auditor General of Bhutan Shri Tshering Kezang along with ICAI Central Council member CA. Sanjiv Kumar Chaudhary share the moments (6th February 2016)

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Oath Taking by CA Act, 1949

ICAI President CA. M. Devaraja Reddy takes Oath while ICAI Vice-President CA. Niles Shivji Vikamsey shares the dais (12th February 2016)



Oath Taking by CA Act, 1949

ICAI Vice-President CA. Niles Shivji Vikamsey takes Oath while ICAI President CA. M. Devaraja Reddy shares the dais (12th February 2016)

Meeting with MCA Secretary

ICAI President
CA. M. Devaraja Reddy, along with
ICAI Vice-President
CA. Niles Shivji Vikamsey, presents
bouquet and greets
the MCA Secretary Shri Tapan Ray
in New Delhi
(15th February 2016)



Meeting with MCA Joint Secretary

ICAI President
CA. M. Devaraja Reddy
along with ICAI Vice-President
CA. Niles Shivji Vikamsey
discusses matter of professional
concerns with the
MCA Joint Secretary
Shri Manoj Kumar, in
New Delhi (15th February 2016)

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All India Conference on Implementing Accrual Accounting and Financial Management Reforms in New Delhi

The-then ICAI Council Member CA. S. Santhanakrishnan shares the dais with MoUD (Ministry of Urban Development) Director Shri Parmod Kumar, World Bank SFMS (Structured Financial Messaging System) CA. S. Krishnamurthy and ICAI's CASLB Co-opted Member CA. T. V. Balasubramanian (8th February 2016)

Visit to Pondicherry Branch of SIRC



ICAI President CA. M. Devaraja Reddy cuts the ribbons to inaugurate the Auditorium at the Branch in the presence of his Central Council colleague CA. G. Sekar among others (26th January 2016)



ICAI President CA. M. Devaraja Reddy along with his Central Council colleague CA. G. Sekar among others, at the Branch (26th January 2016)



Visit to Tirunelveli Branch of SIRC

ICAI President CA. M. Devaraja Reddy along with his Central Council colleague CA. Babu Abraham Kallivayalil among others, at the Branch (15th February 2016)

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Visit to Tuticorin Branch of SIRC

ICAI President CA. M. Devaraja Reddy along with ICAI past President CA. R. Balakrishnan, ICAI Central Council member CA. Babu Abraham Kallivayalil among others, at the Branch (15th February 2016)

THE CHARTERED ACCOUNTANT JOURNAL THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA SET UP BY AN ACT OF PARLIAMENT

Non-Receipt of *The Chartered Accountant* Journal

This is for the information of Members/subscribers who fail to receive *The Chartered Accountant* journal despatched to them either due to un-intimated change of address or postal problems.

Members and Students are requested to inform the respective regions immediately after you change the address to ensure regular and timely delivery of journals to you as the mailing list is drawn from ICAI's centralised database updated till 15th of every month. Subscribers are requested to mail their changed address to eb@icai.in.

Members can also update their address online in the 'Members' section placed on the top bar of ICAI website. The required link in the 'Members' section is titled 'Members: Update Your Residential and Professional Addresses' (<http://www.icai.org/addupdate/>). Fill the Membership No and Date of Birth to open the Form. Fill the Form to update your changed address.

After updating the address online, the member is also required to download the updated Form and submit the same at their respective regions with their signature. Please note that once updated in the respective regional head offices' records, the new address gets automatically updated in the centralised data base of the Institute, from where the journal mailing list is prepared.

While updating the address members can opt for their 'Residential Address' to receive the copy of the journal by clicking the option "Do you want to get your journal on Residential Address" at the bottom of the Form. Thereafter you will get your copy of the Journal at your residential address.

Any queries or complaints in this regard can also be sent by email at journal@icai.in (for members) and eb@icai.in (for students and Subscribers) or contact at 0120-3045921.

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66th Annual Function CAs' Role Vital for Nation, says Jayant Sinha as the ICAI Celebrates Success



The Institute of Chartered Accountants of India celebrated a year of noteworthy achievements at its 66th Annual Function organised on February 11, 2016, in the convention hall of Hotel Ashok in New Delhi. The occasion not only recalled the success that ICAI achieved in the year 2015-16 but also set the tone for its future professional endeavours. Union Minister of State for Finance Shri Jayant Sinha graced the occasion as the Chief Guest in the presence of a large gathering including a host of dignitaries from the accountancy profession, Government and other stakeholders. Meritorious CA students, members and outstanding Regional Councils, Branches and overseas chapters were also honoured for their accomplishments during the event, which also witnessed the release of various ICAI Publications. Joint Secretary Ministry of Corporate Affairs Shri Manoj Kumar also distributed prizes on the occasion. We present herewith a brief report of the Annual Function. Read on...



At the outset, ICAI Secretary **Shri V. Sagar** welcomed the Chief Guest Minister of State for Finance Shri Jayant Sinha besides other dignitaries including the past-Presidents of ICAI, members of ICAI Central

Council and Regional Councils, student achievers and other members.



In his presidential address, the then ICAI President CA. Manoj Fadnis briefly outlined the all-round development in accountancy profession facilitated by the Institute through various initiatives during the Council Year 2015-16. He gave an overview of all national and international initiatives of the ICAI and highlighted how the profession had made a significant contribution in its role as partner-in-nation-building, particularly in its flagship programmes. *"Spearheading Professional Excellence"* was my mantra. We have worked on upgrading the course curriculum, to bring changes in regulatory framework of education and training, introduce new standards and revise old ones to suit emerging requirements, supporting them with Implementation Guides, providing assistance to the outside world in the matters related to our domain expertise," he said.

He said the ICAI has been actively extending professional help to organisations such as Indian Railways, Coal India Limited, Employees Provident Fund in the matters related to accrual accounting, outcome budgeting, creation of integrated cost accounting architecture, capex procurement process, policy compliance, strengthening compliance management framework and so on. CA. Fadnis said that in the backdrop of Indian economic revival, the accounting profession will only gain in importance. The increased economic activity

will require accounting professionals who are technically sound and have expertise in their chosen domain.

CA. Manoj Fadnis also flagged three areas of ICAI concern for Shri Jayant Sinha's consideration—proposed National Financial Reporting Authority (NFRA), mechanism of appointing Bank Auditors and relaxation of VISA restrictions for professionals. *"NFRA will create overlapping structures that will reduce efficiencies. Creation of multiple regulatory authorities governing the audit profession would hinder the growth of the profession,"* he said, adding *"the other issue relates to the procedure of selection of Auditors of Banks. The autonomy given to Banks in the current procedure of appointment of Central Statutory Auditors and Branch Statutory Auditors of Public Sector Banks (PSBs) can lead to impairment of independence."* *"We have been recommending that appointment of these Auditors of Public Sector Banks may be done by an independent authority such as Reserve Bank of India or C&AG."* Recommending the creation of a level playing field for the Indian accounting professionals, he said, *"In order to enable the Indian Chartered Accountants to grab opportunities in the global market, the restrictions on obtaining visas should be relaxed so that it does not hamper cross-border movements of the professionals"*

India Lightly Taxed; Help Govt Collect More: Jayant Sinha to CAs



In his address, the Chief Guest **Union Minister of State for Finance Shri Jayant Sinha** hailed the Indian accountancy profession for playing an important role in development of economy. Complimenting the ICAI for its 66 illustrious years of service to the nation, he said the Institute has rendered outstanding services with utmost diligence to the Government in maintaining the nation's financial health. *"The patriotism, professionalism & sense of duty that Chartered Accountants possess is commendable and the CA fraternity can play an important role in building India,"* he said.

Stressing the important role of the CAs in nation building, he said India is a "lightly taxed" nation and urged CAs to help the government collect due taxes and raise the tax-GDP ratio to 20 per cent. Along with tax officers, chartered

accountants too have a responsibility to ensure that due taxes are collected by the government, he said. Appealing to the CA community to help collect taxes and contribute to nation building, Sinha said the state requires resources to fund infrastructure, government schemes as well as for national security.

"You are responsible along with tax officials. We have to get our tax: GDP ratio from 16/17 per cent to well over 20 per cent. Only then are we going to have the roads, the highways, metro, clean air, the army, the mid day meals, higher educational institutions and India of our dreams...In that, no institution is going to be more important than you all as you certify and assess what the actual profits and revenues are and you assess what the real taxes should be," Sinha said. *"When you look at the books of your clients as business advisors and chartered accountants, your thinking should not be about tax avoidance,"* Sinha said at the annual function of ICAI.

During the function, Sinha sought to know from CAs whether India was a "highly taxed or lightly taxed country", to which about two-third of the gathering said that India was a lightly taxed country. But the minister said that the view of general public was different as 75-80 per cent of the population feels that India is a highly taxed country.

"But you, because you are CAs, experts, you know India is not a highly taxed country. We have very moderate taxes in India... corporate taxes going down to 25 per cent and you all know the tax: GDP ratio is 16/17 per cent, when the OECD average is 35 per cent," he said.

Talking about the global economic scenario, he expressed great satisfaction for India being a haven of stability while the global economy is lurking in turbulent waters. He mentioned that India has emerged as a model democracy with significant fiscal steadiness, while economies internationally are clouded in financial stress and economic contractions. This, he said, is further substantiated by the fact that India's GDP growth rate is highest amongst the



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leading economies worldwide and expressed confidence that the Nation's GDP should rise to 7.5% in this fiscal year. Foreign Direct investment, he informed, has soared to 40% which is reflective of the investors' confidence on India as a global investment hub. Some other sectors, however, like the steel and the coal, has plummeted due to impact of the decline in its global prices. In addition, India also witnessed 2 deficit monsoons, for the first time in the last 3 decades. However, he said, despite these hurdles, India has braced itself well and is steadily rising on its GDP growth rate.

He opined that a lot of this could be attributed to the structural bliss that India enjoys, in terms of its student development model, strong demography and the like. He also shared his vision and hope that over the next few decades, India shall emerge as the new entrepreneurial engine for the top one billion people on the planet. He also visualised India as the next Innovation-Hub as the nation is backed by a fundamentally sturdy design model. India's design-point, he stated, is based on the 80-20 design model, which ensures availability of high-end products & services in Indian markets with 80% of their functionalities at 20% of their prices. *He said: You can find the global products and services with 80 per cent of the functions at 20 per cent of the actual cost in my hometown, at Jhanda Chowk of Hazaribagh.*

"As our economy heads for this substantial growth in the ensuing years, the Chartered



Accountant fraternity assumes an extremely important role as a partner of the Nation in maneuvering the financial growth of the economy," he said.

He mentioned that for any economy to progress, what is indispensable is to have a solid grip on the numbers. *"India,"* he said, *"relies heavily on the Accountancy professionals who are the trusted advisors to the investors as well as to the policy makers."* The Government places heavy reliance on the CA fraternity to keep it informed on the sound working of its strategies. The risk assessment of the national policies to be implemented by the Government, is another arena, he said, which is dependent on the expertise of the Accounting professionals. *"The role of the accounting profession is critical in lending credibility to financial markets and for building India's economy into a global power,"* he said.

Earlier, he began with extending the news about the sad demise of Lance Nayak Shri Hanamanthappa Koppad who died three



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days after he was miraculously rescued from beneath tonnes of snow at a height of 19,600 feet after the February 3, 2016 avalanche hit his post in Siachen Glacier. Leading the gathering in paying last respects to the Lance Naik by observing two-minute silence and recalling his grit and determination, the Minister urged the CA fraternity to also work with the same spirit, complete integrity, dedication and professionalism.

The minister also released several publications of the ICAI on the occasion. The Minister also distributed awards to the CA students and members for their outstanding academic achievements.

A vote of thanks was delivered by the then Vice President (now President) **CA. M. Devaraja Reddy**. Addressing the conflict sown by globalisation which has resulted in changing the dynamism of the emerging markets, he said that the ICAI has engrossed itself into providing world-class education, and hands-on-training to groom the Accounting professionals as total business solution providers to compete

with the global professionals.

Briefing on the constant endeavour of the ICAI towards ensuring quality education, he said that the CA course, being an economical and professional course, is one of the most sought-after courses in the country. He added that the ICAI functions as a standard-setter so as to make the Indian Chartered Accountants a global brand. He urged the Indian Chartered Accountants to function with the utmost trustworthiness and transparency as they are the custodians of public trust. He assured that ICAI would continue in its mission to uphold the confidence of the public and the values of *excellence, independence, integrity* that the Institute stands for.

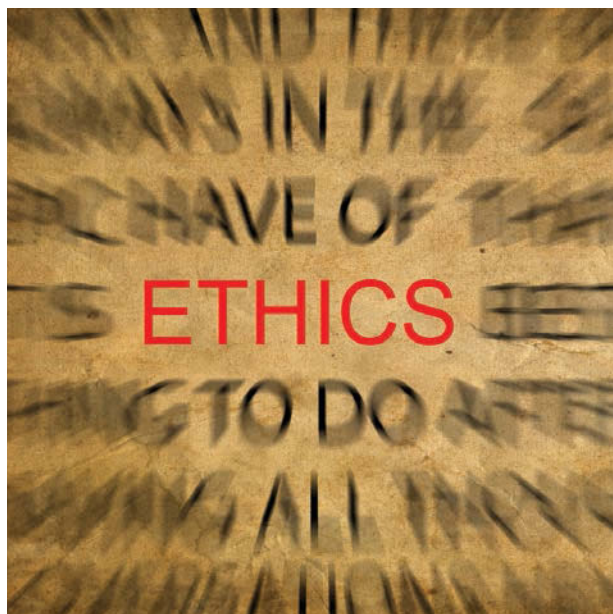
The ICAI branches and overseas chapters which were adjudged outstanding in different categories for the year 2015-16 were also awarded on the occasion. ■



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Know Your Ethics

Ethical Issues in Question-Answer Form



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. 1.4.2005.

Q. Can a member holding Certificate of Practice, entitled to own Agricultural land and continue agricultural activity?

- A. Yes, member holding Certificate of Practice can own and hold agricultural land and continue agricultural activity.

Q. Can a member act as a Tax Auditor and Internal Auditor of an entity?

- A. No, the Council has decided that Tax Auditor of an entity cannot act as an Internal Auditor of the same entity, or vice-versa for the same financial year.

Q. What are the Fundamental Principles which a Professional Accountant is required to comply?

- A. A professional accountant is required to comply with the following fundamental principles:
- (a) Integrity: A professional accountant should be straightforward and honest in all professional and business relationships.
 - (b) Objectivity: A professional accountant should not allow bias, conflict of interest or undue influence of others to override professional judgments.
 - (c) Professional Competence and Due Care: A professional accountant should act diligently and in accordance with applicable technical and professional standards while providing professional services.
 - (d) Confidentiality: A professional accountant should not disclose information acquired in the course of his professional and employment relationships to any person without proper and specific authority unless there is a legal or professional right or duty to disclose.
 - (e) Professional Behaviour: A professional accountant should comply with relevant laws and regulations and should avoid any action that discredits the profession.

Q. What is the Conceptual Framework Approach?

- A. It is a framework that requires a professional accountant to identify, evaluate and address threats to compliance with the fundamental principles, rather than merely comply with a set of specific rules. Professional accountants are required to apply this conceptual framework to identify threats to compliance with the fundamental principles, to evaluate their significance and, if such threats are other than clearly insignificant then to apply safeguards to eliminate them or reduce them to an acceptable level such that compliance with the fundamental principles is not compromised.

* Contributed by the Ethical Standards Board of the ICAI

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Know Your Ethics

Q. Can the goodwill of a proprietary firm of Chartered Accountant after his death be sold/transferred to another eligible member of the Institute?

- A. Yes, the Council of the Institute considered the issue whether the goodwill of a proprietary firm of Chartered Accountant can be sold/transferred to another eligible member of the Institute, after the death of the proprietor concerned and came to the view that the same is permissible. Accordingly, the Council passed the following resolution with a view to mitigate the hardship generally faced by the families after the death of such proprietors, subject to following conditions:
- (a) in respect of cases where the death of the proprietor concerned occurred on or after 30.8.1998. Provided such a sale is completed/effectuated in all respects and the Institute's permission to practice in deceased's proprietary firm name is sought within a year of the death of such proprietor concerned. In respect of these cases, the name of the proprietary firm concerned would be kept in abeyance (i.e. not removed on receipt of information about the death of the proprietor as is being done at present) only up to a period of one year from the death of proprietor concerned as aforesaid.
 - (b) in respect of cases where the death of the proprietor concerned occurred on or after 30.8.1998 and there existed a dispute as to the legal heir of the deceased proprietor. Provided the information as to the existence of the dispute is received by the Institute within a year of the death of the proprietor concerned. In respect of these cases, the name of proprietary firm concerned shall be kept in abeyance till one year from the date of settlement of dispute.
 - (c) in respect of cases where the death of the proprietor concerned had occurred on or before 29th August, 1998 (irrespective of the time lag between the date of death of the proprietor concerned and the date of sale/transfer of goodwill completed/to be completed). Provided such a sale/transfer is completed/effectuated and the Institute's permission to practice in the deceased's

proprietary firm name is sought for by 28th August, 1999 and also further provided that the firm name concerned is still available with the Institute."

Q. What are the measures available to Professional Accountants in case conflict of interest arises?

- A. A professional accountant in public practice should take reasonable steps to identify circumstances that could pose a conflict of interest. Such circumstances may give rise to threats to compliance with the fundamental principles.
- A Professional Accountant should evaluate the significance of any threats. Depending upon the circumstances giving rise to the conflict, safeguards should ordinarily include notifying the client activities that may represent a conflict of interest/notifying all known relevant parties where the professional accountant is acting for two or more parties in respect of a matter, giving rise to conflict of interest and obtaining their consent in such circumstances.
- The additional safeguards e.g. the use of separate engagement teams, clear guidelines for members of the engagement team on issues of security and confidentiality, regular review of the application of safeguards by a senior individual not involved with relevant client engagements should also be considered.

Q. What is Independence?

- A. Independence requires:
- Independence of Mind-The state of mind that permits the expression of a conclusion without being affected by influences that compromise professional judgment, allowing an individual to act with integrity, and exercise objectivity and professional skepticism.
- Independence in Appearance-The avoidance of facts and circumstances that are so significant that a reasonable and informed third party, having knowledge of all relevant information, including safeguards applied, would reasonably conclude a firm's, or a member of the assurance team's, integrity, objectivity or professional skepticism had been compromised. ■

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Circulars/Notifications

Given below are the important Circulars and Notifications issued by the CBDT, CBEC, FEMA, MCA, SEBI, RBI 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)

A. INCOME TAX I. NOTIFICATION

1. Additional Modes for generation of Electronic Verification Code (EVC) for the purpose of electronic verification of the person furnishing the return of income- Notification No. 1/2016 dated 19-1-2016

Rule 12(3) details the manner of furnishing return of income by different categories of persons. Transmitting the data in the return electronically under electronic verification code is one of permissible modes of furnishing return of income by an individual, HUF, firm, LLP or any other person who is required to file return in Form ITR-5, whose accounts are not required to be audited under Section 44AB. Further, a person required to furnish the return in Form ITR-7 (other than a political party) can also furnish return of income by transmitting the data in the return electronically under electronic verification code.

Electronic verification code has been defined in *Explanation* to Rule 12(3) of the Income-tax Rules, 1962, to mean a code generated for the purpose of electronic verification of the person furnishing the return of income as per the data structure and standards specified by Principal Director General of Income-tax (Systems) or Director General of Income-tax (Systems).

Rule 12(4) of the Income-tax Rules, 1962, empowers the Principal Director-General of Income-tax (Systems) or Director-General of Income-tax (Systems) to specify the procedures, formats and standards for ensuring secure capture and transmission of data. He shall also be responsible for evolving and implementing appropriate security, archival and retrieval policies in relation to furnishing-

- i. the returns in the manners (other than the paper form) specified in column (iv) of the

Table, namely, electronically under digital signature and transmitting the data in the return electronically and thereafter submitting the verification of the return in Form ITR-V; and

- ii. the report of audit or notice referred to in *proviso* to Rule 12 (2) electronically.

In exercise of the powers delegated by the CBDT under Explanation to Rule 12(3) and Rule 12(4) of the Income-tax Rules, 1962, the Principal Director-General of Income-tax (Systems) has laid down the procedures, data structure and standards for additional modes of generation of Electronic Verification Code in addition to EVC prescribed *vide* earlier Notification No. 2/2015 dated 13th July 2015 as under:

Additional Modes of Generation of EVC

Case (5): Where the EVC (Electronic Verification Code) is generated by giving bank details to the e-filing website <https://incometaxindiaefiling.gov.in>

A facility to pre-validate Bank account details will be provided to the assessee under Profile Settings menu in e-Filing website i.e., <https://incometaxindiaefiling.gov.in>. Assessee has to provide the following bank account details: 1. Bank account number 2. IFSC 3. Email ID and 4. Mobile Number. These details provided by the assessee along with PAN and Name as per e-filing database will be validated against the details of taxpayer registered with bank. If the pre-validation is successfully completed, assessee can opt for "Generate EVC using bank account details" option while verifying the Income tax return.

Generated EVC will be sent by e-filing portal to taxpayer's Email ID and/or Mobile Number verified from bank. List of Banks participating in this facility will be as provided in <https://incometaxindiaefiling.gov.in>

Case (6): Where the EVC (Electronic Verification Code) is generated after Demat account authentication using Demat details registered with CDSL/NSDL

A facility to pre-validate Demat account details will be provided to the assessee under Profile Settings menu in e-Filing website i.e. <https://incometaxindiaefiling.gov.in>. Assessee has to provide the following Demat account details:

1. Demat account number
2. Email ID and
3. Mobile Number.

These details provided by the assessee along with PAN and Name as per e-filing database will be validated against the details of taxpayer registered with depository (CDSL/NSDL). If the pre-validation is successfully completed, assessee can opt for "Generate EVC using Demat account details" option while verifying the Income tax return.

Generated EVC will be sent by e-filing portal to Email ID and/or Mobile Number verified from CDSL/NSDL. The Depositories (CDSL/NSDL) participating in this facility will be as provided in <https://incometaxindiaefiling.gov.in>.

Other Conditions:

The additional mode of EVC generation will come into effect from the date of issue of this notification.

All other condition shall remain same as specified in Notification No. 2/2015 dated 13.07.2015 issued by Pr. DGIT (Systems), New Delhi.

The mode and process for generation and validation of EVC and its use can be modified, deleted or added by the Principal DGIT (System)/ DGIT (System).

The complete text of the above Notifications can be downloaded from the link below: <http://www.incometaxindia.gov.in/Pages/communications/notifications.aspx>

II. CIRCULAR

1. Clarification of the term 'initial assessment year' in Section 80IA (5) of the Income-tax Act, 1961–Circular No. 01/2016, Dated 15-2-2016

Section 80IA provides for deduction of an amount equal to 100% of the profits and gains derived by an undertaking or enterprise from an eligible business (as referred to in sub-Section (4) of that Section) in accordance with the prescribed provisions. Section 80IA(2) further provides that the aforesaid deduction can be claimed by the assessee, at his option, for any ten consecutive assessment years

out of fifteen years (twenty years in certain cases) beginning from the year in which the undertaking commences operation, begins development or starts providing services etc. as stipulated therein. Section 80IA(5) further provides as under—

“Notwithstanding anything contained in any other provision of this Act, the profits and gains of an eligible business to which the provisions of sub-section (1) apply shall, for the purposes of determining the quantum of deduction under that sub-section for the assessment year immediately succeeding the initial assessment year or any subsequent assessment year, be computed as if such eligible business were the only source of income of the assessee during the previous year relevant to the initial assessment year and to every subsequent assessment year up to and including the assessment year for which the determination is to be made.”

In the above sub-Section, which prescribes the manner of determining the quantum of deduction, a reference has been made to the term ‘initial assessment year’. It has been represented that some Assessing Officers are interpreting the term ‘initial assessment year’ as the year in which the eligible business/manufacturing activity had commenced and are considering such first year of commencement/operation etc. itself as the first year for granting deduction, ignoring the clear mandate provided under sub-Section (2) which allows a choice to the assessee for deciding the year from which it desires to claim deduction out of the applicable slab of fifteen (or twenty) years.

On examining the matter, it is abundantly clear from sub-Section (2) that an assessee who is eligible to claim deduction u/s 80IA has the option to choose the initial/first year from which it may desire the claim of deduction for ten consecutive years, out of a slab of fifteen (or twenty) years, as prescribed under that sub-Section. It is hereby clarified that once such initial assessment year has been opted for by the assessee, he shall be entitled to claim deduction u/s 80IA for ten consecutive years beginning from the year in respect of which he has exercised such option subject to the fulfillment of conditions prescribed in the section. Hence, the term ‘initial assessment year’ would mean the first year opted for by the assessee for claiming deduction u/s 80IA. However, the total number of years for claiming deduction should not transgress the prescribed slab of fifteen or twenty years, as the case may be and the period of claim should be availed in continuity.

The detailed circular can be downloaded from the link <http://www.incometaxindia.gov.in/Pages/communications/circulars.aspx>

III. Press Releases/Instructions/Office Memorandum

1. Signing of 7 unilateral Advance Pricing

Agreements-Press Release dated January 22, 2016

The APA Scheme was introduced in the Income-tax Act in 2012 and the "Rollback" provisions were introduced in 2014. The scheme endeavours to provide certainty to taxpayers in the domain of transfer pricing by specifying the methods of pricing and setting the prices of international transactions in advance. Since its inception, the APA scheme has attracted tremendous interest from taxpayers for using this mechanism to achieve tax certainty upto nine years.

The Central Board of Direct Taxes (CBDT) entered into 7 more unilateral Advance Pricing Agreements (APAs) with taxpayers on 22nd January, 2016. This takes the tally of APAs signed so far to 39 (38 unilateral and one bilateral). In the current fiscal year, which is the third year of APA programme, 30 agreements have been signed so far. Before the end of the financial year, more such agreements are expected to be signed. The 7 APAs signed pertain to various sectors of the economy like investment advisory services, software development services and IT enabled Services. The agreement so signed also includes one of the few agreements to be reached in the manufacturing sector.

2. Signing of Protocol amending the India-Armenia Double Taxation Avoidance Convention)- Press Release, Dated 27-1-2016

A Protocol to amend the existing Double Taxation Avoidance Convention was signed by the Government of India and the Government of Armenia on the 27th day of January, 2016 in New Delhi.

The Protocol amends the Double Taxation Avoidance Convention between India and Armenia that has been in existence since 9th September, 2004. The Protocol amends the Article on Exchange of Information for tax purposes to bring it in line with the updated provisions in the OECD Model. The Protocol will enable the two countries to exchange information related to financial and banking transactions under the Double Taxation Avoidance Convention, and thereby facilitate them in addressing tax evasion. It

is also expected to further strengthen the efforts of Government of India in curbing generation of black money.

3. Resolution of more than 100 cases of Transfer Pricing disputes with USA Under Mutual Agreement Procedure (MAP)-Press Release, Dated 28-1-2016

One of the significant steps taken by CBDT to boost investment sentiments among MNCs is the landmark Framework Agreement signed with the Revenue Authorities of USA in January, 2015. This agreement was finalised under the Mutual Agreement Procedure (MAP) provision contained in the India-USA Double Taxation Avoidance Convention (DTAC). The agreement seeks to resolve about 200 past transfer pricing disputes between the two countries in the Information Technology (Software Development) Services [ITS] and Information Technology enabled Services [ITeS] segments. More than 100 cases have already been resolved and some more are expected to be resolved before the end of this fiscal.

Prior to resolution of disputes under the Framework Agreement the US bilateral APA

programme was closed to India. The success of the framework Agreement in short period of one year has led to the US Revenue Authorities opening up their bilateral APA programme to India. The USA is expected to begin accepting bilateral APA applications shortly.

The MAP programmes with other countries like Japan and UK are also progressing well with regular meetings and resolution of past disputes. The CBDT is confident that a combination of a robust APA programme and a streamlined MAP programme would be helpful in creating an environment of tax certainty and encourage MNCs to do business in India.

4. Procedure to be followed in other cases where notice under Section 245 has been issued for ITRs processed in Financial Year 2015-16-Office Memorandum, Dated 29-1-2016

In order to expedite the process of issue of small refunds, CBDT has directed CPC-Bengaluru and the field units that refunds up to ₹5,000/-, and refunds in cases where outstanding arrears are up to ₹5,000/- may be issued without any adjustment of

outstanding arrears *vide* Office Memorandum F. No. 312/109/2015-OT dated 14th January 2016.

Similarly, the non-CASS cases for these assessment years where the refund amount is more than ₹5,000 but the outstanding arrear is ₹5,000 or less may also be processed for issue of refund without any adjustment under Section 245.

In this regard, the CBDT has further directed that the following procedure is to be adopted in other cases, which are not covered by the aforementioned relaxation, and where notice under Section 245 has been issued to the taxpayer:—

- a) In cases where the taxpayer has contested the demand, CPC would issue a reminder to the jurisdictional Assessing Officers about the contention of the taxpayer, asking them to either confirm, or make appropriate changes, to the demand, within thirty days. In case no response is received from the jurisdictional Assessing Officer, within the stipulated period of thirty days, CPC would issue the refund without any adjustment. The responsibility of non-adjustment of refund against outstanding arrears, if any, would lie with the Assessing Officer.
- b) In cases where there is no response from the taxpayer, CPC would issue a reminder to the taxpayer, asking to either agree or disagree with the demand, and submit response on the e-filing portal, within thirty days. In case no response is received from the taxpayer, within the stipulated period of thirty days, CPC would adjust the demand, along with applicable interest u/s 220(2), against the refund due and issue the balance refund, if any, to the taxpayer.

In view of above, all Assessing Officers have been requested to follow the aforementioned procedure in respect of pending refund cases, not covered by the earlier OM dated 14th January 2016.

5. Signing of bilateral Advance Pricing Agreements (APAs) with United Kingdom-Press Release, Dated 1-2-2016

The Central Board of Direct Taxes (CBDT) has entered into two bilateral Advance Pricing Agreements (APAs) with United Kingdom on 29th January, 2016. With this signing, CBDT has concluded three bilateral APAs the first one being a bilateral APA signed with Japan in December, 2014.

The two bilateral APAs were signed with two Indian group entities of a UK based Multi-National

Company (MNC). The APAs have been entered into soon after the Competent Authorities of India and United Kingdom finalised the terms of the bilateral arrangement under the Mutual Agreement Procedure (MAP) process contained in the India-UK DTAA.

The APAs cover the period 2013-14 to 2017-18 and also have a “Rollback” provision for 2 years (2011-12 and 2012-13). Transfer pricing disputes on the same transaction were recently resolved under MAP for each of these two companies for the years 2006-07 to 2010-11. With the signing of the bilateral APAs, the two Indian companies have been provided with tax certainty for 12 years each (5 years under MAP and 7 years under APA). This is a significant step towards providing a stable and predictable tax regime.

The two APAs are also significant because they address the issues of payment of management & service charges and payment of royalty. These transactions generally face prolonged and multi-layered transfer pricing disputes.

With this signing, CBDT has so far signed 41 APAs out of which 38 are unilateral and 3 are bilateral.

6. Government sets up Tax Policy Research Unit and Tax Policy Council to bring consistency, multidisciplinary inputs, and coherence in Tax Policy-Press Release, Dated 2-2-2016

The Tax Administration Reform Commission (TARC) have in their First Report, identified handling of tax policy and related legislation as one of the areas which needs structural modifications. Observing that currently, this is handled in the two Boards i.e. CBDT and CBEC, independently in the Tax Research Unit (TRU) and Tax Policy and Legislation (TPL) wings, the proposals of the Boards reach the Finance Minister in separate channels. To bring consistency, multidisciplinary inputs, and coherence in policy making, TARC has recommended that a Tax Council supported by a common Tax Policy and Analysis (TPA) unit should be established to cater to needs of both direct and indirect taxes. Comprising tax administrators, economists, and other specialists such as statisticians, tax law experts, operation research specialists and social researchers should be set-up for both the Boards.

Considering the above, the Government has created a Tax Policy Research Unit (TPRU) and Tax Policy Council.

The Tax Policy Research Unit (TPRU) will be a multi-disciplinary body with the objective of carrying out studies on various topics of fiscal and tax policies referred to it by CBDT and CBEC and will provide independent analysis on such topics; It will also prepare and disseminate policy papers and background papers on various tax policy issues, assist Tax Policy Council chaired by FM in taking appropriate tax policy decisions and liaise with State Commercial Tax Departments.

The Tax Policy Council will look at all the research findings coming from Tax Policy Research (TPRU) Unit and suggest broad policy measures for taxation. The Council will be advisory in nature, which will help the Government in identifying key policy decisions for taxation.

7. Steps taken by Income Tax Department for safeguarding taxpayers from Phishing email - Press Release, Dated 5-2-2016

The Income Tax Department has been at the forefront of using technology in implementing its e-Governance initiatives. Most of its routine communication to taxpayers is through email and

SMS. Therefore, the Department is very sensitive and alert to attempts made by fraudsters to spoof the Department's identity to send phishing emails. To ensure that taxpayers are aware that the Department does not seek any confidential or financial information of the taxpayer over email, the below mentioned advisory has been prominently displayed on the national website:

"The Income Tax Department NEVER asks for your PIN numbers, passwords or similar access information for credit cards, banks or other financial accounts through e-mail.

The Income Tax Department appeals to taxpayers NOT to respond to such e-mails and NOT to share information relating to their credit card, bank and other financial accounts."

The Do's and Don'ts to ensure that the gullible taxpayers do not inadvertently play into the hands of fraudsters are clearly mentioned on the website: <http://www.incometaxindia.gov.in/Pages/report-phishing.aspx>. All taxpayer reports of phishing emails are forwarded to incident@cert-in.org.in which is a Government of India agency mandated to fight against such threats.

Further, the Department has implemented best practices such as SPF (Sender Policy Framework), DKIM (Domain Keys Identified Mail) and DMARC (Domain-based Message Authentication, Reporting & Conformance) for its email domains. Use of these protocols enables the e-mail receiver domains such as Gmail, Yahoo, Hotmail *etc.* to determine whether or not a received e-mail is actually from the defined sender such as the Department and block phishing emails from reaching the taxpayer.

Taxpayers are advised to follow these simple checks if they do receive any email purporting to be from the Income Tax Department:

- Check for the domain name carefully. Fake emails will have misspelt or incorrect sounding variants of websites of the Income Tax Department.
- Check the message header—for example in Gmail it can be viewed by selecting the option 'Show Original'.
- Do not open such emails in spam or junk folder and do not reply to such emails.
- Do not open any attachments. Attachments may contain malicious code.
- Do not click on any links. Even if you have clicked on links inadvertently in a suspicious e-mail or phishing website then do not enter confidential information like bank account, credit card details.
- Do not cut and paste the link from the message into your browsers.
- Forward the phishing emails to incident@cert-in.org.in with a request to examine and block the sender.
- Use anti-virus software, anti spyware, and a firewall and keep them updated.

Income Tax Department is committed to encouraging taxpayers to engage with it electronically by following safe and best practices.

8. Following the prescribed time limit in passing order under sub-Section (8) of 154 of Income-tax Act, 1961—Instruction No. 01/2016, Dated 15-2-2016

Section 154(8) of the Income-tax Act, 1961 stipulates that where an application for amendment is made by assessee/deductor/collector with a view to rectify any mistake apparent from record, the income-tax authority concerned shall pass an order, within a period of six months from the end of the month in which such an application is received, by either making the amendment or refusing to allow

the claim. The CBDT has noticed that the said time limit of six months has not been observed in deciding some applications. In such cases, the field authorities often take a view that since no action was taken within the prescribed time-frame, application of the taxpayer is deemed to have lapsed, thereby not requiring any action.

On examining the matter, the CBDT has directed that the aforesaid time-limit of six months is to be strictly followed by Assessing Officer while disposing applications filed by the assessee/deductor/collector under Section 154. The supervisory officers should monitor the adherence of prescribed time limit and suitable administrative action may be initiated in cases where failure to adhere to the prescribed time frame is noticed.

9. Passing rectification order under Section 154 Income-tax Act, 1961—Instruction No. 02/2016, Dated 15-2-2016

The CBDT has noticed that in some cases, rectification order under Section 154 of the Income-tax Act, 1961 is being passed by the Assessing Officer on AST system without giving copy of the order to the taxpayer concerned. This is causing grievance to the taxpayers as they remain unaware of such orders and consequently, are unable to pursue the matter further, either in appeal or rectification, if required.

Section 154(4) mandates that rectification order shall be passed in writing by the Income-tax authorities. Therefore, on consideration of the matter, the CBDT has directed that all rectification applications must be disposed of after passing an order in writing, to be duly served upon the taxpayer concerned and not by merely marking necessary rectification on the AST System.



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

A. SERVICE TAX

1. Recommendation regarding valuation of flats for levy of Service Tax

Valuation method for flats handed over to land owners by builders/developers as recommended by Education Guide 2012 (Para 6.2.1) and the CBEC Circular No. 151/2/2012-ST dated 10.2.2012 are divergent in nature.

According to the CBEC Education Guide on Taxation of Services, 2012 value of construction

service provided to land owner will be the value of the land when the same is transferred and the point of taxation will also be determined accordingly. However, *Circular No. 151/2/2012-ST* dated 10.2.2012 states that value of land/development rights in the land may not be ascertainable ordinarily and therefore, value, in the case of flats given to the land owner, is determinable in terms of section 67(1) (iii) read with rule 3(a) of Service Tax (Determination of Value) Rules, 2006. Accordingly, the value of these flats would be equal to the value of similar flats charged by the builder/developer from the other of service receivers. Service tax is liable to be paid by the builder/developer on the 'construction service' involved in the flats to be given to the land owner, at the time when the possession or right in the property of the said flats are transferred to the land owner by entering into a conveyance deed or similar instrument(e.g. allotment letter).

Thus, CBEC *vide Instruction F.No.354/311/2015-TRU Dated 20th January 2016* has clarified that in valuing the service of construction provided by a builder/developer to a landowner, who transfers his land/development rights to builder, for getting,

in return, constructed flats/dwellings from builder/developer, the Service Tax assessing authorities should be guided by the said Board Circular dated 10.2.2012 and not the Education Guide.

[Instruction F.No.354/311/2015-TRU Dated 20th January 2016]

2. Exports-Rebate by way of refund of Service Tax– Notification No. 41/2012–ST amended

CBEC *vide* Notification No. 01/2016-Service Tax, Dated: February 03, 2016 has amended Notification No. 41/2012 - ST, Dated: June 29, 2012 so as to allow refund of service tax on services used beyond the factory or any other place or premises of production or manufacture of the said goods for the export of the said goods and to increase the refund amount commensurate to the increased service tax rate.

The schedule of rebate has been revised as follows:

S. No.	Old Rates	New Rates
i.	0.04	0.05
ii.	0.06	0.07
iii.	0.08	0.09

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S. No.	Old Rates	New Rates
iv.	0.12	0.14
v.	0.18	0.21
vi.	0.20	0.23

[Notification No. 01/2016-Service Tax, Dated: February 03, 2016]

3. Refund of Swachh Bharat Cess to a unit located in a SEZ or Developer of SEZ

CBEC vide Notification No. 02/2016-Service Tax, Dated: February 03, 2016 has provided that the SEZ Unit or the Developer will be entitled to refund of the Swachh Bharat Cess paid on the specified services on which *ab-initio* exemption is admissible but not claimed. The refund of amount would be determined by multiplying total service tax distributed to SEZ/developer by effective rate of Swachh Bharat Cess and dividing the product by rate of service tax specified in section 66B of the Finance Act, 1994 i.e. 14%.

[Notification No. 02/2016-Service Tax, Dated: February 03, 2016]

4. Service Tax & Cess for the purpose of Rebate of Service Tax to include Swachh Bharat Cess

CBEC vide Notification No. 03/2016-Service Tax, Dated: February 03, 2016 has amended the meaning of "service tax and cess" so as to include Swachh Bharat Cess therein for the purpose of Rebate of Service Tax paid for providing service exported in terms of rule 6A of the Service Tax Rules, 1994, to any country other than Nepal and Bhutan, subject to the conditions, limitations and procedures specified.

[Notification No. 03/2016-Service Tax, Dated: February 03, 2016]

B. CENTRAL EXCISE

5. Amendments in CENVAT Credit Rules

The CENVAT Credit Rules have been amended vide Notification Nos. 01/2016- CX (N.T) and 02/2016- CX (N.T), both Dated: February 03, 2016 as follows:

- For the purpose of definition of Input Services, **sales promotion** would include services by way of sale of dutiable goods on commission basis.
- The condition of allowing only 85% of CENVAT credit of the additional duty of customs paid under Section 3(1) of the Customs Tariff Act, on ships, boats and other floating structures for breaking up falling under tariff item 8908 00 00 of the First Schedule to the Customs Tariff Act has been done away with.

- It has been provided that CENVAT Credit of any duty specified in Rule 3(1) will not be utilised for payment of the Swachh Bharat Cess levied under sub-section (2) of section 119 of the Finance Act, 2015.

[Notification Nos. 01/2016- CX (N.T) and 02/2016- CX (N.T), both Dated: February 03, 2016]

[Instruction F.No.390/Misc./163/2010-JC dated February 04, 2016]

C. CUSTOMS

6. All Industry Rates of Duty Drawback notified w.e.f. 11.02.2016

CBEC vide Notification No. 22/2016-Cus., (N.T.), Dated: February 8, 2016 has notified the All Industry Rates of Duty Drawback effective from 11.02.2016 subject to the notes and conditions specified therein. The detailed rates and explanations can be obtained from www.cbec.gov.in.

[Notification No. 22/2016-Cus., (N.T.), Dated: February 8, 2016;

Circular No. 06/2016-Customs, Dated: February 09, 2016]

D. VALUE ADDED TAX

NAGALAND VAT:

7. Road Permits (RP) to be mandatorily issued online w.e.f. 26.01.2016

With a view to further expand the e-Services for better service delivery, Nagaland Government has notified that all Road Permits (RP) shall be mandatorily issued online w.e.f. 26th January, 2016. The Road Permit shall be issued for the purpose of importing goods into the state as under:

- Personal use/consumption;
- Use in setting up of an industrial unit;
- Use as raw materials directly in the manufacture of goods in an industrial unit;
- Use in operation of an industrial unit;
- Others: To be compulsorily specified by the applicant.

[Notification No. CT/M/5/69(Pt) Dated 15th January, 2016]

ODISHA VAT:

8. Composition Scheme for works contractor effecting sales by way of transfer of property in goods

Odisha Government vide Notification No. 1457-FIN-CT1-TAX-0035-2015 dated 16th January, 2016 has provided a composition scheme for a dealer who

has effected sales by of transfer of property in goods under a works contract. Subject to the conditions specified in the notification, such dealer may in *lieu* of amount of tax (VAT), pay by way of composition as specified below:-

Nature of Works Contract	Composition tax rate (As % of turnover)	
	Scheme A	Scheme B
Every registered dealer engaged in execution of works contract of following categories and incidental or ancillary activities in connection with or thereto: • Civil Contracts; • Repair & maintenance of any movable Property, including vehicles, AMCs & other similar contracts; • All other types of works contracts, including those involving moveable goods, not specified elsewhere in this notification.	3%	6%

Nature of Works Contract	Composition tax rate (As % of turnover)	
	Scheme A	Scheme B
Every registered dealer engaged in,- • Printing and/or book-binding; • Textile processing such as dying, fabrication, tailoring, embroidery and other similar activities; • Electro plating, electro galvanising, anodising, powder coating and other similar activities; • Re-treading of old tyres.	2%	4%

Scheme A: A registered dealer, at any time during the period for which he opts to avail this Scheme, shall not purchase or procure goods from any place outside Odisha and not sell or supply goods to any place outside Odisha.

However, he may procure his own Plant & Machinery and Equipments from outside Odisha, meant exclusively for use in execution of works

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contract by him or for inward transfer of stocks from other States or by way of imports.

Scheme B: A registered dealer opting to pay composition tax shall be entitled to purchase goods required for works contract in course of inter-State trade or commerce on the strength of his registration certificate or by inward transfer of stocks from other States or by way of imports from other countries solely for the purposes of utilising the same in works contract in Odisha only.

Provided the dealer shall use the material or goods imported or procured from outside Odisha strictly for use in execution of the works contract.

[Notification No. 1457-FIN-CT1-TAX-0035-2015 dated 16th January, 2016]

9. Composition Scheme for the registered dealer who undertake construction of flats, dwellings or buildings etc.

Odisha Government *vide Notification No. 1461-FIN-CT1-TAX-0035-2015 dated 16th January, 2016* has provided a composition scheme for the registered dealer who undertake the construction of flats, dwellings or buildings or premises and transfer of property along-with land or interest underlying the land. Subject to the conditions specified in the notification, such dealers may, in lieu of VAT, pay tax at the rate of 3.5% of the aggregate amount determined in the agreement or value determined for the purpose of Stamp Duty in respect of said agreement under the Odisha Stamp Rules, 1952, whichever is higher.

[Notification No. 1461-FIN-CT1-TAX-0035-2015 dated 16th January, 2016]

10. Amendment, omission and insertion of rules in Odisha Value Added Tax Rules, 2015

Following changes have been made in Odisha Value Added Tax Rules, 2015:

- Rules 6, 9, 27, 27A, 30, 33, 40, 41, 45, 59, 65, 86 have been amended;
- Rule 8, 28, 32, 48 have been omitted;
- Rules 1A, 49A, 49B, 59A, 66A have been inserted.

[Notification No. 1465-FIN-CT1-TAX-0001-2013 dated 16th January, 2016]

MADHYA PRADESH VAT:

11. Amendment in Madhya Pradesh Value Added Tax Act, 2002.

The following amendments will come into force

from the date of its publication in the Madhya Pradesh Gazette.

- Levy of Additional Tax:** A new Section 9AA has been inserted to levy additional tax at rate as may be notified by the State Government. It will be based on weight, volume, measurement on unit, on the sales of such goods specified in Schedule II, other than declared goods.
- Waiver from submitting Affidavit and proof of registration fees:** Section 17 (Registration) have been amended so as to give waiver from submitting affidavit and proof of payment of registration fees.

[Madhya Pradesh Act No. 4 of 2016]

JHARKHAND VAT:

12. Extension of date for applying and making payment under Karasamadhana Scheme, 2015.

Karasamadhana Scheme was introduced to allow partial waiver of arrears, penalty and interest payable upto the Assessment Years 2005-06. The Jharkhand Government has extended the following mentioned dates:

Last dates under the Scheme for	Extended Date	Earlier Dates
Filing application	15.03.2016	31.12.2015
Making payment	31.03.2016	28.02.2016

[Order No. 98 dated 7th January, 2016]

ANDHRA PRADESH VAT:

13. Generation of e-CST Waybills/ CST statutory forms only for commodities which are mentioned in CST Registration Certificate

Andhra Pradesh Government has developed a system from 01.02.2016 by which a dealer would be able to generate e-CST Waybills only for commodities which are registered in the VATIS. Similarly, the dealers cannot generate e-Waybills (VAT) for sensitive commodities, if the same are not registered in the VATIS.

All the dealers are required to follow the procedure mentioned in the given Circular for registering the additional Commodities by 31.01.2016, failing which they will not be able to generate CST e-Way Bills and Statutory forms.

[Circular No. CCTs Ref No. CCW/152/2015, dated 19th January, 2016]

14. Person/authority notified for deducting tax

Andhra Pradesh Government *vide Notification (Commercial Taxes) dated 30th January, 2016* has notified a list of persons/authority for deducting

tax from amounts payable to a dealer in respect of sale of any taxable goods effected by him and also on the amounts payable towards lease/hiring charges at rates of taxes prescribed in the notification.

[Notification (Commercial Taxes) dated 30th January, 2016]

15. Online registration to facilitate ease of doing business.

Andhra Pradesh Government has introduced online registrations by the prospective dealers, thereby dispensing with the manual filing of Registration applications in the offices of the CTO for ensuring ease in doing business.

Further to obtain registrations in a hassle free manner, the practice of pre-registration visits is required to be dispensed with. However, in order to check the bogus registrations particularly in hypersensitive and sensitive commodities, the timelines will be prescribed for conducting post registration advisory visits by the department officers.

[Circular No. CCTs Ref No.CCW/CS(1)/128/2015 dated 8th February, 2016]

16. Earlier guidelines for detention of goods by check post officials withdrawn

Earlier guidelines states that whenever check post officials notice irregularities in consignments in parcel lorries, they were directed to transfer the goods along with detention notice and other documents to the assessing authority for verification of documents and to take appropriate action. The above instruction has been withdrawn. Now, they have to take action duly following the procedure prescribed under Section 45 (establishment of check-post) of APVAT Act, 2005.

[Circular No. CCTs Ref No.ENFT/D2/611/2007 dated 9th February, 2016]

BIHAR VAT:

17. Amendment in Bihar Value Added Tax Rules, 2005.

Sub-rule (2)(b) of **Rule 14** has been substituted. Now, the value of stock transfers outside the State shall be arrived at after applying the following Formula-

$$R2 = [B \times I / P]$$

{Earlier formula was: $R2 = [4 \times B \div 100]$ }

Where,

R2 = reverse credit on account of stock transfers outside the state

B = total value of stock transfers outside the state

I = input tax paid by the dealer on purchase of inputs, other than those specified in Schedule I, during the month

P = value of goods, other than goods specified in Schedule I, purchased during the month from within the State

Rule 17 (Refunds) has been omitted.

[Notification No. S.O. 12 Dated 13th January, 2016]

18. Amendment in Rate of surcharge, tax & time limit for interest on delayed refunds

Following Sections have been amended by the Ordinance No. 1, 2016 which shall come into force at once.

Increase in rate of Surcharge (Section 3A): Every dealer liable to pay tax shall in addition pay a surcharge not exceeding 30% (earlier it was 20%) of the total amount of tax payable by him.

Increase in rate of tax (Section 14): Tax shall be payable at the rate of 14.5% (earlier it was 13.5%) on the sale price of any goods which are not specified in Schedules I, II, III, IIIA and IV.

Interest on delayed refund (Section 27): Now where the refund is not made within a period of 60 days (instead of 90 days) of the amount having become refundable then authority shall pay a simple interest of 6% p.a. or part thereof from the date immediately following the expiry of the period of 60 days to the date of the refund.

[Ordinance No. 1, 2016]

PUNJAB VAT:

19. Launching of Pilot Project for online issuance of 'C' forms in SAS Nagar, Mohali

The Department has launched a pilot project for online issuance of 'C' forms for Quarter-1 and Quarter-2 of financial year 2015-16 for District Mohali for the convenience of the dealers. Now onwards, dealer can simply enter his login ID and click on the link "Apply for Statutory Forms" to apply for 'C' forms.

[Public Notice by Department of Excise & Taxation]

RAJASTHAN VAT:

20. Amnesty Scheme 2016 to be effective upto 15.03.2016

Rajasthan Government vide Notification No. F. 12(16) /FD/ TAX /2009-116 dated 21st January, 2016 has introduced Amnesty Scheme 2016 which provide for waiver of interest & penalty. To avail the benefit under the Scheme, the applicant is required to submit an application in Form AS-I appended to this Scheme to the assessing authority, along with detail of deposit of tax and/or penalty and/or interest, as the case may be, and proof of withdrawal of case from the concerned Court, Tax Board, or Appellate Authority, if applicable, up to 15.03.2016.

[Notification No. F. 12(16) /FD/ TAX /2009-116 Dated 21st January, 2016]

21. Information to be submitted by e-commerce companies

The e-commerce companies, transporters/courier companies (effecting delivery) or intermediaries (receives any amount) who sold or purchased goods in the State through e-commerce is liable to furnish information in Form EL-1, EL-2 and EL-3 to AC/ Commercial Tax Officer within 15 days from the end of relevant month. In this regard, detailed process of functionality has been made available on the website www.rajtax.gov.in. It may be mentioned that the information for the month of January, 2016 is to be filed latest by 15.02.2016.

[Circular- No. 10/2015-16- No. F.16 (95)/Tax/ CCT/14-15/2171 to 2178 Dated 28th January, 2016]

DELHI VAT:

22. Ratio for auto-downloading of central statutory forms has been revised from 60% to 45%.

Delhi Government has prescribed that the facility of auto-downloading of the forms shall not be available for the tax period where the ratio of sale to purchase, (including stock transfer and local transactions) falls below 45%. The purchase of capital goods has been kept out of the proposed mechanism which shall be available only to eligible dealers. The download of forms shall also be further subject to the following conditions:

- (i) Items should be allowed on the R.C.
- (ii) The dealer for whom forms are obtained should not be cancelled dealer.
- (iii) There is no adverse material on record.

[Circular No. F.3(556)/Policy/VAT/2015/1366-71 Dated 27th January, 2016]

23. Amendment in Rule 28 (Dealer's periodic Returns) of Delhi Value Added Tax Rules, 2005.

Sub-rule (3) of Rule 28 states that return DVAT-16 & DVAT-17 shall be furnished by transmitting the data in the return electronically on www.dvat.gov.in and thereafter submitting the Return Verification Form in Form DVAT-56, in duplicate. Such return and form shall be furnished within 28 days from the end of the tax period. On submitting of Form DVAT-56, the Commissioner shall issue the acknowledgement with signature and stamp on one copy of the said Form.

Now, a proviso has been inserted in above sub-rule stating that Commissioner may by a notification require a dealer or class or classes of

dealer to furnish return with digital signatures. Such dealers will not be required to submit Form DVAT-56 for acknowledgement of the return separately.

[Notification No. F.3(28)/Fin(Rev-I)2015-2016/dsvi/42 dated 11th February, 2016]

TAMIL NADU:

24. Exemption from tax on sale of goods to units located in SEZ

Tamil Nadu Government hereby makes an exemption of tax payable by any dealer on the sale of goods made to a registered dealer for the purpose of-

- setting up, operation and maintenance of a unit located in a SEZ in Tamil Nadu or
- for development, operation and maintenance of SEZ by a developer if such registered dealer is authorised to establish such units or establishments within SEZ or
- to develop, operate and maintain such SEZ by the Authority specified by the Government of India, subject to the following conditions, namely:-

The dealer should obtain and furnishes a Certificate and the goods purchased are used only for the aforesaid purposes.

[Notification IV No. G.O. Ms.No. 15, Dated 29th January, 2016]

25. Amendment in Rules of Tamil Nadu Value Added Tax Rules, 2007.

Tamil Nadu Government vide Notification No. G.O. Ms.No. 18 dated 29th January, 2016 has amended following rules of Tamil Nadu Value Added Tax Rules, 2007:

- Rule 4 - Application for Registration
- Rule 5 - Certificate of Registration
- Rule 6 - Accounts
- Rule 7 - Filing of Returns
- Rule 9 - Tax deduction at source
- Rule 10 - Input Tax Credit
- Rule 11 - Refunds
- Rule 12A - Authority for Clarification and Advance Ruling
- Rule 14 - Appeal & Revision
- Rule 15 - Check Post
- Rule 16A - Procedure for Filing Audit Report
- Rule 17 - Appearance by Authorised Representative
- Rule 19 - Service of notices summons or orders
- Rule 23 - Mode of Payment

- Rule 25 - Forms & their manners of filing
[Notification No. G.O. Ms.No. 18, Dated 29th January, 2016]

MAHARASHTRA VAT:

26. Modification in the list of documents required to be submitted along with the registration application

Maharashtra Government has given following relaxation in the documents to be uploaded at the time of online registration:

Scanned copy of	Relaxation
PAN Card	If not available, details of PAN obtained from www.incometaxindiaefiling.gov.in may be accepted as a proof of PAN.
MOA or AOA in case of Company	• Copy of Form No. DIR 12 or list of present directors obtained from www.mca.gov.in; and • Copy of Certificate of Incorporation issued by registrar of Companies.
Proof for permanent residence address	Following shall also be allowed as a proof: • Latest copy of MTNL/ BSNL landline bill. • 1st page of saving bank accounts' passbook or certificate issued by nationalised bank showing applicant's address. • Latest copy of bill of domestic gas connection.
Proof of place of business	A new category has been added for the <u>online sellers working for online selling portals</u> shall submit a copy of Agreement with main company (online platform).

[Trade Circular No. 4T of 2016 dated 5th February, 2016]

27. Guidelines for granting refund to the certain class of dealers within stipulated time limit

Maharashtra Government has provided following time limit for granting refund to Dealers eligible to file Audit Report in Form e-704, Dealers not eligible to file Audit Report and PSI cases:

Time Limit	Condition
Within 45 days from due date for filing of Audit Report.	Dealer is eligible to file Audit Report & refund application is filed before due date of filing Audit Report.

Legal Update

Time Limit	Condition
Within 45 days from the due date for filing of Audit Report.	Dealer is not eligible to file Audit Report.
Within 45 days from the due date for filing of refund application in Form e-501.	Dealer is eligible to file Audit Report and refund application is filed after due date of filing of Audit Report.

[Trade Circular No. 5T of 2016 dated 6th February, 2016]

KARNATAKA VAT:

28. Electronically submission of appeal on <http://vat.kar.nic.in>

Karnataka Government has notified, with immediate effect, that any person objecting to any order or proceedings affecting him shall submit an appeal electronically through the website <http://vat.kar.nic.in> as per the instructions contained in the user manual hosted on the website available under "Reports and Help".

[Notification No. EG1.CR-23/2015-16 dated 20th January, 2016]

TELANGANA VAT:

29. Date of mandatory usage of e-waybills by VAT dealers extended to 1st April, 2016

Telangana Government has extended the date for mandatory usage of e-waybills from 01.02.2016 to 01.04.2016. It has also been specified that no more further extension will be given and all dealers should make necessary arrangements for use of e-waybills mandatorily w.e.f. 01.04.2016.

[Circular-CCT's Ref No. Enft/D2/172/2010 dated 3rd February, 2016]



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

A. Issue of Master Directions by RBI Press Release dated January 4, 2016

Beginning January 2016, the Reserve Bank has started issuing Master Directions on all regulatory matters. The Master Directions issued will consolidate instructions on rules and regulations framed by the Reserve Bank under various Acts including banking issues and foreign exchange transactions. The process of issuing Master

Directions involves issuing one Master Direction for each subject matter covering all instructions on that subject. Any change in the rules, regulation or policy will be communicated during the year by way of circulars. The Master Directions will be updated suitably and simultaneously whenever there is a change in the rules/regulations or there is a change in the policy. All the changes will get reflected in the Master Directions available on the RBI website along with the dates on which changes are made. Explanations of rules and regulations will be issued by way of Frequently Asked Questions (FAQs) after issue of the Master Directions in easy to understand language wherever necessary. The existing set of Master Circulars issued on various subjects stand withdrawn with the issue of the Master Direction on the subject.

So far, the following Master Directions have been issued:

- Master Direction– Money Changing Activities
- Master Direction– Opening and Maintenance of Rupee/Foreign Currency Vostro Accounts of Non-resident Exchange Houses
- Master Direction– External Commercial Borrowings, Trade Credit, Borrowing and Lending in Foreign Currency by Authorised Dealers and Persons other than Authorised Dealers.
- Master Direction– Miscellaneous
- Master Direction– Reporting under Foreign Exchange Management Act, 1999
- Master Direction– Import of Goods and Services
- Master Direction– Export of Goods and Services
- Master Direction– Direct Investment by Residents in Joint Venture (JV)/Wholly Owned Subsidiary (WOS) abroad
- Master Direction– Remittance of Assets
- Master Direction– Acquisition and transfer of immovable property under Foreign Exchange Management Act, 1999
- Master Direction– Establishment of Liaison/Branch/Project Offices in India by Foreign Entities
- Master Direction– Insurance
- Master Direction– Other Remittance Facilities
- Master Direction– Liberalised Remittance Scheme

- Master Direction– Borrowing and Lending in Indian Rupee between Persons Residents in India and Non-Resident Indians/Persons of Indian Origin
- Master Direction– Compounding of Contraventions under FEMA 1999.

The detailed directions can be read at https://rbi.org.in/Scripts/BS_ViewMasterDirections.aspx

B. Foreign Direct Investment–Reporting under FDI Scheme, mandatory filing of form ARF, FCGPR and FCTRS on e-Biz Platform and discontinuation of physical filing from February 8, 2016

A.P. (DIR Series) Circular No. 40 dated February 01, 2016

With a view to promote the ease of reporting of transactions relating to Foreign Direct Investment (FDI), RBI under the aegis e-Biz project of Government of India has enabled online filing of Advance Remittance Form (ARF) which is used by companies to report FDI inflows to RBI, FCGPR Form for reporting issue of eligible instruments to overseas investor against FDI inflows, FCTRS Form which is submitted to RBI for transfer of securities between resident and person outside India.

Presently both options i.e. online and manual filing were available to the users for above mentioned forms. However, from February 8, 2016 the physical filing of Forms ARF, FCGPR and FCTRS is discontinued and forms submitted in online mode only through e-Biz portal will be accepted.

C. Settlement of Export/Import transactions in currencies not having a direct exchange rate

A.P. (DIR Series) Circular No. 42 dated February 4, 2016

To facilitate settlement of export and import transactions where the invoicing is in a freely convertible currency and the settlement takes place in the currency of the beneficiary, which though convertible, does not have a direct exchange rate, it has been decided that AD Category-I banks may permit settlement of such export and import transactions (excluding those put through the ACU mechanism), subject to conditions as under:

- Exporter/Importer shall be a customer of the AD Bank,
- Signed contract/invoice is in a freely convertible currency,

- The beneficiary is willing to receive the payment in the currency of beneficiary instead of the original (freely convertible) currency of the invoice/contract/Letter of Credit as full and final settlement,
- AD bank is satisfied with the bonafide of the transactions, and;
- The counterparty to the exporter/importer of the AD bank is not from a country or jurisdiction in the updated FATF Public Statement on High Risk & Non Co-operative Jurisdictions on which FATF has called for counter measures.

The Master Direction 16 of 2015-16 and 17 of 2015-16 have been updated accordingly to incorporate above changes.

D. Foreign Exchange Management (Acquisition and Transfer of Immovable Property outside India) Regulations, 2015

Notification No. FEMA.7(R)/2015-RB dated January 21, 2016 and A.P. (DIR Series) Circular No. 43 dated February 04, 2016

On a review, it is felt necessary to revise the regulations issued under the Foreign Exchange Management (Acquisition and Transfer of Immovable Property outside India) Regulations, 2000, as amended from time to time. Accordingly, in consultation with the Government of India, the said regulations have been repealed and replaced by the Foreign Exchange Management (Acquisition and Transfer of Immovable Property outside India) Regulations, 2015.

In terms of these Regulations, acquisition or transfer of any immovable property outside India by a person resident in India would require prior approval of Reserve Bank except in the following cases:

- Property held outside India by a foreign citizen resident in India;
- Property acquired by a person on or before 8th July, 1947 and held with the permission of the Reserve Bank;
- Property acquired by way of gift or inheritance from:
 - persons referred to in (b) above;
 - persons referred to in Section 6(4) of the Act;
- Property purchased out of funds held in Resident Foreign Currency (RFC) account held in accordance with the Foreign Exchange Management (Foreign Currency Accounts by a

- person resident in India) Regulations, 2015;
- e. Property acquired jointly with a relative who is a person resident outside India provided there is no outflow of funds from India;
 - f. Property acquired by way of inheritance or gift from a person resident in India who acquired such property in accordance with the foreign exchange provisions in force at the time of such acquisition

Further, an Indian company having overseas offices can acquire immovable property outside India for its business and residential purposes provided total remittances do not exceed limits prescribed for initial expenses (15% of average annual sales/income or turnover of Indian entity for last two financial years or up to 25% of net worth, whichever is higher) and recurring expenses (10% of average annual sales/income or turnover of Indian entity for last two financial years).

The regulations also define relative as 'relative' in relation to an individual means husband, wife, brother or sister or any lineal ascendant or descendant of that individual.

The new regulations have been notified *vide* Notification No. FEMA 7(R)/2015-RB dated January 21, 2016 c.f. G.S.R. No. 95(E) dated January 21, 2016 and shall come into force with effect from January 21, 2016. The Master Direction No. 12 of 2015-16 (Acquisition and Transfer of Immovable Property under Foreign Exchange Management Act, 1999) has been updated accordingly to incorporate the above changes.

(Note: One of the important changes in the new notification is allowing person resident in India to acquire property outside India jointly with relative who is a person resident outside India. However, in such cases there must not be any outflow of funds from India. The new notification has also covered general permission to Indian companies having overseas offices to acquire immovable property outside India for their business or residential purposes)

E. Foreign Exchange Management (Foreign currency accounts by a person resident in India) Regulations, 2015

Notification No.FEMA.10(R)/2015-RB dated January 21, 2016 and A.P. (DIR Series) Circular No. 44 dated February 04, 2016

On a review, it is felt necessary to revise the regulations issued under the Foreign Exchange

Management (Foreign Currency Accounts by a person resident in India) Regulations, 2000, as amended from time to time. Accordingly, in consultation with the Government of India, the said regulations have been repealed and replaced by the Foreign Exchange Management (Foreign Currency Accounts by a person resident in India) Regulations, 2015.

According to the revised regulations, a '*Foreign Currency Account*' means an account held or maintained in currency other than currency of India or Nepal or Bhutan.

Further, in terms of Regulation 4, a person residing in India may open, hold and maintain with AD the following accounts subject to conditions specified in the regulations:

- (a) Exchange Earner's Foreign Currency (EEFC) Account subject to the terms and conditions of the Exchange Earner's Foreign Currency Account Scheme (Schedule I to the regulations);
- (b) Resident Foreign Currency (RFC) Account out of sources of receipt of foreign exchange mentioned in sub-regulation (B) of the regulations;
- (c) Resident Foreign Currency (Domestic) [RFC(D)] Account with an authorised dealer in India out of sources of receipt of foreign exchange mentioned in sub-regulation (C) of the regulations;
- (d) Diamond Dollar Account (DDA)- firms and companies who comply with the eligibility criteria stipulated in the Foreign Trade Policy of Government of India, subject to the terms and conditions of the DDA Scheme (Schedule II to the regulations)

In addition, in terms of Regulation 4, the following types of persons can open foreign currency accounts with AD subject to conditions specified in the regulations:

- (a) A unit in a Special Economic Zone;
- (b) An exporter who is exporting services and engineering goods on deferred payment terms or has undertaken a turnkey project or a construction contract abroad;
- (c) Indian agents of foreign airline or shipping companies;
- (d) Ship-manning/crew managing agencies in India;
- (e) Project offices set up in India in terms of

Foreign Exchange Management (Establishment in India of Branch or Office or other Place of Business) Regulations, 2000 dated May 3, 2000, as amended from time to time;

- (f) Indian companies receiving Foreign Direct Investment.
- (g) Organisers of international seminars, conferences, conventions *etc.*

In terms of Regulation 5 the following persons resident in India can open foreign currency accounts outside India subject to conditions specified in the regulations:

- (a) An authorised dealer in India with its branch/head office/correspondent outside India;
- (b) A branch outside India of a bank incorporated or constituted in India;
- (c) An India firm/company/body corporate in the name of its foreign office/branch or its representative posted outside India;
- (d) An exporter who is exporting services and engineering goods on deferred payment terms or has undertaken a turnkey project or a construction contract abroad;
- (e) An Indian Party [as defined in Foreign Exchange Management (Transfer or Issue of any Foreign Security) Regulations, 2004, as amended from time to time] for making overseas direct investment provided the overseas regulator requires the maintenance of such an account;
- (f) A person raising ECB or ADR/ GDR;
- (g) Indian shipping or airline companies;
- (h) Life Insurance Corporation (LIC) of India or General Insurance Corporation (GIC) of India and its subsidiaries for the purpose of carrying on life/general insurance business;
- (i) A resident individual under the Liberalised Remittance Scheme;
- (j) A person going abroad to participate in an exhibition/ trade fair;
- (k) A person going abroad for studies;
- (l) A person who is on a visit to a foreign country provided the balances are repatriated on return to India;
- (m) A foreign citizen resident in India, being an employee of a foreign company, or an Indian citizen, being an employee of a foreign company, in either case on deputation to the office/branch/subsidiary/joint venture/group company in India;

- (n) A foreign citizen resident in India employed with an Indian company.

In terms of Regulation 6, unless otherwise specifically stated, a Foreign Currency Account with AD in India may be opened, held and maintained in form of current or savings or term deposits in cases where account holder is individual and in all other cases in form of current and term deposits only. Further, the account can be held singly or jointly in the name of person eligible to open, hold and maintain such account.

The new regulations have been notified vide Notification No. FEMA 10(R)/2015-RB dated January 21, 2016, c.f. G.S.R. No.96 (E) dated January 21, 2016 and shall come into force with effect from January 21, 2016. The Master Direction No. 14 of 2015-16 (Deposits and Accounts) has been updated accordingly to incorporate the above changes.

F. Foreign Exchange Management (Export and Import of Currency) Regulations, 2015

Notification No. FEMA.6(R)/2015-RB dated January 21, 2016 and A.P. (DIR Series) Circular No. 45 dated February 04, 2016

The new Foreign Exchange Management (Export and Import of Currency) Regulations, 2015 notified *vide* Notification No. FEMA.6(R)/ 2015-RB dated December 29, 2015, c.f. G.S.R. No.1004 (E) dated December 29, 2015, supersedes the Foreign Exchange Management (Export and Import of Currency) Regulations, 2000 and all amendments thereto.

Synopsis of the new regulations is given as under:

A. Export and Import of Indian currency and currency notes

- a. Any person resident in India
 - i. May take outside India (other than to Nepal or Bhutan) currency notes of amount not exceeding ₹ 25,000 per person
 - ii. May take or send outside India (other than to Nepal or Bhutan) commemorative coins not exceeding two such coins

Explanation:

'Commemorative Coin' includes coin issued by Government of India Mint to commemorate any specific occasion or event and expressed in Indian currency.

- iii. Who had gone outside India on a temporary visit, may bring in India at time of his

return (other than from Nepal or Bhutan) currency notes of amount not exceeding ₹25,000 per person.

- b. Any person resident outside India, not being citizen of Pakistan or Bangladesh and visits India
 - i. May bring to India currency notes not exceeding ₹25,000 per person
 - ii. May take outside India currency notes not exceeding ₹25,000 per person.

B. Import of Foreign Exchange into India

A person

- i. may send into India without limit foreign exchange in any form other than currency notes, bank notes and travelers cheques;
- ii. may bring into India from any place outside India without limit foreign exchange (other than unissued notes) subject to the condition that such person makes, on arrival in India, a declaration to the Customs authorities in Currency Declaration Form (CDF). It shall not be necessary to make such declaration where the aggregate value of the foreign exchange in the form of currency notes, bank notes or travelers cheques brought in by such person at any one time does not exceed US\$10,000 (US Dollars ten thousand) or its equivalent and/or the aggregate value of foreign currency notes brought in by such person at any one time does not exceed US\$ 5,000 (US Dollars five thousand) or its equivalent.

C. Export of Foreign Exchange and Currency Notes

- i. An authorised person may send outside India foreign currency acquired in normal course of business
- ii. Any person may take or send out of India
 - a. Cheques drawn on foreign currency account maintained in accordance with Foreign Exchange Management (Foreign Currency Accounts by a person resident in India) Regulations, 2000;
 - b. foreign exchange obtained by him by drawal from an authorised person in accordance with the provisions of the Act or the rules or regulations or

- directions made or issued thereunder;
- c. currency in the safes of vessels or aircrafts which has been brought into India or which has been taken on board a vessel or aircraft with the permission of the Reserve Bank;

- iii. Any person may take out of India, -
 - a. foreign exchange possessed by him in accordance with the Foreign Exchange Management (Possession and Retention of Foreign Currency) Regulations, 2000;
 - b. unspent foreign exchange brought back by him to India while returning from travel abroad and retained in accordance with the Foreign Exchange Management (Possession and Retention of Foreign Currency) Regulations, 2000;
- iv. Any person resident outside India may take out of India unspent foreign exchange not exceeding the amount brought in by him and declared in Currency Declaration Form (CDF).

D. Export and Import of currency to or from Nepal and Bhutan

A person may-

- i. take or send out of India to Nepal or Bhutan, currency notes of Government of India and Reserve Bank of India notes (other than notes of denominations of above Rs.100 in either case) provided that an individual travelling from India to Nepal or Bhutan can carry Reserve Bank of India currency notes of denomination ₹500/- and/or ₹1,000/- up to a limit of ₹25,000/- ;
- ii. bring into India from Nepal or Bhutan, currency notes of Government of India and Reserve Bank of India notes (other than notes of denominations of above ₹100 in either case) ;
- iii. take out of India to Nepal or Bhutan, or bring into India from Nepal or Bhutan, currency notes being the currency of Nepal or Bhutan.

E. Prohibition on Export of Indian Coins

No person shall take or send out of India the Indian coins which are covered by the Antique and Art Treasure Act, 1972.

The new regulations have been notified *vide* Notification No. FEMA. 6 (R)/2015-RB dated

December 29, 2015, c.f. G.S.R. No.1004 (E) dated December 29, 2015 and shall come into force with effect from December 29, 2015.

G. Foreign Exchange Management (Realisation, repatriation and surrender of foreign exchange) Regulations, 2015

Notification No. FEMA.9(R)/2015-RB dated January 21, 2016 and A.P. (DIR Series) Circular No. 46 dated February 04, 2016

The new Foreign Exchange Management (Realisation, repatriation and surrender of foreign exchange) Regulations, 2015 notified *vide* Notification No. FEMA. 9(R)/2015-RB dated December 29, 2015, c.f. G.S.R. No.1005(E) dated December 29, 2015, supersedes the Foreign Exchange Management (Realisation, repatriation and surrender of foreign exchange) Regulations, 2000 and all amendments thereto.

Synopsis of the new regulations is given as under:

A. Duty of persons to realise foreign exchange due.

A person resident in India to whom any amount of foreign exchange is due or has accrued shall, in terms of rules and regulations made thereunder, or with the general or special permission of the Reserve Bank, shall take all reasonable steps to realise and repatriate to India such foreign exchange, and in no case do or refrain from doing anything, or take or refrain from taking any action, which has the effect of securing -

- (a) that the receipt by him of the whole or part of that foreign exchange is delayed; or
- (b) that the foreign exchange ceases in whole or in part to be receivable by him.

B. Manner of Repatriation.

- (1) On realisation of foreign exchange due, a person shall repatriate the same to India, namely bring into, or receive in, India and -
 - (a) sell it to an authorised person in India in exchange for rupees; or
 - (b) retain or hold it in account with an AD in India to the extent specified by the Reserve Bank; or
 - (c) use it for discharge of a debt or liability denominated in foreign exchange to the extent and in the manner specified by the Reserve Bank.

- (2) A person shall be deemed to have repatriated the realised foreign exchange to India when he receives in India payment in rupees from the account of a bank or an exchange house situated in any country outside India, maintained with an authorised dealer.

C. Period for surrender of realised foreign exchange.

A person not being an individual resident in India shall sell the realised foreign exchange to an authorised person, within the period specified below:

- i) foreign exchange due or accrued as remuneration for services rendered, whether in or outside India, or in settlement of any lawful obligation, or an income on assets held outside India, or as inheritance, settlement or gift, within seven days from the date of its receipt;
- ii) in all other cases within a period of ninety days from the date of its receipt.

D. Period for surrender in certain cases.

- (1) Any person not being an individual resident in India who has acquired or purchased foreign exchange for any purpose mentioned in the declaration made by him to an authorised person under sub-Section (5) of Section 10 of the Act does not use it for such purpose or for any other purpose for which purchase or acquisition of foreign exchange is permissible under the provisions of the Act or the rules or regulations or direction or order made thereunder, shall surrender such foreign exchange or the unused portion thereof to an authorised person within a period of sixty days from the date of its acquisition or purchase by him.
- (2) Notwithstanding anything contained in sub-regulation (1), where the foreign exchange acquired or purchased by any person not being an individual resident in India from an authorised person is for the purpose of foreign travel, then, the unspent balance of such foreign exchange shall, save as otherwise provided in the regulations made under the Act, be surrendered to an authorised person-
 - (i) within ninety days from the date of return of the traveller to India, when the unspent foreign exchange is in the form of currency notes and coins; and

- (ii) within one hundred eighty days from the date of return of the traveller to India, when the unspent foreign exchange is in the form of travellers cheques.

E. Period for surrender of received/realised/unspent/unused foreign exchange by Resident individuals.

A person being an individual resident in India shall surrender the received/realised/unspent/unused foreign exchange whether in the form of currency notes, coins and travellers cheques, *etc.* to an authorised person within a period of 180 days from the date of such receipt/realisation/purchase/acquisition or date of his return to India, as the case may be.

F. Exemption.

Nothing in these regulations shall apply to foreign exchange in the form of currency of Nepal or Bhutan.

The new regulations have been notified vide Notification No. FEMA. 9(R)/2015-RB dated December 29, 2015, c.f. G.S.R. No.1005 (E) dated December 29, 2015 and shall come into force with effect from December 29, 2015.

H. Foreign Exchange Management (Possession and Retention of Foreign Currency) Regulations, 2015

Notification No. FEMA.11(R)/2015-RB dated January 21, 2016 and A.P. (DIR Series) Circular No. 47 dated February 04, 2016

The new Foreign Exchange Management (Possession and Retention of Foreign Currency) Regulations, 2015 notified *vide* Notification No. FEMA. 11(R)/2015-RB dated December 29, 2015, c.f. G.S.R. No.1006 (E) dated December 29, 2015, supersedes the Foreign Exchange Management (Possession and Retention of Foreign Currency) Regulations, 2000 and all amendments thereto.

Synopsis of the new regulations is given as under:

A. Following are the limits for possession or retention of foreign currency or foreign coins, namely :-

- i. possession without limit of foreign currency and coins by an authorised person within the scope of his authority ;
- ii. possession without limit of foreign coins by any person;
- iii. retention by a person resident in India of foreign currency notes, bank notes and

foreign currency travellers' cheques not exceeding US\$ 2,000 or its equivalent in aggregate, provided that such foreign exchange

- a. was acquired by him while on a visit to any place outside India by way of payment for services not arising from any business in or anything done in India; or
- b. was acquired by him, from any person not resident in India and who is on a visit to India, as honorarium or gift or for services rendered or in settlement of any lawful obligation; or
- c. was acquired by him by way of honorarium or gift while on a visit to any place outside India; or
- d. represents unspent amount of foreign exchange acquired by him from an authorised person for travel abroad.

B. A person resident in India but not permanently resident therein may possess without limit foreign currency in the form of currency notes, bank notes and travellers cheques, if such foreign currency was acquired, held or owned by him when he was resident outside India and, has been brought into India in accordance with the regulations made under the Act.

Explanation: for the purpose of this clause, 'not permanently resident' means a person resident in India for employment of a specified duration (irrespective of length thereof) or for a specific job or assignment, the duration of which does not exceed three years.

The new regulations have been notified *vide* Notification No. FEMA. 11(R)/2015-RB dated December 29, 2015, c.f. G.S.R. No.1006 (E) dated December 29, 2015 and shall come into force with effect from December 29, 2015.

I. Definition of "Currency", 2015

Notification No. FEMA.15(R)/2015-RB dated January 21, 2016 and A.P. (DIR Series) Circular No. 48 dated February 04, 2016

The new Notification No. FEMA. 15(R)/2015-RB dated December 29, 2015 notified *vide* G.S.R. No.1008 (E) dated December 29, 2015, supersedes the Notification No. FEMA 15/2000-RB.

Synopsis of the new regulations is given as under:

Debit cards, ATM cards or any other instrument which can be used to create a financial liability may be defined as currency.

The new regulations have been notified *vide* Notification No. FEMA. 15(R)/2015-RB dated December 29, 2015, c.f. G.S.R. No.1008 (E) dated December 29, 2015 and shall come into force with effect from December 29, 2015.

J. Post Office (Postal Orders/Money Orders), 2015

Notification No.FEMA.18(R)/2015-RB dated January 21, 2016 and A.P. (DIR Series) Circular No. 49 dated February 04, 2016

The new Notification No. FEMA. 18(R)/2015-RB dated December 29, 2015 notified *vide* G.S.R. No.1009 (E) dated December 29, 2015, supersedes the Notification No. FEMA. 18/2000-RB.

Synopsis of the new regulations is given as under:

General permission has been given to any person to buy foreign exchange from any post office in India in the form of postal order or money order.

The new regulations have been notified *vide* Notification No. FEMA.18(R)/2015-RB dated December 29, 2015, c.f. G.S.R. No.1009 (E) dated December 29, 2015 and shall come into force with effect from December 29, 2015.

K. Compilation of R-returns: Reporting under FETERS

A.P. (DIR Series) Circular No. 50 dated February 11, 2016

In order to enhance the security-level in data submission and further improve data quality, the following modifications shall be effected in the guidelines for submission of data under the FETERS from 1st fortnight of April 2016 (i.e., reporting of those transactions which take place from April 1, 2016):

- The present email based submission to be replaced by web portal based data submission. There is however no change in periodicity, file layout, delimiter, checks and inter relationship among BOP6.TXT and QE.TXT files as well as their naming convention.
- Nodal offices of banks have to access the web-portal <https://bop.rbi.org.in> with the RBI-provided login-name and password, to submit data.
- Banks may download RBI-provided validator template from this portal on their computer and perform off-line check of their FETERS data-file for error, if any, before its submission on the portal. Both Java-based and Excel-based validators are provided: Use of

Java-based validator is advised for larger files. This portal also gives relevant master files (e.g., country, currency, AD code, purpose code masters).

- On uploading validated files, banks will get acknowledgment. They can view the data-files submitted by them during the previous two fortnights, with download facility. They can also revise the purpose codes for transaction submitted earlier, if required, which will be authenticated by RBI in the system.
- Banks may report (a) addition of AD code for their bank and (b) update AD category, which will be incorporated in the AD-master database by RBI after due authentication.
- With the discontinuation of ENC.TXT and SCH3to6.TXT files in FETERS, the purpose codes P0105 [*Export bills (in respect of goods) sent on collection—other than Nepal and Bhutan*] and P0107 [*Realisation of NPD export bills (full value of bill to be reported)—other than Nepal and Bhutan*] have become defunct and are, therefore, discontinued.

Revision of Form A2:

Further, in-order to streamline the reporting of the transactions relating to the Liberalised Remittance Scheme (LRS) in FETERS and On-line Return Filing System (ORFS), it has been decided that transactions relating to LRS may be reported under respective FETERS purpose codes (e.g. travel, medical treatment, purchase of immovable property, studies abroad, maintenance of close relatives; *etc.*) instead of reporting collectively under the purpose code S0023. This would help AD banks in classification of transactions for similar activity under single purpose code. Therefore, the purpose code S0023 would be revised as follows to enable reporting of 'Opening of foreign currency account abroad with a bank':

Purpose Code	Description as per the A.P.(DIR Series) Circular No.84 dated February 29, 2012 and in Form A2	Revised Description
S0023	Remittances made under Liberalised Remittance Scheme (LRS) for Individuals	Opening of foreign currency account abroad with a bank

- For facilitating the existing monthly reporting of LRS transactions under ORFS, AD banks may use the following purpose codes only:

Legal Update

Sr. No.	Items under LRS	Corresponding FETERS purpose codes, if transaction is identified under LRS
1	Opening of foreign currency account abroad with a bank under LRS	S0023
2	Purchase of immovable property	S0005
3	Investment in equity, debt, JV, WoS, ESOPs, IDRs	S0001, S0002, S0003, S0004, S0021, S0022
4	Gift	S1302
5	Donations	S1303
6	Travel (business, pilgrimage, medical treatment, education, employment, personal)	S0301, S0303, S0304, S0305 & S0306
7	Maintenance of close relatives	S1301
8	Medical Treatment	S1108
9	Studies abroad	S1107
10	Emigration	S1307
11	'Others' such as loan to NRI close relatives and health insurance	S0011, S0603

- ii. AD banks should also ensure that the data pertaining to LRS transactions reported by them in FETERS tallies with that reported by them in ORFS.
- iii. The Form A2 is also being revised (as per Annex) by introducing a check-box for LRS transactions in the relevant block as follows:

Sr. No.	Whether under LRS (Yes/No)	Purpose Code	Description
As per the Annex			

Online submission of Form A2 by the remitter.

It has been decided that Authorised Dealer banks, offering internet banking facilities to their customers may allow online submission of Form A2. They may also enable uploading/submission of documents, to establish the permissibility of the remittances under the extant rules or regulations framed under the Foreign Exchange Management Act, 1999 (FEMA). Remittances that do not require any documentation (e.g. certain transactions under the LRS) may be put through on the basis of the Form A2 alone. To start with, remittances on the basis of online submission alone will be available for transactions with an upper limit of USD 25,000 (or its equivalent) for individuals and USD 100,000 (or its equivalent) for corporates. It may be noted that the remittance will be subject to satisfaction of the Authorised Dealer banks as laid down in Section 10 (5) of FEMA. Accordingly, Authorised Dealer

banks are advised to frame appropriate guidelines for customer interface personnel to ensure ease of transactions for the customers within the ambit of the statutory/regulatory provisions. It may be further noted that reporting of transactions in FETERS shall continue, as hitherto, by the Authorised Dealer banks.

Appropriate changes in technology and/or operating procedure may be carried out by Authorised dealer banks immediately and compliance in this regard furnished to RBI.

The changes introduced through this circular may be implemented with immediate effect and in any case not later than April 1, 2016.

L. Start Up India: Action Plan

Start up India is a flagship initiative of Government of India, intended to build a strong eco-system for nurturing innovation and Start-ups in the country that will drive sustainable economic growth and generate large scale employment opportunities has announced an Action Plan that addresses all aspects of the Start-up ecosystem. The Action Plan is divided across the following areas

- (a) Simplification and Handholding
- (b) Funding Support and Incentives
- (c) Industry-Academia Partnership and Incubation.

Features of Action Plan rolled by the Government are as follows:

- Compliance Regime based on Self Certification–To reduce the regulatory burden on Start Ups thereby allowing them to focus on their core business and keep compliance cost low
- Start Up India Hub–To create a single point contact for the entire Start Up ecosystem and enable knowledge exchange and access to funding
- Rolling out of Mobile App and Portal–To serve as the single platform for Start Ups for interacting with Government and Regulatory Institutions for all business needs and information exchange among various stakeholders
- Legal support and Fast tracking patent examination at lower costs–To promote awareness and adoption of IPRs by Start Ups and facilitate them in protecting and commercializing the IPRs by providing access to high quality Intellectual Property Services and resources, including fast track examination of patent applications and rebate in fees.

- Relaxed norms for public procurement for Start Ups–To provide an equal platform to Start Ups (in the manufacturing sector) *vis-à-vis* the experienced entrepreneurs/companies in public procurement.
- Faster exit for Start Ups–To make it easier for Start Ups to wind up operations.
- Providing fund support through a Fund of Funds with a corpus of INR 10,000 crore–To provide funding support for development and growth of innovation driven enterprises.
- Credit Guarantee Fund for Start Ups–To catalyse entrepreneurship by providing credit to innovators across all sections of the society.
- Tax exemptions on Capital Gains–To promote investments into Start Ups by mobilising the capital gains from sale of capital assets.
- Tax exemption for Start Ups for 3 years–To promote the growth of Start Ups and address working capital requirements.
- Tax exemption on investment above Fair Market Value–To encourage seed-capital investment in Start Ups.
- Organising Start Up Fests for showcasing innovation and providing collaboration platform–To galvanise the Start Up ecosystem and to provide national and international visibility to the Start Up ecosystem in India.
- Launch of Atal Innovation Mission (AIM) with Self Employment and Talent Utilization (SETU) program–To serve as a platform for promotion of world class innovation hubs, grand challenges, Start Up businesses and other self-employment activities, particularly in technology driven areas.
- Harnessing private sector expertise for incubator set up–To ensure professional management of government sponsored/funded incubators. Government will create policy and framework for setting up of incubators across the country in public private partnership.
- Building innovation centres at National Institutes–to propel successful innovation through augmentation of incubation and R&D efforts.
- Setting up 7 New Research Parks Modeled on the Research Park Set up at IIT Madras–to propel successful innovation through incubation and R&D efforts between academia and industry.
- Promoting Start Ups in the Biotechnology

Sector–to faster and facilitate bio-entrepreneurship.

- Launching of Innovation focused programs for students–To foster a culture of innovation in the field of Science and Technology amongst students.
- Annual Incubator Grand Challenge – to support creation of successful world class incubators in India.

M. Regulatory relaxations for Start Ups – Clarifications relating to acceptance of payments

A.P. (DIR Series) Circular No. 51 dated February 11, 2016

Reserve Bank of India vide Press Release dated February 2, 2016, had announced that in case of start-ups, to facilitate ease of doing business, certain permissible transactions under the existing regime shall be clarified. One of the issues relate to the start-ups accepting payment on behalf of overseas subsidiaries.

In this connection, it is clarified as under:

- A start-up in India with an overseas subsidiary is permitted to open foreign currency account abroad to pool the foreign exchange earnings out of the exports/sales made by the concerned start-up;
- The overseas subsidiary of the start-up is also permitted to pool its receivables arising from the transactions with the residents in India as well as the transactions with the non-residents abroad into the said foreign currency account opened abroad in the name of the start-up;
- The balances in the said foreign currency account as due to the Indian start-up should be repatriated to India within a period as applicable to realisation of export proceeds (currently nine months);
- A start-up is also permitted to avail of the facility for realising the receivables of its overseas subsidiary or making the above repatriation through Online Payment Gateway Service Providers (OPGSPs) for value not exceeding USD 10,000 (US Dollar ten thousand) or up to such limit as may be permitted by the Reserve Bank of India from time to time under this facility; and
- To facilitate the above arrangement, an appropriate contractual arrangement between the start-up, its overseas subsidiary and the customers concerned should be in place.

Legal Update

N. Regulatory Relaxations for Start Ups – Clarifications relating to Issue of Shares

A.P. (DIR Series) Circular No. 52 dated February 11, 2016

Reserve Bank of India *vide* Press Release dated February 2, 2016, had announced that in case of startups, certain permissible transactions under the existing regulatory framework shall be clarified. One of the issues related to issue of shares without cash payment by the investor through sweat equity or against any legitimate payment owed by the company remittance of which does not require any permission under FEMA, 1999.

Accordingly, the following is clarified:

Issue of Shares without cash payment through Sweat Equity:

Reserve Bank of India *vide* Notification No. FEMA.344/2015 RB dated June 11, 2015 has permitted Indian companies to issue sweat equity, subject to conditions, *inter-alia*, that the scheme has been drawn either in terms of regulations issued under the Securities Exchange Board of India Act, 1992 in respect of listed companies or the Companies (Share Capital and Debentures) Rules, 2014 notified by the Central Government under the Companies Act 2013 in respect of other companies.

Issue of shares against legitimate payment owed:

RBI *vide* its Notification No. FEMA 315/2014-RB dated July 10, 2014 has permitted Indian companies to issue equity shares against any other funds payable by the investee company, remittance of which does not require prior permission of RBI subject to FDI related conditions of Schedule 1 of FEMA 20.

CORPORATE LAWS



(Matter on Corporate Laws has been contributed by CA. Rahul Joglekar)

MCA (www.mca.gov.in)

MCA circular no. 2/2016 dated 15th

January 2016 – HUF / Karta as partner in LLP

MCA has clarified that HUF or its Karta cannot become a partner or designated partner in an LLP. For complete text of the circular, please refer the link: http://www.mca.gov.in/Ministry/pdf/General_Circular_2_2016.pdf

SEBI (www.sebi.gov.in)

SEBI notification no. SEBI/LAD-NRO/GN/2015-16/034 dated 12th February 2016-Securities and Exchange

Board of India (Mutual Funds) (Amendment) Regulations, 2016

SEBI has amended clause 1 of Seventh Schedule of Securities and Exchange Board of India (Mutual Funds) Regulations, 1996 with respect to the investments permissible to mutual funds. It has specified that a mutual fund scheme shall not invest more than 10% of its NAV in debt instruments comprising money market instruments and non-money market instruments issued by a single issuer which are rated not below investment grade by a credit rating agency. Certain exceptions have also been carved out in this regard. For a complete text of the notification, please refer the link: http://www.sebi.gov.in/cms/sebi_data/attachdocs/1455513505225.pdf

RBI (www.rbi.org.in)

RBI circular no. DBR.BP.BC.No.76/21.07.001/2015-16 dated 11th February 2016-Implementation of Indian Accounting Standards (Ind AS)

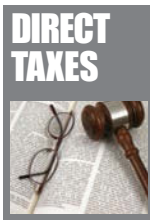
RBI had directed all scheduled commercial banks (excluding RRBs) to follow the Indian Accounting Standards as notified under the Companies (Indian Accounting Standards) Rules, 2015, subject to any guideline or direction issued by it. This implementation shall be for financial statements for accounting periods beginning from April 1, 2018 onwards, with comparatives for the periods ending March 31, 2018 or thereafter. Ind AS shall be applicable to both standalone financial statements and consolidated financial statements. Early application of the Ind AS is not permitted. Certain other incidental preparatory steps have also been prescribed by RBI viz:- analysis of differences between existing GAAP and Ind AS, systemic changes required, Business impact analysis *etc.* Banks also need to be in preparedness to submit proforma Ind AS financial statements to the RBI from the half-year ended September 30, 2016, onwards. For a complete text of the circular, please refer the link: <https://rbi.org.in/Scripts/NotificationUser.aspx?Id=10274&Mode=0>

RBI circular no. DBS.CO.CFMC.

BC.No.007/23.04.001/2015-16 dated 21st January 2016-Fraud Reporting and Monitoring

RBI has taken a review of the fraud reporting mechanism and revised guidelines in this regard have been issued. It has also been decided that henceforth banks/FIs need not send the hard copies of the FMR-1 returns. For a complete text of the circular, please refer the link: <https://rbi.org.in/Scripts/NotificationUser.aspx?Id=10235&Mode=0> ■

Legal Decisions¹



Service Tax

LD/64/105

Commissioner of Central Excise

vs.

Dashion Ltd.

8th January 2016(GUJ)

Rule 2(m), Rule 7 of CENVAT

Credit Rules, 2004-Input Service Distribution.

Since there was no restriction for utilisation of service tax credit of one unit for another unit of the same assessee without pro-rata allocation, assessee was held entitled to rightly avail such credit in discharging liability of its unit. There is nothing in the Service Tax (Registration of Special Category of Persons), Rules 2005 or in the Rules of 2004 which would automatically and without any additional reasons, disentitle an input service distributor from availing CENVAT credit unless and until such registration was applied and granted.

The assessee was engaged in manufacture of water treatment plant and other connected items and was availing benefit of CENVAT credit on the duty paid on inputs, capital goods and input services as permissible under CENVAT Credit Rules, 2004. The assessee had five manufacturing units and had its registered office at Vatva, Ahmedabad. The assessee was also providing several taxable services such as erection and commissioning, repairing and maintenance of water treatment plant, etc. Revenue noticed that the assessee was availing credit of service tax paid for various services by one unit for the purpose of clearance of other unit.

A show-cause notice was issued raising two primary objections; firstly, that the assessee had not registered itself under the Service Tax (Registration of Special Category of Persons), Rules 2005, and secondly, that the tax credit from one unit was utilised for discharging tax liability of another unit instead of pro-rata distribution amongst different units. Adjudicating authority passed an order confirming demand along with interest and penalty.

The tribunal reversed the order of adjudicating authority and allowed assessee's appeal. Tribunal held that the registered office and Vatva office were both located at the same place and assessee had simply utilised the credit at Vatva instead of distributing it to various units. Tribunal noted that during the relevant period, there was no restriction

for utilization of such credit without allocating proportionately to various units. Further, the omission to take registration as an Input Service Distributor can at best be considered as procedural irregularity so had to be considered sympathetically.

HC perused Rule 2(m) which defines 'input service distributor' and Rule 7 which explains the manner of distribution of credit. HC observed that the additional condition of by way of clause (d) to Rule 7 was introduced later, which talked about distribution of credit on pro-rata basis. Since no such restriction existed during the relevant period, Revenue was incorrect in stating that assessee was at fault while distributing credit of one unit against another without pro-rata allocation.

With respect to Revenue's objection of non-registration aspect, HC observed that there was nothing in the Service Tax (Registration of Special Category of Persons), Rules 2005 or in the Rules of 2004 which would automatically and without any additional reasons disentitle an input service distributor from availing CENVAT credit unless and until such registration was applied and granted. HC remarked that when it was found that full records were maintained and the irregularity, if at all, was procedural and when it was further found that the records were available for the Revenue to verify the correctness, tribunal was justified in allowing assessee's appeal. Further, on the ground of lack of evidence to support the allegations of willful misstatement, suppression, fraud or collusion on the part of the assessee, penalty was dropped.

LD/64/106

Commissioner of Central Excise, Customs And Service Tax-LTU

vs.

Canara Bank

12th January 2016(KANT)

Rule 6 of CENVAT Credit Rules 2004 -

Obligation of manufacturer of dutiable and exempted goods and provider of taxable and exempted services

CESTAT erred in not following statutory provisions and proceeded to direct the assessee to make the payment of ₹3.71 lakh towards the amount due for the normal period with one month interest; CESTAT proceeded to pass the order based on sentiments which was uncalled for; Matter remanded back to original authority for fresh consideration.

¹ Contributed by CA. Sahil Garud, Indirect Taxes Committee and ICAI's Editorial Board Secretariat.

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

The assessee is a banking company providing banking and other financial services under Section 65(12) of the Finance Act, 1994. The assessee is providing both taxable and exempted services. During the course of verification of input tax credit availed by assessee, it was observed by the authorities that the respondent had shown certain services under the category of management, maintenance or repair service and technical and analysis service *etc.* which are one of the services specified in Rule 6(5) of the CENVAT Credit Rules. Further, the respondent had wrongly utilised credits of service tax paid on these services to the extent of 100% of the amount of service tax payable on taxable output services for the period up to 31.3.2008 and for the period from 1.4.2008, assessee had not proportionately reversed the credit attributable to the exempted services. Revenue alleged that assessee had utilised the service tax credit in excess of 20% of the service tax payable on taxable output services permissible under erstwhile Rule 6(3)(c) of the Rules during the period up to 31.3.2008 and failed to pay the amounts towards the credit taken on the services attributable to exempted services during the years 2008-09 and 2009-10 respectively in terms of Rule 6(3A) of the Rules.

The commissioner passed an order raising a demand of ₹20.62 lakh in respect of wrong classification of services under Rule 6(5) of the Rules. The CESTAT rejected the appeal as regards the normal period, in respect of wrong classification of services and directed the assessee to make the payment of ₹3,71,501/- and interest of ₹4,025/-. Aggrieved, Revenue preferred an appeal before the Karnataka HC.

Revenue placed reliance on Rule 6(3)(IX)(c) of the Rules and contended that the assessee has utilised CENVAT Credit exceeding 20% of the amount of service tax payable on taxable output service, contrary to the Rules. It was further contended that the CESTAT without appreciating the statutory provisions based on sentiments, proceeded to decide the matter arbitrarily, directing the respondent to make payment of ₹3,71,501/- for the normal period along with the interest for a month's period. In terms of amended provisions of Rule 6(6) of the Rules, the respondent was liable to pay the amount determined by the original authority which was wrongly waived off by the Tribunal without assigning any valid reasons.

HC observed that the CESTAT without following the statutory provisions contemplated under the Act, proceeded to direct the assessee to make the payment of ₹3,71,501/- towards the amount due for the normal period with interest of ₹4,025/- for a month and closed the matter. The CESTAT proceeded to pass the order based on sentiments which were uncalled for, particularly, while adjudicating the revenue matters.

HC therefore remanded the matter back to the original authority for fresh adjudication, directing it to pass fresh orders expeditiously.

LD/64/107

M/s Raval Trading Company

vs.

Commissioner of Service Tax

7th January 2016 (GUJ)

Sections 76 and 78 of the Finance Act, 1994.

Penalties u/s 76 and 78 cannot be simultaneously imposed, even before insertion of proviso to Section 78 w.e.f. May 2008; Proviso is in nature of clarificatory amendment not creating liability for first time; May 2015 amendment to Section 76 gives further credence to this view, by way of which statute has ensured that Sections 76 and 78 apply in mutually exclusive areas; Penalty u/s 78 upheld.

The issue before the Gujarat HC pertained to imposition of penalties simultaneously u/s 76 and 78 of the Finance Act, 1994.

The assessee is engaged in the business of marketing and selling offset printing machines and related products as a commission agent. For the period from 09.07.2004 and 31.03.2006, though assessee was liable to pay service tax on services rendered by it, it failed to deposit the same with Revenue and it was only upon investigation, that assessee in November 2006 paid tax along with interest.

The adjudicating authority issued a show-cause-notice to the assessee calling upon it to state why the duties already deposited not be appropriated towards the service tax liability and interest and penalties u/s 76 and 78. Assessee contended that, service tax on the service in question was exempt till 08/07/2004 and that assessee was not aware about the revived service tax liability after 08/07/2004. The adjudicating authority confirmed the service tax demand and also imposed penalties u/s 76 and 78 of the Finance Act. The appellate authorities dismissed

assessee's appeal, aggrieved by which assessee preferred the matter before the High Court.

Assessee argued that by amendment in Section 78, brought into effect from May 16, 2008, a further *proviso* was added providing that if penalty is payable u/s 78, the provision of Section 76 shall not apply. Assessee further argued that, though this amendment was made, post the period in question in the present case, various HCs have held that, this amendment is merely clarificatory in nature and would apply to prior cases. Revenue also submitted that the *proviso* came to be added in Section 78 long after the period in question was over and the same therefore, cannot be applied to delete penalty u/s 76 of Act.

HC observed that the adjudicating authority, appellate authority and CESTAT, concurrently held that, assessee who was not a small firm and was liable to pay service tax as was admitted by its partner in a written statement, had not deposited the same with the Revenue authorities. HC observed that it was the case of the assessee that unaware of the tax liability, the service tax was not deposited with the department. Had this been the case, the assessee would have surely pleaded that such service tax was never collected from the service recipient. The defence that due to financial hardship such service tax was not paid would firstly destroy the assessee's case of ignorance of service tax liability. Secondly, the fact that the assessee even did not obtain registration with the Sales Tax Department would belie its stand that though willing to pay the tax could not do so due to financial hardship.

HC observed that Section 78 of the Finance Act, 1994, provided for penalty in cases of tax not being levied or paid, or short-levied or short-paid or erroneously refunded, by reason of fraud or collusion or willful mis-statement *etc.*, whereas Section 76 covered the cases of non-payment of tax on any ground whatsoever. The penalty that authority could impose under Section 78 is hundred per cent of the amount of the service tax evaded. On the other hand, the penalty under Section 76 which could be imposed is at the fixed amount per day for the entire duration of the failure to deposit the tax which, in any case, would not exceed fifty percent of the service tax payable.

HC stated that, tenor, background and purpose for which penalty could be imposed u/s 78, is entirely different than Section 76, however, language

of Section 76 did not specifically exclude situation otherwise covered u/s 78 namely non-payment of tax on account of wilful misstatement, fraud or collusion *etc.* HC stated that, one plausible argument therefore, could be that, Section 76 would also cover such situations and permit Department to levy a further penalty for default as envisaged u/s 76 of Act over and above penalty imposed u/s 78 of Act. However, HC observed that in order to clarify this position, a further *proviso* was introduced in Section 78.

HC held that the concerned *proviso* was in the nature of clarificatory amendment and not creating a liability for the first time. HC stated that, even without the aid to this further proviso to Section 78, one entire plausible view was that, situation envisaged u/s 76, would exclude cases covered u/s 78. HC stated that, further *proviso* to Section 78 made it explicit which was till then implicit. HC stated that, Section 76 as is now amended w.e.f. May 14, 2015 gives further credence to this argument, since, by way of this amendment, statute has ensured that Sections 76 and 78 apply in mutually exclusive areas.

Thus, HC deleted penalty u/s 76 and upheld penalty imposed u/s 78.

LD/64/108

M/s Tata Technologies Ltd.

vs.

CCE

4th January 2016 (SC)

Rule 6 of CENVAT Credit Rules 2004 – Section 93 of the Finance Act, 1994

Rule 6 of CENVAT Credit Rules, 2004 cannot override the provisions of Section 93 of the Finance Act, 1994 and/or negate the exemption provided under Section 93 of the Finance Act, 1994; the former is a delegated legislation and subservient to the main Act.

Assessee provided taxable as well as exempted services and availed credit of service tax paid on common input services. For the period from April 2008 to September 2008, assessee opted to follow reversal of credit proportionate to exempt services in terms of Rule 6(3A) and also filed declaration in May 2009. The proportionate credit was reversed along with interest in the month of May 2009. However, department issued show cause notice demanding 8% of value of exempt services on the ground that assessee has not filed declaration before opting for proportionate credit.

The Tribunal setting aside the demand held that under the provisions of CENVAT Credit Rules, 2004, the condition of filing the declaration is only directory and not mandatory. Since the appellant has already reversed proportionate credit within the period as prescribed under Rule 6(3A), the demand for 8% of value of exempted services, does not sustain. The Tribunal further observed that Rule 6 cannot be used as tool of oppression to extract the amount which is much beyond the remedial measure and what cannot be collected directly, cannot be collected indirectly, as well.

Excise

LD/64/109

Commissioner of Central Excise, Pune
vs.

Hindustan National Glass & Industries Ltd.
14th January 2016(SC)

Section 11A of the Central Excise Act, 1944 - Recovery of duties not levied or not paid or short-levied or short-paid or erroneously refunded.

Sale price between two competing parties may get depressed when substantial and huge advance are periodically extended and given with objective and purpose that sale price paid or charged would be lowered, to set off consideration paid by grant of advances; Evidence and material to establish the said factual matrix has to be uncovered and brought on record to connect and link the sale price paid on paper and the "other" consideration, not gratis, but by way of interest free advances"; SC remanded matter to back to CESTAT for giving regard to amount of money paid by purchasers and to determine the effect of the sales made to the two companies in percentile terms and to check whether this had the effect of depressing the sale price.

A show cause notice (SCN) was issued alleging that the manufacturing company was not adding the additional consideration received from the customers in the form of advance due to which notional interest accrued thereon was ought to be added to the sale price, since such non-addition had resulted in depression of the assessable value of the goods, namely, the bottles manufactured by the assessee.

Revenue alleged that assessee had short paid the duty on its products, that is, printed glass bottles, by under-valuing the same at the time of clearance from

its factory inasmuch as it did not add "additional consideration" received from M/s. Coca Cola India and M/s. Pepsico India Holdings Pvt. Ltd. The assessee received 90% advance from M/s. Coca Cola and 100% advance from M/s. Pepsico for the goods and it was giving 3-4% discount to these Companies.

Adjudicating authority passed an order, confirming demand of ₹33.91 crore u/s 11A(1) of Central Excise Act, 1944, being the duty payable on the additional consideration received by the assessee from the customers in the form of notional interest accrued on advance payments and also imposed penalty for the same amount under Section 11AC of the Act.

Being aggrieved, the assessee preferred an appeal before CESTAT. There was a difference of opinion among the members of the division bench, due to which the matter was referred to Third Member (TM). The TM cogitated on the concept of AV under the Act, the concept of two prices and eventually opined that the decisions in *Commissioner of Central Excise, New Delhi vs. Hero Honda Motors Ltd.* [(2005) 4 SCC 182] and *Metal Box India Ltd. vs. Collector of Central Excise, Madras* [(1995) 2 SCC 90] were not applicable to this case. Accordingly, Third Member concurred with the opinion expressed by Member (Technical) who had held that the revenue had not been able to discharge the onus by adducing cogent material evidence that the advances obtained from a buyer had really been instrumental in depression of the price, and further that there was no nexus of interest with the price and hence, the demand was not acceptable and consequently, no penalty could be levied. Aggrieved, the Revenue filed an appeal before SC.

In *Metal Box India Ltd.* case, the Court had accepted the view of the Tribunal and held that "*the extent of benefit obtained by the assessee on interest-free loan was required to be reloaded by hiking the price charged from M/s. Ponds (I) Limited to that extent*". Further, in *Hero Honda Motors Ltd.* case, the Court had stated that there was conspectus of decisions which clearly established that inclusion of notional interest in the AV or wholesale price will depend upon the facts of each case. The matter in that case was remanded the matter back to Tribunal to examine "*whether or not the advances or any part thereof have been used in the working capital and whether or not the advances received by the respondent and/or the interest earned thereon have been used in the working capital and/or whether it*

has the effect of reducing the price of the motorcycle".

SC observed that it could not be said that no material was produced by Revenue. The concerned Commissioner has taken note of the statement made by the Manager (Sales) of the assessee-Company. An aspect raised relates to percentage of total sales made to two companies, but the core issue is whether there was a depression of the sale price on account of receipt of advance.

SC observed that the sale price agreed between two competing parties may get depressed, when substantial and huge advances are periodically extended and given with the objective and purpose that the sale price paid or charged would be lowered, to set off the consideration paid by grant of advances. There should be a connect and link between the two i.e. the money advanced it should be established was a consideration paid which could form the basis for depression of sale price. Evidence and material to establish the said factual matrix has to be uncovered and brought on record to connect and link the sale price paid on paper and the "other" consideration, not gratis, but by way of interest free advances.

SC stated that there was no application of mind by Tribunal in the present case regard being had to the amount of money paid by purchasers, namely, M/s. Coca Cola India and M/s. Pepsico India Holdings Pvt. Ltd. and what is the effect of the sales made to the two companies in percentile terms, whether this had the effect of depressing the sale price. SC stated that, the onus would be on the Revenue. SC thus allowed the appeal by setting aside the order of Tribunal ordering a fresh disposal of matter by the Tribunal.

LD/64/110

Mercedes Benz India Pvt. Ltd.

vs.

Commissioner of Central Excise, Pune.

11th January 2016(MUM)

**RULE 6 of Cenvat Credit Rules 2004 -
Obligation of a manufacturer or producer
of final products and a provider of output
service.**

CESTAT to re-determine inter alia whether margin/value addition on trading of goods is to be considered and not entire sale price/turnover of traded goods while calculating amount of eligible CENVAT credit on common input services; No justification to hold that the Parliament intended to encourage trading of goods rather than

manufacturing of the same; As far as working of the denominator is concerned (and even the numerator) and to apportion the input credit, matter remitted back to the Tribunal; Tribunal must firstly refer to the substantive Rule and as operative prior to 1st April 2011 and then arrive at a conclusion in relation to the Explanation introduced with sub-clauses with effect from 1st April 2011.

The assessee is manufacturer of motor vehicles and parts thereof falling under Chapter 87 of the Central Excise Tariff Act, 1985 and sells the said vehicles through a dealer network spread across India. The assessee imports Completely Built-up Units ("CBU") from the parent company, Daimler AG, Germany on payment of appropriate Customs Duties, which are also sold through the same dealer network. The revenue stated that credit of service tax paid on common input services attributable to the activity of import and sale of cars was not available but the same could be availed of only in respect of the manufacture and sale of cars, and the Assessee accepted this position as correct. Assessee claims that they have not availed of credit of Countervailing Duty ("CVD") paid on imported cars for sale in the domestic market and of CENVAT credit on input service exclusively relatable to activity of import and sale of cars.

Assessee's contention is that there are common input services used for manufacture and sale of cars as also import and sale of cars. Issue before the court was whether, in calculating amount of eligible CENVAT credit of service tax on common input services, margin/value addition on trading of goods is to be considered and not entire sale price/turnover of traded goods. The assessee argued that total common input service must be considered and multiplied by a suitable fraction/percentage and thereafter, common input service credit relatable to manufacturing activity and trading activity can be arrived at. The former can be allowed while the latter must be disallowed. The question, therefore, is the basis for determining this fraction/percentage.

Assessee argued that the Tribunal ought to have considered that the amount of credit attributable to trading and to be disallowed must be calculated as prescribed by Rule 6(3A). In such a case, the disallowance would come to ₹20.67 lakh for the period of September 2004 to March 2011, instead of ₹2.65 crore based on the simple *pro-rata* formula of trading turnover divided by total turnover.

Rule 6(3A) came into effect from 01/04/2011. According to the assessee, the amendment is correct, reasonable and avoids distortions, therefore, there is no question of any retrospectivity or applying it retrospectively and the computation can be made on the basis that the Rule always read as above and not otherwise.

Though the Tribunal rejected assessee's argument that amendments are substantive in nature and though introduced in the form of an Explanation, they would cover certain cases prior to insertion or introduction of same, the tribunal agreed that the changes made by Explanation were substantive.

HC stated that, Explanation have been made in Rules by a Notification without giving it retrospective effect and though the same was issued on March 1, 2011, it came into force w.e.f. 1st April 2011, thus, cannot have retrospective effect. HC remarked that the Revenue's action in considering trading as an exempted service for the period from August 2010 to March 2011 and covered by Appeal No. E/1019/2012 and demanding 6% of the trading turnover is not correct. To that extent, the Tribunal agrees with the Assessee and renders a finding against the Revenue.

HC observed that the Tribunal deals with the apportionment of the credit of the common input service where such input services have been used both in relation to the manufacture of goods and trading activities in respect of the imported goods. Reliance was placed upon the judgment of the High Court of Justice of England and Wales, Queen's Bench Division, and *Commissioner of Wealth Tax, Meerut v Shravan Kumar Swarup & Sons*, to conclude that clause (c) of Explanation 1 had no application for determining the apportionment of the credit of service tax on input services.

HC observed that *"Tribunal must firstly refer to the substantive Rule and as operative prior to 1st April 2011 and then arrive at a conclusion in relation to the Explanation introduced with sub-clauses with effect from 1st April 2011. On its introduction and even prior thereto, we do not find any justification then to hold that the Parliament intended to encourage trading of goods rather than manufacturing of the same. The Parliamentary intent has to be gathered from the language used. If the words are plain, simple and clear, there is no scope for interpretation or applying any principle thereof"*.

HC thus held that, to the extent working of the denominator was concerned (and even the numerator, technically speaking) and to apportion

the input credit, it would be appropriate to send the matter back to the Tribunal. Further, HC stated that Tribunal should not reopen everything that is concluded in assessee's favour since once the Revenue had not challenged those conclusions by way of substantive appeal, those questions hold to be in favour of assessee.

HC thus remitted the matter to Tribunal, however stating that Tribunal should not arrive at a conclusion that the amendment has been adopted to encourage trading in goods rather than manufacturing the same.

LD/64/111

M/s Saraya Distillery

vs.

Commissioner of Central Excise, Allahabad.

21st January 2016 (ALL)

RULE 57G of Central Excise Rules 1944 - Accounting procedures for persons issuing invoices under Rule 57G.

Modvat credit cannot be taken by a manufacturer after six months of the date of issuance of any document specified in Sub Rule (3), namely, on the inputs received by the manufacturer in its factory; If a manufacturer fails to make Modvat credit declaration but provides sufficient reasons, the competent authority under Rule 57G(10) may condone the delay on being satisfied that the inputs were received in the factory prior to six months from the date of filing of such declaration.

The assessee was engaged in the manufacture of country liquor, Indian made Foreign Liquor, rectified spirit and denatured ethyl alcohol. The assessee was not aware of Modvat Rules and could not claim credit being a new assessee. On becoming aware of the same, an application dated 27/08/1994 was filed claiming benefit of Modvat credit of duty paid on molasses for the period of 01/03/1994 to 20/7/1994 under Rule 57G of the Central Excise Rules. The declaration form was filed previously on 27/7/1994 along with an application for condonation of delay. Instead of allowing Modvat credit as per Rule 57G(9) & (10), a show cause notice dated 21/12/1994 was issued to show cause why the Modvat credit availed by the appellant should not be rejected and penalty should not be imposed. The appellant submitted a reply and thereafter the appellant's application for condonation of delay was rejected. The Tribunal ruled against assessee, aggrieved by which the assessee filed the present appeal before HC.

HC observed that under Section 57G (5), credit cannot be taken by a manufacturer after six months of the date of issuance of any document specified in sub Rule (3), namely, on the inputs received by the manufacturer in its factory. If a manufacturer was not in a position to make a declaration under subrule (1) with regard to the availing Modvat credit but provides sufficient reasons, the competent authority under subrule (10) would condone the delay if he is satisfied that the inputs were received in the factory prior to six months from the date of filing of such declaration or for other reasons mentioned in that subrule.

HC observed that show-cause notice itself indicates that the Modvat credit was applied for inputs received in the appellant's factory for the period March, 1994 to 28th July, 1994 which was within the prescribed period of six months. HC remarked that in its opinion sufficient reasons had been given by the appellant for the purpose of condoning the delay in filing the declaration form. HC further remarked that once sufficient reasons have been given, the competent authority was required to give Modvat credit in terms of subrule (9) of Rule 57G.

HC thus allowed the assessee's appeal.

LD/64/112

CCE

vs

TVS Motors Company Ltd.

15th December, 2015 (SC)

Section 4 of the Central Excise Act, 1944

Pre-delivery inspection charges and after sales service charges are not to be included in the assessable value.

Issue before the Hon'ble Supreme Court was whether the pre-delivery inspection charges and after sales service charges are to be included in the assessable value. The Supreme Court held that pre-delivery inspection charges and free After Sales Service charges would not be included in the assessable value under Section 4 of the Act for the purposes of paying excise duty. The expenses incurred by the dealer for PDI and said services has nothing to do with the term "servicing" mentioned in the transaction value and as such, the said expenses cannot be added to assessable value. The Court observed that what is liable to duty is only the amount charged by the manufacturer for sale of the goods to the dealer. As these charges are not collected by the manufacturer separately from

the dealers such amounts shall not be added to the transaction value.

LD/64/113

Steel Authority of India Ltd.

vs.

CCE

7th December, 2015 (SC)

Section 11AB of the Central Excise Act, 1944.

Issue before the Hon'ble Supreme Court was whether interest shall be payable under Section 11AB of the Central Excise Act, 1944 on differential duty amount paid under supplementary invoices due to price increase by price variation clause in sale contract.

The Supreme Court in the cases of SKF [2009 (239) E.L.T. 385 (S.C.)] and International Auto Ltd. [2010 (250) E.L.T. 3 (S.C.)] had taken a view that interest shall be computed from the date of original invoice in case of differential duty arising out of issue of supplementary invoices due to price variations. In the present case, the Supreme Court differed with the view of the said decisions and matter has been referred to a Larger Bench of the Supreme Court. While referring matter to Larger Bench, the Court observed that right of seller to receive revised price crystallises only when buyer agrees to sanction the same, and only at that time can liability to pay duty on revised price arise. Further, it was observed that it could not be said that price was 'understated' on date of removal of those goods and hence interest clock for differential duty will start ticking from date differential duty is due, which is date of agreement of escalated prices and not before.

Sales Tax

LD/64/114

CCT

vs.

KTC Automobiles

29th January, 2016(MUM)

Section 4(2) of the Central Sales Tax Act, 1956.

The assessee was a dealer in Hyundai cars and was registered in state of Kerala as well as at Mahe within the Union Territory of Pondicherry. The allegation of the department of sales tax of Kerala State was that, though the cars were sold from Kerala, the same were registered with Motor vehicles registration authority at Mahe by using fake address proofs and sales were wrongly accounted at Mahe instead of accounting in the state of Kerala. On the

basis of such allegations, it was contended by the department that the assessee has evaded payment of tax in State of Kerala.

In the factual background, dealing with the issue of imposition of penalty on assessee, the Supreme Court observed that as per Section 4(2) of the Central Sales Tax Act, 1956 in the case of unascertained or future goods, the sale or purchase shall be deemed to have taken place in a State where the goods happened to be at the time of their appropriation by the seller or buyer, as the case may be. Section 18 of the Sale of Goods Act, postulates that when a contract for sale is in respect of unascertained goods, no property in goods is transferred to buyer unless and until goods are ascertained. Hence, in the present case, the seller/dealer is bound to transport motor vehicle to office of registering authority and only when it reaches there safe and sound, in accordance with statutory provisions governing motor vehicles it can be said to be in a deliverable state and only then property in such a motor vehicle can pass to buyer, once buyer has been given notice that motor vehicle is fit and ready for his lawful possession and registration. Therefore, it was held that the sale in the present case concluded at a place outside the State of Kerala.



LD/64/115

K. K. Kuda

vs.

Chief Enforcement Officer, ED & Anr

6th January 2016 (SC)

Section 56 of Foreign Exchange Regulation Act, 1973 - Offences

and Prosecutions

Charges of consent and connivance for wrong credit into bank account against bank officials for were dropped from show-cause notice but were still made in prosecution. Prosecution quashed by SC.

The Chief Enforcement Officer (hereinafter referred to as 'officer') issued a show cause notice against ANZ Grindlays Bank, Account Holder and three bank officials for having credited Non-convertible Rupee Funds of ₹ 1,15,00,000/- (Rupees One Crore and Fifteen Lakhs only) during the period August to December, 1991 received from Moscow, into the Non-Resident (External) Account of Dr. P. K. Ramakrishnan in contravention of Section 6(4), 6(5) read with Section 49 of FERA, alleging that it had taken place with the consent, connivance of and

attributable to the negligence on the part of the said Officials. However, by notice dated 21.01.1994, the officer deleted charges of 'consent' and 'connivance'.

The Additional Chief Metropolitan Magistrate, New Delhi, took cognizance of the complaint for the offence under Section 56 of FERA on 29.5.2002 itself and issued summons to the accused. This was challenged before the Delhi HC. In the meanwhile, the adjudicating authority passed the final Order dated 14.5.2010 holding that the Officials of the Bank have not consented or connived in the performance of the official duties and they were negligent. The HC by the impugned order held that the prosecution of the accused persons shall be confined to the negligence on their part and not for they having consented or connived in the commission of the said offence. This instant order of HC was challenged before the Hon'ble SC in the present appeal.

SC observed that by letter dated 10.7.2001, charges relating to 'consent' and 'connivance' were ordered to be deleted from the show-cause notice. Though FEMA came into force on 1.6.2000, Sunset clause under Section 49 of the said Act provided for filing of complaints under the FERA, 1973 till 31.5.2002. Taking advantage of it, the Respondent No. 1 issued Opportunity Notice to all the three officials on 12.5.2002 and lodged the complaint on 29.5.2002. The Additional Chief Metropolitan Magistrate, New Delhi, on the same day took cognizance of the complaint for the offence under Section 56 of FERA and issued summons.

SC observed that though the allegations of 'consent' and 'connivance' were dropped, the respondent in their complaint leveled allegations of all the three components, namely, consent, connivance and negligence. Further, to substantiate the averments in the complaint, not even a single original document was enclosed by the Respondents. SC remarked that *"It is not known as to, on what material the Additional Chief Metropolitan Magistrate applied his mind, while taking cognizance of the statutory offence. Though the allegation of negligence can be independently looked into, considering the standard of proof in criminal prosecution, we are of the view that, in the present case, the continuance of prosecution against the appellant is not tenable in law and the proceedings are liable to be quashed"*.

SC thus allowed the appeal and ordered quashing of proceedings in Criminal Complaint before the Additional Chief Metropolitan Magistrate. ■

Amortisation of SAP License and Accounting for Annual Renewal Fee

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.

1. A company incorporated as a wholly owned Government company under the Companies Act, 1956 during the year 1984-85 is engaged in construction and operation of thermal power plants in the State of Odisha. The company had set up two power plants of 2 x 210 MW (units I and II that is 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. Power generated from units I and II is sold to A Ltd, a Government of Odisha Undertaking at a tariff determined as per Bulk Power Purchase Agreement executed during 1996. During 1999, as a part of power sector reforms, the Government of Odisha disinvested 49% of the shares in favour of ABC 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. During the year 2008-09, the company has issued Request for Proposal (RFP) for inviting offers from bidders for 'Implementation of SAP ERP, Non-SAP Applications and related IT Infrastructure along with Post-implementation support with Facility Management'. In the bidding process, SAP licenses with perpetual rights were procured from M/s SAP India at a cost of ₹69 lakh for implementation of SAP ERP. Besides above, annual licence fee of ₹16 lakh, revised from time to time, is payable every year. However, due to some internal issues, evaluation of bids for awarding of contract for appointment of agency, procurement of the non-SAP application and related IT infrastructure along with post-implementation support with facility management could not be completed and SAP licence could not be used in the absence of implementation of SAP.
3. Relevant conditions granted by the SAP India as per 'SAP Software End-User Value License Agreement' are given below. This agreement was signed between SAP India and the company on procurement of SAP licenses:
 - (a) SAP grants, a non-exclusive, perpetual (unless terminated in accordance with Section 5 herein) license to use the Software, Documentation, other SAP Proprietary Information, at specified site(s) within the Territory to run Licensee's internal business operations and to provide internal training and testing for such internal business operations and as further set forth in Appendices hereto. This license does not permit Licensee to (i) sub-license or rent the Software or Documentation or (ii) use the SAP Proprietary Information to provide services to third parties (e.g., business process outsourcing, service bureau applications or third party training). Business Partners may have screen access to the Software solely in conjunction with Licensee's Use and may not Use the Software to run any of their business operations.
 - (b) Licensee agrees to install the Software only on hardware identified by Licensee pursuant to this Agreement that has been previously approved by SAP in writing or otherwise officially made known to the public as appropriate for Use or inter-operation with the Software (the "Designated Unit"). Designated Units may not be shared for the purposes of Software Use with companies/entities that are not defined as Licensee or authorized Affiliates hereunder. Any individuals that use the Software including employees or agents of Affiliates and Business Partners, must each be licensed as a Named User. Use may occur by way of an interface delivered with or as a part of the Software, a Licensee or third-party interface, or another intermediary system."

The querist has separately clarified that perpetual rights of SAP licenses mean that the licence will continue unless terminated as per clause 5 of the 'SAP Software End-User Value License Agreement' (a copy of which has been supplied by the querist for the perusal of the

Committee). Further, annual renewal fee is payable as per the agreement for the enterprise support and applicable from the effective date of agreement. If annual fee is not paid for updating the license, there would be violation/breach of the 'SAP Software End-User Value License Agreement' and accordingly, it may result into the cancellation of SAP license as per the agreement. The fee is only paid as per the terms and conditions of contract. Practically, no service is received against such payment.

4. As per clause 5.1. of the agreement, "This Agreement and the license granted hereunder shall become effective as of the date first set forth above and shall continue in effect thereafter unless terminated upon the earliest to occur of the following: (i) thirty days after Licensee gives SAP written notice of Licensee's desire to terminate this Agreement, for any reason, but only after payment of all License and Maintenance Fees then due and owing; (ii) thirty days after SAP gives Licensee written notice of Licensee's material breach of any provision of the Agreement (other than Licensee's breach of its obligations under Sections 6 or 10, which breach shall result in immediate termination), including more than thirty days delinquency in Licensee's payment of any money due hereunder, unless Licensee has cured such breach during such thirty day period; (iii) immediately if Licensee files for bankruptcy, becomes insolvent, or makes an assignment for the benefit of creditors".
5. On procurement of SAP ERP license during the year 2008-09, an amount of ₹69 lakh was booked to 'Capital Work in Progress (CWIP)' account and kept for capitalisation along with SAP implementation.
6. Statutory auditors of the company during their audit for the year 2009-10 have given the

following observation on accounting of SAP ERP licenses under the head 'Capital Work in Progress':

"CWIP includes ₹68.79 lakh for the SAP license fees paid in December 2008 which is not capitalised and hence not amortised due to the absence of any accounting policy for such expenditure in view of annual maintenance charges being paid for the year 2009 and 2010. *Such license in the nature of intangible asset is available for use even though not implemented and as per Accounting Standard (AS) 26 'Intangible Assets,' intangible asset's amortization should commence from the time the asset is available for use.*" (Emphasis supplied by the querist.)

Based upon above observation of the statutory auditors, expenses incurred towards procurement of SAP licenses have been capitalised during the year 2010-11 and amortised from the year 2009-10 as per the following significant accounting policy of the company:

"Cost of computer software recognised as intangible asset is amortised on straight line method over a period of legal right to use subject to maximum ten year."

7. The querist has stated that the Comptroller and Auditor General (C&AG) of India, while conducting supplementary audit under section 619(3) of the Companies Act, 1956 for the financial years 2012-13, has raised observations on accounting treatment of SAP ERP licenses on the basis of observation of statutory auditors for the year 2009-10. The observations of C&AG of India and replies of management are given below:

Observations	Replies of Management
Intangible Assets (Note-11) Software and SAP license (Net) – ₹46.65 lakh	
The company paid ₹0.69 crore towards license fee in February 2009, and capitalised the amount during the year. Further, ₹0.68 crore was annually paid towards Annual Enterprise Support (AES) fee for software and SAP maintenance upto March 2013 and charged to profit & loss accounts in these years. As the required software was not procured and installed as on the date of the balance sheet entire expenditure on this account should have been booked to capital works in progress.	Observation of audit that the software not procured is not correct. The company procured the SAP ERP ECC 6.0 software licence from SAP India for implementation of the SAP project and the end user licence agreement (EULA) was signed between the company and SAP India on 27 th December, 2008 on payment of ₹68.79 lakhs.

Observations	Replies of Management
This has resulted in understatement of capital work-in-progress by ₹1.37 crore, profit for the period by ₹0.96 crore and overstatement of fixed assets by ₹0.41 crore (net of depreciation ₹0.28 lakh).	<i>The License is for unlimited period and updated only on payment of Annual Enterprise Support fee. On signing of agreement, the software covering modules such as FICO, MM, PM, PS, HR, Pay Roll, ESS etc. were received by the company.</i> As per paragraph 63 of AS 26, the depreciable amount of an intangible asset should be allocated on a systematic basis over the best estimate of its useful life. There is a rebuttable presumption that the useful life of an intangible asset will not exceed ten years from the date when the asset is available for use. <i>Amortisation should commence when the asset is available for use.</i> Since the asset is available for use, the company accepted observations of statutory auditors (accounts for the year 2009-10) and based upon their advice amortised the same over ten years in compliance to AS 26. There is no understatement of Capital Work-in-Progress by ₹1.37 crore, profit for the period by ₹0.96 crore and overstatement of fixed assets by ₹0.41 crore (net of depreciation ₹0.28 lakh).

(Emphasis supplied by the querist.)

8. Similarly, C&AG of India, while conducting supplementary audit under section 619(3) of the Companies Act, 1956 for the financial year 2013-14, has raised draft observations which were also replied in line with the replies for the year 2012-13. C&AG of India instead of retaining the observation has informed the following vide its letter dated 28.08.2014:

“In course of supplementary audit of the above mentioned accounts, it is pointed out, (POM-3) that to obtain end user license for SAP ERP 6.0 software, the company signed end user licence agreement with M/s SAP India on 27.12.2008 and paid ₹68.79 lakh on 16.02.2009. In terms of the end user license agreement, the company was to pay annual enterprise support fee @ 22 percent of the license fee excluding taxes. The company capitalized the intangible asset at ₹68.79 lakh during the year 2008-09 on the ground that after payment of the license fee, the asset was available for use. In this context the observation of the statutory auditors on the annual accounts 2009-10 was accepted by the company and based on their advice the company amortised the same over a period of ten years from the year 2008-09 citing compliance to AS 26.

However, scrutiny of records revealed that till 31st March, 2014, the implementation

of SAP ERP could not be made for selection of partner. Thus, the asset was not ready to use even by the end of the financial year 2013-14. The payments made for acquisition of end user license as well as for the annual enterprise support fee should have been debited to CWIP instead of charging to statement of profit and loss. In the absence of implementing agency, the asset though available with the company but was not ready to use. Hence, the criteria for recognition of intangible assets as per AS 26 are not met. The amount incurred should have been booked under Capital Works in Progress till the asset is ready to use.

The above observation may be considered and necessary accounting effect may be given during finalisation of accounts for the F.Y. 2014-15.”

9. In this regard, the opinion on Query No. 2 of Volume XXVI of the Compendium of Opinions, issued by the Expert Advisory Committee of the Institute of Chartered Accountants of India (ICAI) has been referred to by the querist. As per the opinion of the Expert Advisory Committee, the expenditure incurred on or after 1.04.2013 regarding SAP license fees and any further expenditure should be recognised as intangible assets as per paragraph 10 of AS 26 and amortised over the period of life.

10. The querist has further stated that subsequently, the company invited the bids during the year 2014-15 for “appointment of Agency for Implementation of SAP ERP, Non-SAP Applications and related IT Infrastructure along with Post-Implementation support with Facility Management at the company” and evaluation of technical offers is in progress.

B. Query

11. In view of above facts and accounting requirement, the company seeks the opinion of the Expert Advisory Committee as to whether capitalisation of expenses on SAP ERP licenses and amortisation of the same over a period of 10 years as per the accounting policy in this regard and charging of the annual renewal fee to the statement of profit and loss before implementation of the SAP on the basis of observations of the statutory auditors for the year 2009-10 is in consonance with the Generally Accepted Accounting Principles and provisions of Accounting Standard (AS) 26, 'Intangible Assets'. If not, what would be the accounting treatment?

C. Points considered by the Committee

12. The Committee notes that the basic issues raised in the query relate to the timing of commencement of amortisation of expenditure incurred on acquisition of SAP ERP licenses as a part of intangible asset as per the principles of AS 26; and accounting for annual enterprise support or renewal fee (hereinafter referred to as the 'renewal fee') incurred by the company subsequent to the acquisition of such licenses. Accordingly, the Committee has considered only these issues and has not considered any other issue that may arise from the Facts of the Case, such as, method of amortisation, determination of useful life for amortisation of SAP ERP licenses, legal interpretation of SAP Software End-User Value License Agreement, etc.
13. The Committee notes from the Facts of the Case that the company has acquired SAP ERP license from SAP India during the year 2008-09, which could not be implemented due to some internal issues related to non-completion of technical evaluation of bids for awarding of contract for appointment of agency, procurement of the non-SAP application and related IT infrastructure along with post-implementation support with

facility management (hereinafter referred to as 'non-SAP applications and facilities'). The Committee further notes that the company capitalised the SAP ERP license as an intangible asset on the advice of the statutory auditors and is amortising the same even though, it could not be implemented. However, the C&AG is of the view that since the software has not been installed and since implementation of SAP ERP could not be made for selection of partner for non-SAP applications and facilities, the asset though available with the company but was not ready to use and, therefore, the expenditure incurred on acquisition should have been booked as 'capital work in progress' till the asset is ready to use. Accordingly, as per the views of the C&AG, the company should not also commence amortisation of such expenditure. In this regard, the Committee notes paragraph 63 of Accounting Standard (AS) 26, 'Intangible Assets', notified under the Companies (Accounting Standards) Rules, 2006 (hereinafter referred to as the 'Rules'):

“63. The depreciable amount of an intangible asset should be allocated on a systematic basis over the best estimate of its useful life. There is a rebuttable presumption that the useful life of an intangible asset will not exceed ten years from the date when the asset is available for use. Amortisation should commence when the asset is available for use.”

The Committee notes from the above that amortisation should begin when the asset is 'available for use'. The Committee is of the view that the term 'available for use' should be construed to mean when the asset is in the condition and location necessary for it to be capable of operating for its intended use. Therefore, in the extant case, the Committee is of the view that the company should determine when the license is in the condition necessary for it to be capable of operating for its intended use. In this regard, the Committee notes from the Facts of the Case that the license cannot be used till the non-SAP applications and facilities are also ready. Thus, SAP license cannot be used independently in the absence of Non-SAP applications and facilities and therefore, the implementation of SAP license is a composite arrangement requiring both SAP and Non-SAP applications and facilities. Accordingly, considering the above requirements of AS 26,

SAP license can be considered to be 'available for use' only when Non-SAP applications and facilities are also ready. Therefore, the Committee is of the view that till the SAP license is not 'available for use' as discussed above, the same should be classified as 'intangible asset under development' in the financial statements and thereafter it should be recognised as a part of the 'intangible asset'. Thus, the treatment made by the company in this regard is not appropriate. In this context, the Committee also wishes to point out that apart from the above-mentioned accounting treatment, the company should also assess at each balance sheet date whether there is any indication that the asset recognised as above may be impaired considering the requirements of Accounting Standard (AS) 28, 'Impairment of Assets', notified under the Rules. Moreover, it is imperative to note that as stated in paragraph I (14) of Illustration A of AS 26, "there is a rebuttable presumption that the useful life of an intangible asset will not exceed ten years from the date when the asset is available for use. However, given the history of rapid changes in technology, computer software is susceptible to technological obsolescence. Therefore, it is likely that useful life of the software will be much shorter, say 3 to 5 years." Accordingly, irrespective of the impairment assessment performed under AS 28, the company should assess the technological obsolescence of the SAP license and recognise an appropriate write down, as required.

14. With regard to accounting for annual renewal fee incurred by the company subsequent to the acquisition of such licenses, the Committee notes the following paragraphs of AS 26:

"59. Subsequent expenditure on an intangible asset after its purchase or its completion should be recognised as an expense when it is incurred unless:

- (a) it is probable that the expenditure will enable the asset to generate future economic benefits in excess of its originally assessed standard of performance; and***
- (b) the expenditure can be measured and attributed to the asset reliably.***

If these conditions are met, the subsequent expenditure should be added to the cost of the intangible asset.

60. Subsequent expenditure on a recognised intangible asset is recognised as an expense

if this expenditure is required to maintain the asset at its originally assessed standard of performance. The nature of intangible assets is such that, in many cases, it is not possible to determine whether subsequent expenditure is likely to enhance or maintain the economic benefits that will flow to the enterprise from those assets. In addition, it is often difficult to attribute such expenditure directly to a particular intangible asset rather than the business as a whole. Therefore, only rarely will expenditure incurred after the initial recognition of a purchased intangible asset or after completion of an internally generated intangible asset result in additions to the cost of the intangible asset."

From the above, the Committee is of the view that subsequent expenditure on renewal of license should be expensed if it is required only to maintain the asset at its originally assessed standard of performance and only that expenditure can be capitalised which enables the asset to generate future economic benefits in excess of its originally assessed standard of performance. The Committee notes from the Facts of the Case that the querist has specifically stated that the fee is only paid as per the terms and conditions of contract and practically, no service is received against such payment. Further, if annual fee is not paid for updating the license, there would be violation/breach of the 'SAP Software End-User Value License Agreement' and accordingly, it may result into the cancellation of SAP license as per the agreement. Accordingly, the Committee is of the view that annual fee in the extant case is a period cost which is incurred to continue to retain the license and does not generate future economic benefits in excess of originally assessed standard of performance of the license. The Committee is also of the view that although the annual renewal fee may be incurred during the period when the license is in the process of being made 'available for use', i.e., being processed to be placed in the condition and location necessary for it to be capable of operating for its intended use, but it is not an expenditure to make the asset 'available for use'. Accordingly, the Committee is of the view that the expenditure on annual renewal fee cannot be capitalised and should be expensed in the statement of profit and loss. Thus, the

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accounting treatment made by the company in this regard is appropriate.

D. Opinion

15. On the basis of the above, the Committee is of the view that the SAP license can be considered to be 'available for use' only when Non-SAP applications and facilities are also ready. Therefore, till the SAP license is not 'available for use', as discussed in paragraph 13 above, the same should be classified as 'intangible asset under development' and thereafter it should be recognised as part of the 'intangible asset'. Further, as discussed in paragraph 13 above, such SAP license should be tested for impairment and write down for technological obsolescence. Thus, the treatment made by the company in this regard is not appropriate. The expenditure on annual renewal fee in the extant case is incurred to continue to retain the licence and does not generate future economic benefits in excess of originally assessed standard of performance of the license. Thus, it cannot be capitalised and should be expensed in the statement of profit and loss. Thus, the accounting treatment made by the company in this regard is appropriate, as discussed in paragraph 14 above.

- 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 April 23, 2015. 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 four volumes. A CD of Compendium of Opinions containing thirty four volume 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.



What Every Statutory Branch Auditor of a Bank Should Do



ICAI's standards on auditing and recent guidance on internal financial controls over financial reporting (IFCFR) mandate auditors to develop an audit plan that considers potential management override of controls and misstatements and to maintain an attitude of professional skepticism throughout the audit. Section 143 (1) (b) of the Companies Act 2013 requires auditors to inquire into, amongst other matters, "Whether transactions of the company which are represented merely by book entries are prejudicial to the interests of the company". Further, according to Section 143 (3) (a) of the Act, "The auditor's report shall also state whether he has sought and obtained all the information and explanations which to the best of his knowledge and belief were necessary for the purpose of his audit and if not, the details thereof and the effect of such information on the financial statements". Together, these requirements and short-deadline reporting obligations make statutory branch auditing, including the arduous task of IRAC norms audit, really a challenge today. Simultaneous documentation of the information and explanations sought and obtained increases this challenge further.

This article is an attempt to suggest some critical basics – minimum must do's - addressing these requirements, to be taken into account by the auditors in their statutory bank branch audits. Read on...

1. Collecting Branch Profile and References

Collecting branch profile beforehand proceeding to the branch helps in several ways. It helps in acquainting with the type/nature, size, business and operations of the branch in advance and allows the auditor enough time to perform audit procedures at the branch. Besides documenting the audit simultaneously, it enables auditor to allocate appropriate time and resources for audit, and

helps avoid chances of omissions/lapses. Though no structured format could be comprehensive and standard for all branches, yet a format to collect some firsthand critical information to plan further audit procedures is suggested in *Annexure A*.

In addition, collecting relevant references is another such vital information that the auditor should collect as soon as the appointment process is over and before proceeding to the branch. Closing guidelines, policies, procedures and other operational guidelines of the bank are such key references to be obtained well in advance to prepare for auditing. Specifically, for most LFAR comments, auditors are required to evaluate and comment on adherence of bank's various policies, procedures, guidelines and instructions of higher authorities; hence collection of such reference in advance is indispensable.



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In statutory branch auditing, a little preliminary analysis at planning stage is crucial. Especially, the comparison of quarterly cost of deposits (CoD) and yield on advances (YoA) with quarterly figures within the year and with that of the corresponding quarters of previous year could be a good preliminary reasonableness test for the audit of financial statements, revealing inconsistencies, if any, during the year.

2. Comparing Quarterly Cost of Deposits (CoD) and Yield on Advances (YoA)

Standard on Auditing SA 520-Analytical Procedures mandates analytical reviews to be carried out by the auditors. In statutory branch auditing, a little preliminary analysis at planning stage is crucial. Especially, the comparison of quarterly cost of deposits (CoD) and yield on advances (YoA) with quarterly figures within the year and with that of the corresponding quarters of previous year could be a good preliminary reasonableness test for the audit of financial statements, revealing inconsistencies, if any, during the year.

The Auditor should obtain and document management's explanations/reasons for abnormal variances, if any, and should consider investigation, if not explained satisfactorily, for potential misstatements/window dressing, accordingly.

Movement in NPA

	Opening Balance of NPA	NPA Additions During The Year	Total	Reductions in NPA During the Year Due to				NPA Reductions During the Year	Closing Balance of NPA
	A	B	C (A+B)	Cash Recoveries (d1)	Restructurings (d2)	Write off (d3)	Other reasons (d4)	D (d1+d2+d3+d4)	E (C-D)
Accounts (Nos.)									
Amount									

Movement in Interest Not Collected (INC) Account

	Opening Balance of INC A/c	Interest Additions During The Year	Total	Interest De-derecognised During The Year Due to		Interest Reversals During The Year	Closing Balance of NPA
	A	B	C (A+B)	Cash Recoveries (d1)	Other Reasons, If Any (d2)	D (d1+d2)	E (C-D)
Accounts (Nos.)							
Amount							

3. Comparing Near Quarter End Deposits and Advances

Comparing near quarter end deposits and advances with those immediately before and after quarter ends is a must-do on a bank branch auditor's checklist that helps suggest indications of potential window-dressing, if any. *For example*, sudden/abnormal spurt or downfall caused due to debit entries in unutilised or under-utilised credit limits by transferring into current/savings accounts meeting CASA targets and reversing those immediately after year end.

In addition, to substantiate such debits and credits and reversal thereof after year end, the auditor should consider scrutinising the transfer journals also, particularly for 30-31 March and 1-2 April. The Auditor should specifically ask for substance/customers' debit authorities in such instances. Also, this transfer journal would help indicate transfer credit entries in poorly transacted/overdue credit limits, if any.

4. Scrutinising the NPA and Interest Not Collected (INC) Movement

Simple preliminary scrutiny of movement in NPA and INC account helps indicate apparent inconsistencies, if any, in these accounts. Very common reasons for such inconsistencies include incorrect interpretation/application of IRAC norms or non-marking of NPA status in the system. Reconciliation of movement in NPA and interest not collected (INC) could be obtained in the following suggested format:

Above collected information would help the auditor scrutinise and evaluate the appropriateness of income recognition, such as:

- Account-wise reconciliation of NPA additions with additions in INC account would indicate fresh NPA accounts in which interest has not been derecognised during the year. Suggestively, this should also be compared with interest failure reports for non- application of interest in such fresh additions and the listing of dummy (NPA) ledger generated from CBS;
- Account-wise reconciliation of NPA reductions with interest de-derecognised during the year (INC account) would indicate instances of not recognising the interest in NPAs upgraded during the year. Reductions in NPAs should also be cross-checked with recoveries in NPA accounts.

Comparing cash recoveries in NPAs with reductions in NPAs would help evaluate whether cash recoveries during the year have been appropriated towards interest and principal as per the bank's policy complying with the technical/financial norms of the bank.

5. Scrutinising Asset - Classification Sheets

Different banks have different asset-classification packages customised and integrated with their main CBS packages. Currently in most banks, identification of NPAs is automated while marking of NPA status in the system is controlled manually. Omissions in marking of NPA status in the system or the manual alterations lead to incorrect asset-classification and recognition of income. Hence, before going through the asset-classification sheets, auditor should first ascertain about bank's NPA identification and marking guidelines/methods in place - manual, partial automation and full automation. Few banks have graded system of asset-classification, *for example,*

Omissions in marking of NPA status in the system or the manual alterations lead to incorrect asset-classification and recognition of income. Hence, before going through the asset-classification sheets, auditor should first ascertain about bank's NPA identification and marking guidelines/methods in place - manual, partial automation and full automation.

credit limits up to rupees one crore identified and classified automatically while beyond this limit, identified/classified manually.

Having ascertained this, the auditor should obtain customer-ID wise balancing-report for advances and should ensure matching of totals of advances and NPAs in this balancing report with that appearing in asset-classification sheets and in the balance sheet. In fact, merging of all IDs of a customer into an unique customer identification code (UCIC)- as mandated by the RBI Circular *DBOD.AML. BC.No.109/14.01.001/ 2001-12 dated June 8, 2012*-is critical not only for IRAC norms compliance but for TDS provisions also.

Now, go through the asset-classification sheets and just have a cursory glance-as firsthand reasonableness check-which would help indicate apparent inconsistencies/errors resulting in potential material misstatements, in critical fields, say, limit, value of securities, date of NPA, and asset-class and asset subclass. For example,

- In limit field, data erroneously fed as 9999999999 causing adverse effect on financial statements/capital adequacy of the bank;
- Asset-class apparently inconsistent with NPA dates. For example, NPA date as 31.03.2002 and asset class as substandard; and
- Inconsistency in loan period and asset-classification status. For example, loan sanctioned in the year 2000 for five years still persisting as standard.

System generated mismatching reports, if available, would also help indicate such inconsistencies, if any. Similarly, scrutiny of worksheets of provisions would help indicate discrepancies, if any, caused due to value of securities fed incorrectly in the system or due to incorrect feeding of asset-class/asset-subclass.

6. Scrutinising Modifications in Limit History

Banks' current CBS application packages generally create logs and provide reports for modifications made in limit history, *for example,* ACLH menu in finacle, and are of much help to the auditor. The Auditor having obtained such modification reports, particularly for year-end quarter, should check whether all the modifications made are duly authorised by competent authorities and are in compliance with the bank's policy/guidelines. Instances of non-compliance may include modifying the limits as 'reviewed' without/ incomplete financial data or review of limits by branch beyond delegated

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authorities. *For example*, a limit overdue for review pending submission of financials, modified temporarily by the branch in the system as 'reviewed'.

Auditor should check whether necessary financials complying with bank's credit policy/guidelines, have been obtained and instructions of higher authorities have been adhered scrupulously in such limits.

7. Scrutinising Account Turnover Reports (ATOR)

System generated account turnover reports (ATOR), providing vital information, help in a good way to the auditor, particularly in the audit of cash credit and over draft limits. *For example*,

- Cash credit accounts with poor credit turnover not servicing even the interest in a given quarter could be easily determined to evaluate the appropriateness of asset- class;
- Maximum debit amounts in the account would help indicate excess/*ad hoc* allowed, if any, suggesting potential instance(s) of sanctions beyond/transgressing delegated authority; and
- In KCC accounts, credit amounts in 12 or 24 months after disbursements could be known at a glance to evaluate the appropriateness of asset-classification and income recognition.

Especially, the poorly transacted CC limits (against stocks)-suggestive of potential depletion in the value of primary securities/adverse features—should be checked for submission of financials and their review/renewal status. Auditor should check and determine the availability/adequacy of securities in such poorly transacted limits-long overdue for review and not submitting the financials. Recent unit-inspection reports, if available in such accounts, could help determine the availability of securities and appropriateness of their asset-classification. Similarly, in OD limits, debit-credit turnover would help ascertain servicing of interests during the quarter and their asset classification and income recognition.

8. Using Early Alert System (EAS)/Special Mention Accounts (SMA)/Status Reports

Banks' credit monitoring systems generally provide various monitoring reports for follow-up purposes, such as EAS/out of order/potential NPA/SMA reports. The Auditor can make best use of this information. Particularly, the potential NPA/special mention accounts, overdue due to repayment defaults or due to reviews/renewals, appearing in December quarter reports should be checked

whether these have been regularised/reviewed appropriately as per bank's norms. These should be checked for whether such accounts have been reviewed/renewed obtaining relevant financials/documents adhering bank's guidelines and have been classified appropriately.

In addition, periodical status reports on large borrowal accounts submitted to the controllers and internal audit reports, throwing enough light on overdue/adverse features, could also be a good firsthand input for auditor's evaluation of IRAC norms/LFAR comments.

9. Scrutinising Impersonal (Sensitive) Ledger Accounts

Impersonal accounts, also called as sensitive accounts, are the accounts not belonging to customers and maintained by the banks for their own operational purposes. Few of such very common accounts/account-groups are suspense, sundries, intermediary, clearing, branch adjustments, POB, proxy, parking, bills payable and others/miscellaneous. These are considered as highly exposed to the risk of potential override of controls/transgression of delegated authorities by management and need special care by the auditor.

Suggestively, besides obtaining the age-wise breakup of entries, auditor should obtain full ledger for the year for such accounts-regardless of zero balances at year end, and should inquire into the large/unusual entries for their substance. The Auditor's reviews should specifically include the transfer entries, *for example*, cheques in clearing/intermediary account and corresponding credits in the NPA accounts to regularise at the year end and subsequent reversal thereof. Cheques/bills purchased without sanctioned limits and adjusted through these impersonal accounts at the year-end is another such example to be considered by the auditor.

Conclusion

No audit plan or checklist can be exhaustive or panacea. This article, talking for some preliminary audit procedures, underlines the importance of auditing basics and emphasises on the need of a systematic approach for auditing. These basics, if applied appropriately, would help the auditor minimising the chances of material omissions/lapses and the risk of expressing an inappropriate audit opinion. These would also help document the auditors' work, meeting their legal and professional obligations simultaneously. Overall, this could serve as beginners' guide. However, to get any audit

plan implemented, the management's vehement cooperation is the key. Management should demonstrate its cooperation by providing required information promptly beforehand and during the audit to get it accomplished timely and in a purposeful manner.

ANNEXURE - A BRANCH PROFILE

I) Branch Introduction

Particulars	Branch Management's Replies
Nature/Type of the Branch	Corporate Banking/Retail/SME/ Agriculture/Service Branch/Large Advances Branch/Others (please specify)
Size of the Branch	(Small/Medium/Large/Very Large/ Exceptionally Large)
Whether authorised to carry out foreign exchange business? If yes, category?	Yes/No
Whether currency chest Branch?	Yes/No
Government Business	Income Tax, Sales Tax, VAT, others Pension, PPF/National Pension System (NPS)/Others
Incumbent in charge	Scale Posted since

II) Facilities/Functions/Services/Alternate Channels of the Branch

Nos. and locations of Extension Counters	
Nos. and locations of ATMs	
Nos. and locations of Cash Collecting Machines	
Whether credit processing centralised at any centre?	
Credit products still processed at branch?	

III) Key Business Figures at Year End (No. of accounts and amount in ₹ lakh)

Particulars	Budgets	Actual
Deposits		
CASA		
Advances		
Non-fund based business : BG, LC		
NPA		
Operating Profit		

IV) Advances Profile

Type of Borrowers/Accounts	No. of Borrowers/Accounts	Amount
Multiple banking borrowers		
Consortium banking borrowers		
Credit sub- limit(s) assigned to other branch		
Credit sub-limit(s) with this branch		
Re-structured accounts		
Accounts restructured during the year		
Borrowers having sanctioned limit ₹ 500 lakh and above		
Large borrowers having limits more than 2% of total advances or ₹ 200 lakh (whichever is lower)		
Accounts under interest subvention under short term crop production loans		
Accounts under Central Sector Interest Scheme (CSIS)		
Accounts under National Rural Livelihood Mission (NRLM) Scheme		
NPA identification	Manual/Automated	
NPA Status Marking in the system	Manual/Automated	

V) Internal/Special/Other Audits/Investigations/Reviews carried out at Branch

Inspection/Audit	Date of Report	Period Covered	Rating Assigned	Compliance Status- Whether yet to be complied with: Yes/No
RBI Inspection				
Concurrent Audit				
Internal Regular Inspection / RBIA			Composite Rating: (Low/Medium/High/Very High) Trend: Stable/Increasing/Decreasing	
Quarterly Limited Reviews				
I S Audit			(Low / Medium / High / Very High)	
Investigation/ Others				

VI) Borrowers' Audits

Nature of Audit	No. of accounts eligible for audit during the Year	Periodicity	No. of accounts got audited during the Year
Stock Audit			
Credit Audit			
Due Diligence Audit			
Diligence Audit			

Bank Branch Audit in CBS Environment



Core Banking System (CBS) is widespread today. As an auditor, it will be rare for you to not find your unit of bank branch not to be under CBS. Such a situation is a blessing if you embrace this fact and exploit it. The notorious difficulty of the bank branch auditor is that his audit is restrained to "smallest timeframe". Exploitation of the CBS system for audit, thus, is no longer an option to the bank branch auditor, but is a necessity. This article talks about various areas that require special consideration by the auditor in an audit of computerised bank branch. Read on...

CBS Environment

Instead of a server at each branch, there is one high end server for all the branches. The server is kept in a place called the data centre (DC). In case of failure of this server/site, there is a backup site and if the site is in another location (another city) preferably in a different seismic zone, it is called the disaster recovery centre (DRC). It is not uncommon to see the DRC to be located in a different continent in case of multinational banks. A lot of care is therefore taken at

the data centre but that not being in the scope of the branch auditor, it is not a subject matter of discussion here. Traditionally, the networking was done by way of leased lines as the primary network. In case this network failed, the other back-up network was dial up integrated services digital network (ISDN) where the connection was automatically dialed up. Later, other modes such as wireless (radio frequency), very small aperture terminal (VSAT) and virtual private network (VPN) (over the internet), cloud, *etc.* came into popularity.

You will note the progress from the previous years to be the addition of channel of service. ATM is old news just like debit and credit cards, e-transfer, mobile banking, *etc.* Each channel has an impact on the working of the bank as well as recorded and unrecorded liability, if any. Auditors should especially concern themselves with the newer opened channels of service as teething problems are normal.



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Whenever there are new channels of delivery, the auditor needs to ensure that all accounting aspects have been impacted on the correct day for the correct amount. Foreign exchange is one such minefield of an area made more complex if it is not supplied by the same vendor.

Branch Auditor or Systems Auditor

It is accepted that the branch auditor today, is not expected to evaluate the technical issues of computerisation at the branch other than that required to be reported under the Jilani Committee recommendations. Yet the fact remains that almost all the work is done through computers. Even sanctions are first sent by email followed by the hardcopy. All admit that though the interest is levied by the computer system, the auditor needs to at least test check it. This responsibility of interest verification is still retained in the LFAR and not removed just because computers are involved. Similarly, aspects impacting the work of the auditor need to be recognised and not excluded from the scope of audit.

Computerisation of Banks-Targets

The computerisation of the bank can be used to cover the following:

- Assurance of accuracy and continuity of the bank branch.
- Support the statutory duty of the auditor.
- Fraud issues.

'Computers are accurate' is the oft quoted axiom. This is true as well as untrue. The fact is that the computer or more precisely, the software application is *as accurate as it is programmed* to be. Then again, even if programmed with correct logic, some software bugs may tilt the scale of accuracy. Such issues are not marginal but sometimes very serious, as often seen.

1. **Books may not be balanced:** Amazingly, such errors are not expected from an 'accurate' machine. But logical errors or extreme situations which were not foreseen in programming stage may upset the cart. The branch auditor will be more secure if he lists 'jottings' from the system to compare with the trial balance or the general ledger balance and note discrepancy, if any. You have to remember that the banks are on triple entry system and software applications have aped the manual system. So even though

in non-banking corporate, such errors are unfathomable, they are very much possible in the banking system. Such errors may be either carry forward of errors of conversion of data from legacy system or errors in posting where the GL voucher is posted but the subsidiary is not, in situations of power failure or such.

2. **Applications not available in (main) core banking system:** We have yet to see an all pervasive banking application taking care of all aspects of administration. Some applications like salary, foreign exchange transaction management, or even treasury management are some which are external to the core, which may or may not be provided by the same vendor. If it is not supplied by the same vendor, then the link to the core data base is the weak link. Core database is considered rightly sacrosanct and thus, ringed. Similarly, the applications not provided by the core software vendor are kept at bay with transactions uploaded at 'arm's length'. This is the weak link. The procedure of 'arm's length' is sometimes very crude, like transactions of the smaller applications generated in a text file which has to be uploaded in a small procedure to update the core database. In such cases, even if the upload is done twice or not at all, will not be logged/warned. Admittedly, some procedures are intelligently designed. Such applications beg to be audited strictly for inclusion in the core database. Otherwise, the bank will be faced with a situation of a transaction committed to a customer but no back end procedure done. The auditor can at least cover the last week of the year end as well as the days on which the critical staff doing such work was on leave in the year. If the transactions exist in the core database, then at least there is no error of exclusion.
3. **New channels of delivery:** Whenever there are new channels of delivery, the auditor needs to ensure that all accounting aspects have been impacted on the correct day for the correct amount. Foreign exchange is one such minefield of an area made more complex, if it is not supplied by the same vendor. Even when the new delivery

channel software is supplied by the same vendor, there might be complications which an auditor can easily comprehend. The accounting impact for the precise amount needs to be checked for the dates and amount. Take the simple any branch banking (ABB) service where customers can withdraw from any branch. This is not a new service yet you need to check if there is any change in logic made in maintenance during the year. This should be checked especially if there are branches which are closed on any day when the other branches are working. Multi-state banks will experience this when there are State holidays unique to that State only. If a customer having account in a branch which is closed on a particular day, withdraws from other branch open on that day then the impact in his account should be on the same day of transaction. This may be an ABB transaction or through ATM. Normally, the postings are smooth as the branches are 'open' in database though closed physically. But there are some situations where the closed branches also do not permit entries on closed dates. Such an entry is made on the next working day. This would mean a loss of one working day having revenue and liability impacts as well as cash tally. This is also circumvented by the concept of 'as of date' or accounting date for interest where though the posting is done on a later date, the correct date will be taken for interest. Auditor needs to check whether this is so. System audits have hitherto revealed this is not so always. There is an impacted delay of one day or two days which is monumental for the summation of transactions. Again, impact on year end

clearly means the final accounts are not representative of the correct position of the bank as on the end of the year. New channels to check will illustratively include:

- ATM (Automated teller machine including cash collection machine)
- ABB (Any branch banking)
- Credit Card transactions

4. **Anti-money laundering (AML) application and its accurate representation:** The branch auditor is the last sentinel to protect the bank from abuse of this aspect. As the governing body, the Reserve Bank of India has amply reminded, by issuance of various circulars, the statutory auditor needs to cover this aspect. Most CBS banks have resorted to software application for AML reporting. This software application may be from the CBS application provider or a third party software. Whatever be the case, the common feature of concern is that this module or application is an 'afterthought' as the AML guidelines came in force more than two decades after CBS. The fundamental feature of this module/application is that it 'reads' data from CBS and processes it for its report. This feature of 'reading' is important because many banks boast NIL cases. This is usually because of 'mapping' error. This module looks at the wrong places and comes back with no cases to report which is misconstrued as NIL returns. The auditor can also scrutinise the 'white listing' of cases where the branch is better suited to remove the cases of suspicious transactions based on some rules of deposit and withdrawal which are also specified by The Reserve Bank of India. The reasons for not considering the transaction to be suspicious is within the realm of the branch, by identifying retail cash business of account holder like petrol service station or grocery shop, *etc.* The classification rules are set normally at the data centre which the branch auditor need not concern with. But the reasons and replies definitely are of his concern to ensure that these are logical and do not undermine the objectives of AML. Low AML training of bank staff emphasises the intervention of the branch auditor for AML audit.

Most CBS banks have resorted to software application for AML reporting. This software application may be from the CBS application provider or a third party software. Whatever be the case, the common feature of concern is that this module or application is an 'afterthought' as the AML guidelines came in force more than two decades after CBS. The fundamental feature of this module/application is that it 'reads' data from CBS and processes it for its report.

5. NPA (Non-Performing Asset)

classification: Rules of classification of assets are set by The Reserve Bank of India. Due to the number of accounts and rules of classification, it is preferable to have a system driven classification. Some banks prefer to have a manual override. What action your branch is executing is to be verified. If classification is systems driven, borderline cases need to be confirmed along with the definite cases. In particular, the following issues should be well covered:

- a. Inclusion of all accounts: If the auto NPA system or manually determined, then the rule that all accounts of the borrower should be classified as NPA need to be ensured by the auditor. The bank's system can now be exploited by the auditor. Most systems have a name search or customer number-search (if unique customer ID procedure is implemented by the bank) either for the branch or the bank as a whole. All you need to do is use this option to search for the accounts by the same name. If so, the NPA exposure list can be compared to ensure all accounts are classified as NPA.
 - b. MIS (Management Information System) reports should not mismatch the NPA classification report without reconciliation or explanation without doubt. Auditor needs to take care that all accounts evident from MIS reports as NPA are finally classified as NPA. Thus, a loan installment in arrears exceeding three installments or overdraft/cash credit overdrawn from the date shown in the report is exceeding three months, should be in the NPA list of the branch. Otherwise, explanation will be difficult later on when MIS evidence is stark clear.
 - c. Another MIS report which should be readily available is report of accounts not renewed/reviewed for more than a year. This is one of the statements to be submitted in LFAR. This MIS report helps confirm whether these accounts are included in the NPA list.
6. **ATM Cash:** This is like cash of the ATM is clubbed with that of the branch. If it is shown in the balance sheet of the branch then the

MIS (Management Information System) reports should not mismatch the NPA classification report without reconciliation or explanation without doubt. Auditor needs to take care that all accounts evident from MIS reports as NPA are finally classified as NPA.

branch auditor needs to verify this. Auditor should not rely only on the general balance shown in the books since this reflects the sum total of vouchers passed automatically of the ATM transactions. Most ATMs have a user friendly activated report on cash balance in ATM. Sometimes, update in the branch reports from ATM is not on real time basis but at the end of the day. Branch auditor needs to take cognizance of such feature.

7. **Basel II compliance:** This is one of the comments expected from the branch auditor. If you notice, the compliance of BASEL II requires assets to be risk weighted. Based on this, the banks are to make provision. Data from the branches flows to the higher offices, either Regional or straight to the Head Office, who depend on the risk weight allocated by the branch and thus make the provision. This regulatory compliance is heavily dependent on the marking for each account made by the branch. Given the high volume, accuracy will be assured only if made in the main database. The auditor needs to study the policy and process of allocation of risk weights and check a few. Only if computer driven and entered periodically other than at the time of account opening will this aspect be correctly reflected.

To Conclude

Computer aided audit techniques (CAATs) are ideal tools to enable the branch auditor to cover full year's transactions in a handful of days. With CAATs, 100% population gets covered but it depends on the auditor's talent in setting up the tool. Currently, tools are not permitted at the branch level by most banks. Therefore, via media, using output of text files in excel should be used as much as possible. If this is done, the coverage of transactions is much larger than what it would have been manually. ■

Audit of Treasury Operations of a Bank – In Changing Times!



In today's changing economic environment, the range of products and treasury risk management solutions offered by the banks to their clients has significantly evolved. Treasury products of the banks include investment securities, foreign exchange (forex) and derivatives. The increasing scale of treasury operations and the new IFC (Internal Financial Controls) reporting requirements under the Companies Act 2013 demand existence of robust controls based audit approach. This article, therefore, specifically focuses on the key themes arising as a result of these new requirements and a bank auditor's perspective to the audit of IFCs in treasury operations. Read on...

Background

Banking institutions in India primarily deal in treasury products for balance sheet management and market making purposes, albeit most of the Indian banks also do have separate proprietary trading desks.

In the changing economic environment globally and India, in particular, the range of products and treasury risk management solutions offered by the banks to their clients has significantly evolved. Whilst there was a phase in Indian banking system where banks moved from offering plain vanilla products to the more complex degree of treasury products (particularly some banks, through their overseas

banking branches and subsidiaries), the trend in the most recent years, particularly after the global credit meltdown, has regressed the banks' treasury product boutique largely to conventional vanilla products.

Times are Changing–Advent of the Internal Financial Controls Reporting

The Companies Act 2013 (the 'Act') marked a major step towards raising the bar on corporate governance in India. The Act has re-emphasised the importance of a robust internal controls environment by introducing the 'internal financial controls' ('IFCs') attestation, and by casting specific responsibilities on the auditors in relation to audit and attestation of financial controls. The statutory auditor has to state in his audit report whether the company has adequate 'internal financial controls over financial reporting', and comment on its operating effectiveness. This requirement becomes effective for all financial reporting periods beginning on or after 1st April 2015 (effectively from the year ending 31st March 2016 onwards).



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With the advent of the IFCs requirements, an auditor will need to significantly enhance focus on the audit of 'controls' within a bank's treasury function. The ICAI released the Guidance Note on Audit of Internal Financial Controls over Financial Reporting recently, which covers detailed implementation guidance on various aspects of a controls audit.

Given the inherent high volumes of treasury transactions and the new IFC reporting requirements, it is pertinent that there exists a robust controls based audit approach.

Treasury Product Suite and Risks

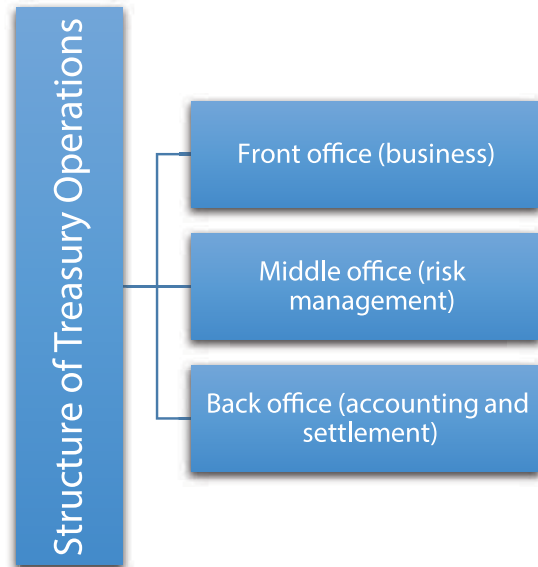
At a broad level, a bank's treasury products can be classified into investment securities, foreign exchange (forex) and derivatives. Banking institutions acquire securities for various purposes. In addition to providing a source of income through investment or resale, securities are used to manage interest-rate and liquidity risk as part of a bank's overall asset/liability management strategies. They are also used in certain collateralised transactions (such as repurchase (repo) and reverse repo agreements). A direct relationship generally exists between risk and return (the higher the security's risk, the higher its expected yield). An inverse relationship generally exists between the security's liquidity and its yield: less liquid and longer-term securities generally have higher yields. Achieving the proper mix of safety, liquidity and yield in an investment portfolio is one of the primary tasks of management. In managing their investment portfolios, banks seek to maximise their returns without jeopardising the liquidity the portfolios provide.

On the other hand, the derivative instruments include futures, forwards, swaps and option contracts, as well as other financial contracts with similar characteristics, which have become important financial management tools for banks.

Risks inherent in derivatives, such as credit risk, market risk, legal risk and control risk, are the same as risks inherent in other types of financial instruments. However, derivatives have unique risks because derivative transactions are designed to create price exposure, and thereby transfer risk, by having their value determined—or derived—from the value of an underlying commodity, security, index, rate or event.

Typical Structure of a Bank's Treasury Operations

The core processes within the treasury operations of a bank can be functionally divided into the following broad compartments:



The above structure is ideal in terms of implementing best practice from a control environment stand point. The features of each of these compartments are summarised in brief below:
Front office— the front office represents the business origination team, and the primary responsibility of this team is to execute trades within the pre-defined stated business objectives.

Middle office— the middle office is responsible for setting up control points and risk mitigating thresholds for transactions to be undertaken by the front office. It monitors the limits and tracks the performance of the portfolios. It also monitors various risks such as liquidity, credit and market risks.

Back office – the back office is typically responsible for validating and accounting of trades, effecting settlements and performing various reconciliations. It is also responsible for compliance with regulatory requirements.

Audit Considerations from IFCs Perspective

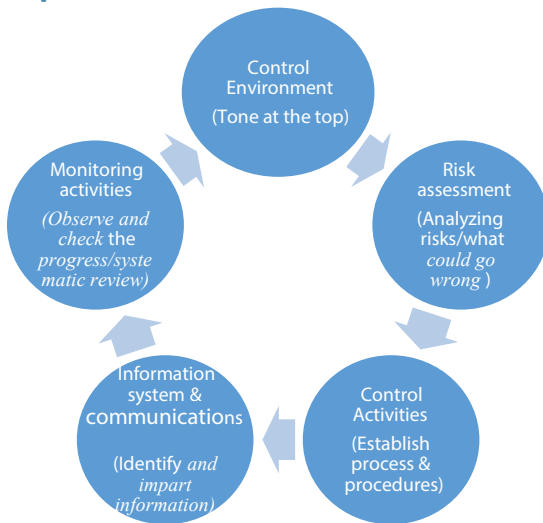
As stated above, with the advent of the IFCs requirements, an auditor will need to significantly enhance focus on the audit of 'controls' within a bank's treasury function. The ICAI released the

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Guidance Note on *Audit of Internal Financial Controls over Financial Reporting* recently, which covers detailed implementation guidance on various aspects of a controls audit. In the following sections, we have covered the key emerging aspects on audit of controls and how would they impact a bank auditor's approach for the audit of treasury operations.

The ICAI Guidance Note and Standard on Auditing 315 explain the five key components of an organisation's internal control framework. See the chart below:

Components of Internal Controls



From a stand point of audit of treasury operations, this would require a bank auditor to ascertain mapping of treasury controls with each of the components above. It will become imperative that the auditor gains a complete understanding of the bank's business model, the processes and policies, the risks ('what could go wrong?'), the control activities mitigating those risks, a deep understanding of how the pertinent information flows through systems and divisions and finally the quality of monitoring of each of these aspects.

Generally, the control environment in treasury operations of a bank will comprise of:

- **Entity Level Controls ('ELCs')–** Controls at a corporate governance level. This could include setting up of organisation level policies (e.g. investment and derivatives policy), setting up of management committees (e.g. asset liability committee, risk committee). Entity level controls by design are not meant to function at a level of

precision which would prevent or detect errors of material proportions; nevertheless, they are critical to the overall governance at banks. They define the 'tone at the top'. Thus the policies and committees, as mentioned above, are necessary to guide the overall functioning of the business and the controls within which the bank needs to run the treasury division.

- **Management Review Controls ('MRCs')–** Senior management reviews of management information (such as management review of period-end valuation of investments and derivatives and analysis of movements to the previous periods) and review of daily treasury P&L accounts are the key controls through which bank's management draws comfort over treasury balances. These types of controls generally work at a level of precision to prevent or detect material misstatements. However, the precision will generally be higher than those that we find at transaction level controls. Scoping in the management review controls and testing them as part of the IFCs becomes particularly relevant when there is a risk that a transaction level control is likely to be ineffective as that could serve as a compensating control to prevent or detect a material misstatement. There is more discussion on audit considerations for testing MRCs in the next section of this article.

- **Higher Level Controls ('HLCs')–** These controls signify review by middle levels of management and more importantly, usually cater to more than one account balance/caption. For example, in the treasury context, the reconciliation of Nostro accounts and review controls over them help meet audit objectives for multiple account captions (such as various assertions for investments, derivatives, call and money market transactions all together). Similar to the MRCs, scoping and testing of HLCs could serve as a compensating control to prevent or detect a material misstatement.

- **Transaction Level/Process Level Controls–** The transaction level controls (e.g. a maker checker control or a four-eye control) work at a very basic level and help mitigate a risk at the transaction level itself. There is generally no precision defined for these types of controls as they are supposed to operate effectively across the entire account balance. Treasury operations would usually have multiple such transaction level controls (check

To facilitate an effective audit under the IFC regime, formulating RCMs is one of the ways to design a risk based audit program for testing controls. RCMs are critical tools to summarise the key processes, 'what could go wrongs' (WCGWs or risks) in those processes and the bank's controls to mitigate such risks.

over reconciliations, validation of trades, control checks over profit/loss on sale of investments, etc.).

- **Information Technology (IT) Controls**– In case of banks, a lot of processes and controls are automated. An auditor would need to have a good understanding of the bank's IT infrastructure and systems. Depending on the level of automation and use of technology, necessary controls around general IT and

specific applications would need testing. For instance, the validation of trades by the back office initiated by the front office would ordinarily be facilitated through a system application. This would require an auditor to test the IT functionality of the system to ensure that there is no scope for the system to validate the trade without a back office team's validation in system.

The bank auditor would require testing all the above type of controls as part of its IFCs attestation.

Risk Control Matrix (RCMs)

To facilitate an effective audit under the IFC regime, formulating RCMs is one of the ways to design a risk based audit program for testing controls. RCMs are critical tools to summarise the key processes, 'what could go wrongs' (WCGWs or risks) in those processes and the bank's controls to mitigate such risks. An illustrative RCM for recording a deal could be as under:

Process	Risks/WCGWs	Control Description	Type of Control	Anti-fraud (Y/N)?	Audit Assertions
Recording of a deal (investment, forex trade or a derivative trade)	Incorrect recording of deal in system	1. Deal parameters are checked by separate team as per checklist with mode of agreement (e.g. Reuters/Term sheet). 2. Discrepancies, if any, are flagged off to front office for rectification. 3. All deals are double validated by back office personnel.	Transaction level control	Y	Accuracy
	Risk of completeness whether all the deals are considered for valuation	1. The validation desk views the validation queues. 2. Outstanding deals and mark-to-market values of trades used for valuation and reporting are matched with MTM account codes. 3. Confirmations are sent for derivative trades to the counterparty.	Transaction level control	N	Completeness Existence
	Incorrect generation of accounting entries from the system	Once the deal is validated by the back office personnel, it gets accounted in the system automatically	IT control	N	Completeness
	Risk of fictitious entries recorded in system	1. Management review of daily P&L report 2. Reconciliation of Nostro accounts	Management review control	Y	Completeness Accuracy
	A deal may not be settled	Reconciliation of Nostro accounts	High level control (addressing other captions too)	N	Accuracy

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An RCM would assist the auditor to define the scope of controls testing. Similarly, RCMs should be compiled for all significant account balances within treasury operations such as for valuation of investments and derivatives, recording of interest income and amortisation of premium and discount, gains/losses on sale of investments, settlement of derivatives, *etc.*

Other Key Aspects in IFCs Audit of a Treasury Operation

We discussed above the various types of controls and how the RCMs are useful tools to drive the IFC audits. We will now explore certain other specific concepts which are relevant as part of our audit considerations for audit of treasury operations of banks. These concepts are discussed generally in the Guidance Note on the IFCs. We have attempted to discuss how they will impact the bank's treasury audits.

Information Produced by Entity (IPE)

IPE is typically in the form of a 'report' which may be either system-generated, manually-prepared, or a combination of both (e.g., a download of system accumulated data an excel spreadsheet). In case of banks, a significant amount of data received as part of the audit is generated from the bank's systems. Some examples of this include listing of trades, schedule of investments, down load of all investment sales during the period.

The key audit consideration for auditor is to challenge bank on the controls it has in place to ensure 'completeness' and 'accuracy' of these system generated data/reports.

The banks should ideally have effective system UAT (user access tests) and effective change management controls trail to enable auditor to conclude that there does not exist any issue in placing reliance on these reports. Further in a few instances, it may be necessary to have manual checks in place, such as hash totals check of the totals in the reports to the ones in the system, to ensure the completeness and accuracy of the data provided.

Management Review Controls—Increasing Emphasis

The level of precision at which a management review control operates is a critical component in assessing whether the control is appropriately designed. Further, the documentation of management review controls may often be restricted to evidence of the review, and not incorporate all relevant attributes

of the review, including precision as well as the identification and disposition of any outliers identified.

The bank auditor should perform procedures to obtain evidence about how a management review control is designed (check for precision particularly) and its operating effectiveness (evidence of review of attributes) to prevent or detect misstatements. In the example, MRCs mentioned above (management review of period-end fair valuation or variance analysis from previous period), key audit considerations may include:

- assessing the numeric thresholds at which management reviews and challenges variations/data on fair valuation
- make an assessment whether these thresholds are fit for purpose and would they prevent a misstatement of fair values of the treasury products under consideration
- assess the evidence available with bank to provide an audit trail of the review being performed (e.g. a checklist or minutes of review)

Verifying that a review was signed off provides little or no evidence by itself about the control's effectiveness.

End-User Computing ('EUC') Controls

End-user computing refers to a variety of user-based computer applications, including spreadsheets, databases, *ad-hoc* queries, stand-alone desktop applications, and other user based applications. These applications might be used as the basis for making journal entries or preparing other financial statement information. For treasury operations, certain banks use spreadsheets for valuation of their investments.

The following will be the key audit considerations:

- Does the valuation sheet have password protection?
- Are the formulae used for valuation protected and should not be susceptible to an operational/accidental change made to a cell?
- Are these spread sheets saved on a secured server with restricted access?
- Is there an alternate back-up mechanism?

A bank auditor should test the above EUC controls as part of test of controls over valuation of bank's investments.

Fraud Risk Assessment

In the recent past, we have read about some very well publicised frauds in banking institutions globally,

Most recent requirements require banks to prepare and submit Ind AS proforma financial statements to the Reserve Bank of India from the half year ending 30th September 2016 onwards. The adoption of Ind AS by banks could have a significant impact on not just financial reporting, but also the way banks are managed and the way they do business.

particularly the likes of HSBC, UBS, JP Morgan and Societe General where the quantum of losses due to treasury frauds ran into millions of dollars. Another interesting trend one could notice is the extent of sophistication in which these frauds were done and how the perpetrator was able to hide the losses over a prolonged period of time.

The risk of recording fictitious entries, rogue trades and inappropriate valuation of derivatives could be potential areas fraud risk.

In addition to the basic audit procedures that a bank auditor would perform (such as deal validation, derivatives deal confirmations, audit of position and settlement accounts), the following considerations will be the key to auditor's approach in designing sufficient anti-fraud checks:

- Assessing the overall architecture of the treasury function— how are dealer trading limits determined, are there system checks in place, policy around remuneration to dealers, policy around intra-desk trading;
- Overall tone at the top— control culture at a bank (including the dealer trading conduct), the work ethics in treasury operations, frequency and reviews by senior management;
- Strength of back office— as discussed above, a stronger back office check would keep a strong vigil over any wrong doings, particularly rogue trading opportunities.

What's on the Horizon?

Fair Value Measurement— Game Changer of Sorts

The Government has now put forward the roadmap for implementation of Indian Accounting Standards (Ind AS) by banks, insurance companies and certain classes of NBFCs. This will require scheduled commercial banks to prepare their financial statements as per Ind AS from 1st April 2018 with opening balances as at 31st March 2017. Most recent requirements require banks to prepare and submit Ind AS proforma financial statements to the Reserve Bank of India from the half year ending 30th September 2016 onwards. The adoption of Ind

AS by banks could have a significant impact on not just financial reporting, but also the way banks are managed and the way they do business.

In particular, the changes around the classification and measurement of financial assets, and the detailed disclosures around fair values would make the financial reporting more aligned to the bank's business model and risk management policies.

As the banking sector moves towards reporting under converged International Financial Reporting Standards, one of the key issues facing the industry would be the application of fair value measurement, in view of the very nature of banking business and the preponderance of financial instruments on a bank's balance sheet. This would also necessitate significant changes to existing bank systems to gear up to production of changed financial reporting and disclosure framework.

Challenges in migrating to fair value measurement could arise in view of the absence of active markets for corporate bonds, derivatives and loans, differences with extant RBI instructions and practices on valuation, absence of an established body of accredited valuers and lack of adequate historical experience in the use of fair values by banks.

Further talking from a controls perspective, if the adoption of Ind AS requires banks to use increased judgments around determination of fair value for treasury products, then as auditors, more robust controls testing would be necessitated.

There would also likely be certain added complexities on accounting side such as recognition of day one fair value gains/losses, treatment of convertible instruments and certain specific areas of hedge accounting.

Concluding Comments

To summarise, the IFC regulation brings in a considerable degree of added focus to a bank auditor's approach towards controls testing in treasury operations. Conventional controls testing approach will need a serious revamp particularly to include the above emerging themes which would facilitate a more robust and effective test of operating effectiveness of controls.

Further in the wake of evolving regulations impacting the banking industry, the treasury audit programs would need a constant re-look and challenge, particularly embedding key themes as noted above. With IFC regulation and the impending implementation of Ind AS, we as auditors have some exciting times ahead. ■

Verification of Advances with Special Reference to Income Recognition and Asset Classification (IRAC) Norms



The article attempts to cover verification of advances with special reference to income recognition and asset classification (IRAC) norms, which are also known as non-performing asset (NPA) norms and prudential norms. The article also covers a summary of key requirements applicable, based on the Reserve Bank of India (RBI) prudential norms, but it does not cover norms on restructuring of advances by banks and agricultural debt waiver and debt relief scheme. Read on...

Overview

The overall economic scenario is in berry phase; as per the press reports, various banks have written off ₹1.14 lakh crore of bad debts between financial years 2013 and 2015, much more than they had done in the preceding nine years. The RBI disclosed that while bad debts stood at ₹15,551 crore for the financial

year ending March 2012, they had shot up by over three times to ₹52,542 crore by the end of March 2015. Situation calls for auditors to be more vigilant while discharging their duties.

We have the constraint of limited time to complete the bank-branch audit. Normally, we receive the appointment letter in mid-March and we have to complete the audit by the first or the second week of April.

Further reason of concern is that the banking sector is fraud prone and it again increases our responsibilities in carrying out bank-branch audit. There have been many frauds in the banking sector. In the current fiscal till half year ending September 2015, as many as 861 cases of frauds relating to



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advances have been reported (all cases above ₹1 lakh) involving ₹4,920 crore; this figure in the last full year (FY 2014-15) was 1,651 cases amounting to ₹11,083 crore.

In bank audit, we need to plan very well so we are able to carry out audit effectively. There are various laws applicable in bank audit, but we must be updated with the latest RBI guidelines and requirements for the banking sector. All related circulars are available on the Reserve Bank of India's website i.e. www.rbi.org.in.

Verification of advances is one of the important aspects of bank audit. While doing verification of advances, impact of irregularities needs to be seen from the point of view of its asset classification. Advances are classified based on RBI guidelines.

Originally, RBI had health code system which was replaced by IRAC norms in 1992-93. Now, income recognition is made an objective based on record of recovery.

Any irregularities having bearing on NPA (non-performing asset) status of the advances need to be examined carefully. In other words, while examining any advances, we need to check what will be the impact of irregularity in advance on its NPA status. As per the RBI circular, when asset ceases to generate income, it becomes NPA.

Reserve Bank of India, every year, issues Master Circular for norms for classification of advances into various categories of NPA. This year like every year, RBI has issued Master Circular on 1st July 2015. Key points of the circular are summarised as under:

Type of facility	To be classified as NPA if
Term Loan	Interest and/or installment of principal, remain overdue for a period more than 90 days.
Working Capital Finances (Over draft and Cash Credit)	If accounts remain out of order for more than 90 days. Out of order: An account should be treated as ' out of order ' if the outstanding balance remains continuously in excess of the sanctioned limit/drawing power. In cases where the outstanding balance in the principal operating account is less than the sanctioned limit/drawing power, but there are no credits continuously for 90 days as on the date of balance sheet or credits are not enough to cover the interest debited during the same period, these accounts should be treated as ' out of order '.
Bills	The bill remains overdue for a period of more than 90 days in the case of bills purchased and discounted.
Agricultural Advances	Short duration crops The installment of principal or interest thereon remains overdue for two crop seasons. Long duration crops The installment of principal or interest thereon remains overdue for one crop season. Natural calamities Where natural calamities impair the repaying capacity of agricultural borrowers, banks may decide on their own, as a relief measure, conversion of the short-term production loan into a term loan or re-schedulement of the repayment period; and the sanctioning of fresh short-term loan, subject to guidelines contained in the RBI circular <i>RPCD. No.PLFS.BC.3/ 05.04.02/ 2012-13 dated July 2, 2012</i> .
Liquidity Facilities	The amount of liquidity facility remains outstanding for more than 90 days, in respect of a securitisation transaction undertaken in terms of guidelines on securitisation dated February 1, 2006.
Derivative Transactions	The overdue receivables representing positive mark-to-market value of a derivative contract, if these remain unpaid for a period of 90 days from the specified due date for payment
Banks should classify an account as NPA only if the interest due and charged during any quarter is not serviced fully within 90 days from the end of the quarter	

Bank Audit

Further, advances need to be classified into categories as Standard, Sub-standard, Doubtful and Loss Asset. Following are criteria for classifications of NPA:

NPA Category	Criteria for classification
Sub- Standard Asset	Which has remained NPA for a period less than or equal to 12 months. In such cases, the current net worth of the borrower/guarantor or the current market value of the security charged is not enough to ensure recovery of the dues to the banks in full. In other words, such an asset will have well defined credit weaknesses that jeopardise the liquidation of the debt and are characterised by the distinct possibility that the <i>banks will sustain some loss, if deficiencies are not corrected.</i>
Doubtful Asset	An asset would be classified as doubtful if it has remained in the sub-standard category for a period of 12 months. A loan classified as doubtful has all the weaknesses inherent in assets that were classified as sub standard, with the added characteristic that the weaknesses make collection or liquidation in full,—on the basis of currently known facts, conditions and values— <i>highly questionable and improbable.</i> For provisioning, doubtful assets are further classified as per age in doubtful category, in sub-categories generally called as D-1, D-2 and D-3.
Loss Asset	A loss asset is one where loss has been identified by the bank or internal or external auditors or the RBI inspection but the amount has <i>not been written off wholly.</i> In other words, such an asset is considered uncollectible and of such little value that its continuance as a bankable asset is not warranted although there may be some salvage or recovery value.
Accounts where there is erosion in the value of security/frauds committed by borrowers	In respect of accounts where there are potential threats for recovery on account of erosion in the value of security or non-availability of security and existence of other factors such as frauds committed by borrowers, <i>it will not be prudent that such accounts should go through various stages of asset classification.</i> <i>In cases of such serious credit impairment, the asset should be straightaway classified as doubtful or loss asset as appropriate:</i>
	Value Classification to be done
	Less than 50 % Doubtful Asset
	Less than 10 % Loss Asset—Full Provision

Internal Control Systems to Eliminate the Tendency to Delay or Postpone the Identification of NPAs

Banks should establish appropriate internal systems to eliminate the tendency to delay or postpone the identification of NPAs, especially in respect of high value accounts. The banks may fix a minimum cut off point to decide what would constitute a high value account depending upon their respective business levels. The cut-off point should be valid for the entire accounting year. Responsibility and validation levels for ensuring proper asset classification may be fixed by the banks. The system should ensure that *doubts in asset classification due to any reason are settled through specified internal channels within one month*

from the date on which the account would have been classified as NPA as per extant guidelines.

In respect of accounts where there are potential threats for recovery on account of erosion in the value of security or non-availability of security and existence of other factors such as frauds committed by borrowers, it will not be prudent that such accounts should go through various stages of asset classification.

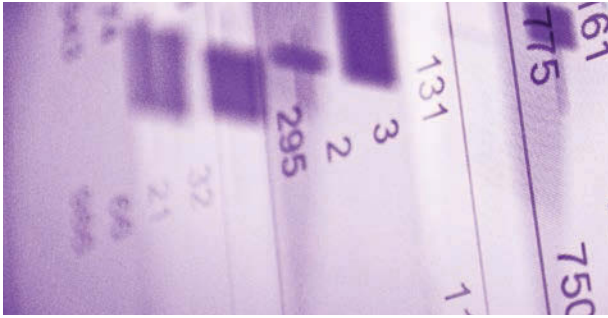
In cases of such serious credit impairment, the asset should be straightaway classified as doubtful or loss asset as appropriate.

So in any case, let us say, advance was to be classified as NPA or not? Any becoming NPA on 30th June 2015 and there such doubt should be resolved by the bank by July was a doubt about whether that advances needs 2015.

Other Issues in Classification of Advances as NPA:

Accounts with temporary deficiencies	Banks should ensure that drawings in the working capital accounts are covered by the adequacy of current assets. Drawing power is required to be arrived at based on the stock statement which is current. However, considering the difficulties of large borrowers, stock statements relied upon by the banks for determining drawing power <i>should not be older than three months</i> .
Regular and ad hoc credit limits	Regular and <i>ad hoc</i> credit limits need to be reviewed/ regularised <i>not later than three months</i> from the due date/date of <i>ad hoc</i> sanction. In case of constraints such as non-availability of financial statements and other data from the borrowers, the branch should furnish evidence to show that renewal/review of credit limits is already on and would be completed soon. <i>In any case, delay beyond six months is not considered desirable as a general discipline.</i> Hence, an account where the regular/ <i>ad hoc</i> credit limits have not been reviewed/renewed <i>within 180 days</i> from the due date/ date of <i>ad hoc</i> sanction will be treated as NPA.
Accounts regularised near about the balance sheet date	The asset classification of borrowal accounts where a solitary or a few credits are recorded before the balance sheet date should be handled with care and without scope for subjectivity. <i>Where the account indicates inherent weakness on the basis of the data available, the account should be deemed as a NPA.</i> In other genuine cases, the banks must furnish satisfactory evidence to the statutory auditors/inspecting officers about the manner of regularisation of the account to eliminate doubts on their performing status.
Loans with moratorium for payment of interest	i. In the case of bank finance given for industrial projects or for agricultural plantations, <i>etc.</i> where moratorium is available for payment of interest, payment of interest becomes 'due' only after the moratorium or gestation period is over. Therefore, such amounts of interest <i>do not become overdue</i> and hence, do not become NPA, with reference to the date of debit of interest. They become overdue after due date for payment of interest, if uncollected. ii. In the case of housing loan or similar advances granted to staff members <i>where interest is payable after recovery of principal, interest need not be considered as overdue from the first quarter onwards.</i> Such loans/advances should be classified as NPA only when there is a default in repayment of installment of principal or payment of interest on the respective due dates. <i>In my view, extension in moratorium period should not be allowed afterwards unless justified by strong convincing reason.</i>
Government guaranteed advances	<i>Central Government Guaranteed Advances</i> The credit facilities backed by guarantee of the Central Government though overdue may be treated as NPA only when the government repudiates its guarantee when invoked. This exemption from classification of government guaranteed advances as NPA is not for the purpose of recognition of income. <i>State Government Guaranteed Advances</i> State government guaranteed advances and investments in State government guaranteed securities would attract asset classification and provisioning norms if interest and/or principal or any other amount due to the bank remains overdue for more than 90 days.

Bank Audit



Asset Classification needs to be done borrower wise and not facility wise, hence even if one small facility is NPA, large borrower's all accounts will become NPAs.

Other Points to be considered in Classification of an Advance as NPA:

- ✓ *Asset Classification needs to be done borrower wise and not facility wise, hence even if one small facility is NPA, large borrower's all accounts will become NPAs.*
- ✓ *Consortium Advances:* Asset classification of accounts under consortium should be based on the record of recovery of the individual member banks and other aspects having a bearing on the recoverability of the advances.
- ✓ *Advances against Term Deposits, NSCs, KVP/ IVP, etc.*
Advances against term deposits, NSCs eligible for surrender, IVPs, KVPs and life policies need not be treated as NPAs, provided adequate margin is available in the accounts.
Here, plain reading of the RBI circular says advance against life policies need not be treated as NPA. In my personal views, intention must be to exempt only advances against traditional plans issued by the Life Insurance Corporation of India and not advances against life policies such as ULIP or which are issued by private companies may not be covered by this exemption.
- ✓ *Advances against gold ornaments, government securities and all other securities are not covered in the NPA classification exemption.*
- ✓ *Valuation of security for provisioning purposes*
With a view to bringing down divergence arising out of difference in assessment of the value of security, in cases of NPAs with balance of ₹5 crore and above stock audit at *annual intervals* by *external agencies*, collaterals such as immovable

properties charged in favour of the bank should be got valued once in three years by valuers appointed as per the guidelines approved by the Board of Directors.

Provisioning Norms

Standard Assets	(a) Direct advances to agricultural and SME sectors at 0.25%; (b) Advances to commercial real estate (CRE) sector at 1.00 %; (c) Advances to commercial real estate–residential housing sector (CRE-RH) at 0.75%; (d) all other loans and advances not included in (a) and (b) above at 0.40 %; Housing loan at teaser rate, it will be @ 2% On newly restructured advances after 1.6.2013 @ 3.5% for March 2014, 4.25% for March 2015 and @ 5% for March 2016. On old restructured advances @ 2.75%.								
Sub-standard Assets	Secured exposure: 15% on outstanding balance Unsecured exposures for escrow accounts available in respect of infrastructure lending, infrastructure loan accounts: 20% on outstanding balance Other unsecured exposures: 25% on outstanding balance								
Doubtful Assets	Unsecured Portion: 100% Secured Portion: Period for which the advance has remained in 'doubtful' category <table border="1"> <thead> <tr> <th>Provision</th> <th>Requirement (%)</th> </tr> </thead> <tbody> <tr> <td>Up to one year–D1</td> <td>25</td> </tr> <tr> <td>One to three years–D2</td> <td>40</td> </tr> <tr> <td>More than three years–D3</td> <td>100</td> </tr> </tbody> </table>	Provision	Requirement (%)	Up to one year–D1	25	One to three years–D2	40	More than three years–D3	100
Provision	Requirement (%)								
Up to one year–D1	25								
One to three years–D2	40								
More than three years–D3	100								
Loss Assets	100 %								

Income Recognition

The policy of income recognition has to be objective and based on the record of recovery. Internationally, income from non-performing assets (NPA) is not recognised on accrual basis but is booked as income only when it is actually received. Therefore, the banks should not charge and take to income account interest on any NPA.

However, interest on advances against term deposits, NSCs, IVPs, KVPs and Life policies may be taken to income account on the due date, provided adequate margin is available in the accounts.

If any advance, including bills purchased and discounted, becomes NPA, the entire interest accrued and credited to income account in the past periods should be reversed if the same is not realised. This will apply to government guaranteed accounts also.

Fees and commissions earned by the banks as a result of renegotiations or rescheduling of outstanding debts should be recognised on an accrual basis over the period of time covered by the renegotiated or rescheduled extension of credit.

If government guaranteed advances become NPA, the interest on such advances should not be taken to income account unless the interest has been realised.

Reversal of Income

If any advance, including bills purchased and discounted, becomes NPA, the entire interest accrued and credited to income account in the past periods should be reversed if the same is not realised. *This will apply to government guaranteed accounts also.*

In respect of NPAs, fees, commission and similar income that have accrued should cease to accrue in the current period and should be reversed with respect to past periods, if uncollected.

Leased Assets:

The *finance charge* component of finance income [as defined in 'AS 19 Leases' issued by the Institute of Chartered Accountants of India (ICAI)] on the leased asset which has accrued and was credited to income account before the asset became non-performing, and remaining unrealised, should be reversed or provided for in the current accounting period.

Appropriation of Recovery in NPAs

Interest realised on NPAs may be taken to income account provided the credits in the accounts towards interest are not out of fresh/additional credit facilities sanctioned to the borrower concerned.

In the absence of a clear agreement between the bank and the borrower for the purpose of appropriation of recoveries in NPAs (i.e. towards principal or interest due), banks should adopt an accounting principle and exercise the right of appropriation of recoveries in a uniform and consistent manner.

Fraud Cases

We need to examine critically, fraud cases reported in advances, we need to understand methodology and need to find out whether adequate provisioning is done for the loss or not? Also, we have to see whether such cases are properly reported to the Reserve Bank of India.

Types of Frauds Reported:

Cases of funds diversions are being reported: loan taken for one purpose and utilised for some other purposes, over valuation of property done to get higher loan than eligible, export finance taken and no money is received from overseas suppliers and ECGC compliances are not done properly, *etc.*

There have been many cases of fraud reported in Gold loans- fake ornaments being given to banks as securities. Many frauds in housing loan area have also been reported, hence, this area also needs to be seen critically. There have been cases where fake income papers have been submitted, there is no borrower in existence, property is not in existence, same property being sold to more than one purchaser, *etc.*

Certain Practical Points

- In case of NPA, the auditor should carefully examine security as it will change the amount of provisioning if advances are found to be unsecured.
- The date of advance becoming NPA is an important date and needs to be examined whether the same is correctly determined, as the age of NPA determines its provisioning amount.
- The restructuring of advances should not be repeated restructuring.
- *There are various ever greening techniques being resorted for not classifying advance as NPA, we have to see the advances are being paid off from genuine sources and not by granting fresh advances in any way.*

Conclusion

As classification, provisioning and income recognition is governed by the RBI norms, we have to carry out audit of advances based on the latest RBI norms and directives. Many a time, changes in directives comes in February and March also, hence, we need to keep our eyes on the RBI website for such changes (if any) being pronounced. The NPA norms have improved overall quality of advances. Looking at frauds reported, we need to be very vigilant in verifying correct application of the NPA norms. ■

Suggested List of Relevant RBI Master Circulars for Scheduled Commercial Banks

(Note: The following is only a suggested list and not an exhaustive list)

S. N.	Circular No.	Subject
1.	RBI/2015-16/101 DBR.No.BP.BC.2/21.04.048/2015-16	Prudential Norms on Income Recognition, Asset Classification and Provisioning pertaining to Advances
2.	RBI/2015-16/97 DBR No BP.BC.6 /21.04.141/2015-16	Prudential Norms for Classification, Valuation and Operation of Investment Portfolio by Banks
3.	RBI/2015-16 /95 DBR.No.Dir.BC.10/13.03.00/2015-16	Loans and Advances–Statutory and Other Restrictions
4.	RBI/2015-16/37 DBR.No.Dir.BC.9/13.03.00/2015-16	Interest Rates on Advances
5.	RBI/2015 -16/36 DBR.BP.BC.No.5/21.04.172/2015-16	Bank Finance to Non-Banking Financial Companies (NBFCs)
6.	RBI /2015-16/70 DBR.No.Dir.BC.12 /13.03.00/2015-16	Exposure Norms
7.	RBI/2015-16/99 DBR.BP.BC No.23 /21.04.018/2015-16	Disclosure in Financial Statements–Notes to Accounts
8.	RBI / 2015-16/76 DBR. No. Dir. BC.11 /13.03.00/2015-16	Guarantees and Co-acceptances
9.	RBI/2015-16/55 FMRD.DIRD. 01 /14.01.001/2015-16	Call/Notice Money Market Operations
10.	RBI/2015-16/98 DBR.No.Ret.BC.24/12.01.001/2015-16	Cash Reserve Ratio (CRR) and Statutory Liquidity Ratio (SLR)
11.	RBI/2015-16/31 DBR.No.FSD.BC.18/24.01.009/2015-16	Credit Card, Debit Card and Rupee Denominated Co-branded Prepaid Card Operations of Banks and Credit Card issuing NBFCs
12.	RBI/2015-16/30 DBR.No.FSD. BC.19/24.01.001/2015-16	Para-banking Activities
13.	RBI/2015-16/86 DBR.No.BP.BC. 3/21.01.002/2015-16	Prudential Norms on Capital Adequacy–Basel I Framework
14.	RBI/2015-16/85 DBR.No.BP.BC.4./21.06.001/2015-16	Prudential Guidelines on Capital Adequacy and Market Discipline–New Capital Adequacy Framework (NCAF)
15.	RBI/2015-16/89 Master Circular No. 3/2015-16	Memorandum of Instructions for Opening and Maintenance of Rupee/Foreign Currency Vostro Accounts of Non-resident Exchange Houses
16.	RBI/2015-16/46 DBR.No.DIR.BC.13/08.12.001/2015-16	Housing Finance
17.	RBI/2015-16/68 FIDD. No. FSD. BC.01 /05.10.001/2015-16	Guidelines for Relief Measures By Banks in Areas Affected by Natural Calamities
18.	RBI/2015-16/75 DBS.CO.CFMC.BC.No.1/ 23.04.001/2015-16	Frauds–Classification and Reporting

S. N.	Circular No.	Subject
19.	RBI/ 2015 – 16/42 DBR.AML. BC. No. 15 /14.01.001/2015-16	Know Your Customer (KYC) Norms/Anti-Money Laundering (AML) Standards/Combating Financing of Terrorism (CFT)/Obligation of Banks and Financial Institutions under PMLA, 2002
20.	RBI /2015-16/39 DBR.No.Dir.BC. 7/13.03.00/2015-16	Interest Rates on Rupee Deposits held in Domestic, Ordinary Non-Resident (NRO) and Non-Resident (External) (NRE) Accounts
21.	RBI/2015-16/74 FIDD.MSME & NFS.BC.No. 07 /06.02.31/2015-16	Lending to Micro, Small & Medium Enterprises (MSME) Sector
22.	RBI/2015-16/100 DBR.No.CID. BC.22/20.16.003/2015-16	Willful Defaulters
23.	RBI/ /2015-16/47 DBR No.DIR.BC.14/ 04.02.002/ 2015-16	Rupee/Foreign Currency Export Credit & Customer Service to Exporters
24.	RBI/2015-16/29 FIDD.FID.BC.No.02/12.01.033/ 2015-16	SHG–Bank Linkage Programme
25.	RBI/2015-16/40 DBR.No.Dir.BC.8/13.03.00/2015-16	Interest Rates on Deposits held in FCNR(B) Accounts
26.	RBI/2015-16/57 FMRD.DIRD. 03 /14.01.003/2015-16	Guidelines for Issue of Certificate of Deposit
27.	RBI/2015-16/56 FMRD. DIRD.02/14.01.002/2015-16	Guidelines for Issue of Commercial Paper
28.	RBI/2015-16/ 35 DBR.AML.BC.No.16/14.08.001/ 2015-16	Guidelines issued under Section 36(1)(a) of the Banking Regulation Act, 1949-Implementation of the Provisions of Foreign Contribution (Regulation) Act, 2010
29.	RBI/2015-16/53 FIDD.CO.Plan.BC.04/04.09.01/2015-16	Priority Sector Lending-Targets and Classification
30.	RBI/2015-16/58 DBR.No.BP.BC.1/21.06.201/2015-16	Basel III Capital Regulations
31.	RBI/2015-16/59 DBR No.Leg.BC. 21/09.07.006/2015-16	Customer Service in Banks
32.	RBI/2015-16/52 DCM (FNVD) G- 4/16.01.05/2015-16	Detection and Impounding of Counterfeit Notes
33.	RBI/2015-16/38 DCM (NE) No. G - 2/08.07.18/2015-16	Facility for Exchange of Notes and Coins
34.	RBI/2015-16/49 DCM(CC) No.G - 1/03.35.01/2015-16	Levy of Penal Interest for Delayed Reporting/ Wrong Reporting/Non-Reporting of Currency Chest Transactions and Inclusion of Ineligible Amounts in Currency Chest Balances
35.	RBI/ 2015-16/65 DPSS.CO.PD. Mobile Banking. No.1/02.23.001/2015-16	Mobile Banking Transactions in India–Operative Guidelines for Banks
36.	RBI/2015-2016/66 DPSS.CO.PD.PPL.No.2/02.14.006/2015-16	Policy Guidelines on Issuance and Operation of Pre-paid Payment Instruments in India
37.	RBI/2015-16/84 Master Circular No. 5/2015-16	Risk Management and Inter-Bank Dealings



Ind AS Transition Facilitation Group (ITFG) Clarification Bulletin 1



The Accounting Standards Board (ASB) of the ICAI has constituted 'Ind AS Transition Facilitation Group' (ITFG)¹ for providing clarifications on urgent basis on various issues related to the applicability and/or implementation of Ind AS under the Companies (Indian Accounting Standards) Rules, 2015, raised by preparers, users and other stakeholders.

In the first (1st) Ind AS Transition Facilitation Group (ITFG) meeting held on 16th January 2016 at New Delhi, issues received from some members were discussed. The Group, after due deliberations, decided to issue following clarifications² on the issues considered at the meeting.

Issue 1: Company X, on standalone basis, had a net worth of above ₹250 crore but below ₹500 crore in financial year 2013-14 as well as financial year 2014-15 and is expected to exceed ₹500 crore in financial year 2015-16.

Whether the company X be required to comply with Ind AS from financial year 2017-18 i.e. under Phase II, given that the net worth as on 31st March 2014 was below ₹500 crore and the company X was a company existing as on 31st March 2014 and was already falling under the threshold as on 31st March

2014 itself irrespective of the fact that the net-worth as on 31st March 2016 might be above ₹500 crore.

Response: Rule 4(2) of the Companies (Indian Accounting Standards) Rules, 2015, states as under: "For the purposes of calculation of net worth of companies under sub-rule (1), the following principles shall apply, namely:-

- (a) the net worth shall be calculated in accordance with the stand-alone financial statements of the company as on 31st March, 2014 or the first audited financial statements for accounting period which ends after that date;
- (b) for companies which are not in existence on 31st March, 2014 or an existing company falling under any of thresholds specified in sub-rule (1) for the first time after 31st March, 2014, the net worth shall be calculated on the basis of the first audited financial statements ending after that date in respect of which it meets the thresholds specified in sub-rule (1).

Explanation- For the purposes of sub-clause (b), the companies meeting the specified thresholds given in sub-rule (1) for the first time at the end of an accounting year shall apply Indian Accounting Standards (Ind AS) from the immediate next accounting year in the manner specified in sub-rule (1)."

In view of the requirement at (b) above, any company that meets the thresholds as specified in the Rules in a particular financial year, The Companies (Indian Accounting Standards) Rules, 2015, will

(Comments can be sent to asb@icai.in.)

¹ Announcement on the constitution of Ind AS Transition Facilitation Group (ITFG) is available at the ICAI's website at http://www.icai.org/new_post.html?post_id=12289&c_id=219

² Although the 'Ind AS Transition Facilitation Group' (ITFG) has been constituted by the Accounting Standards Board (ASB), clarifications given or views expressed by the ITFG represent the views of the members of the Ind AS Transition Facilitation Group (ITFG) and are not necessarily the views of the ASB or the Council of the Institute. The clarifications/views are based on the accounting principles as on the date the Group finalises the particular clarification. The date of finalisation of each clarification is indicated along with the clarification. The clarification must, therefore, be read in the light of any amendments and/or other developments subsequent to the issuance of clarifications by the Group. Members and others may send any further issues for clarification by ITFG by writing to asb@icai.in.

become applicable to such company in immediately next financial year.

Therefore, in the given case, company X which had net worth of above ₹250 crore but below ₹500 crore in financial year 2013-14 as well as financial year 2014-15 and is expected to exceed ₹500 crore in financial year 2015-16, will have to prepare financial statements on the basis of Indian Accounting Standards (Ind AS), from the financial year beginning on April 1, 2016.

Issue 2: Company A is a listed company and has three subsidiaries- company X, company Y and company Z. As on 31st March 2014, the net worth of company A is ₹600 crore, net worth of company X is ₹100 crore, company Y is ₹400 crore and company Z is ₹210 crore. All the three subsidiaries are non-listed public companies.

Case A: During the financial year 2014-15, company A has sold off its entire investment in company X on 31st December 2014. Therefore, company X is no longer a subsidiary of company A for the purposes of preparation of financial statements as on 31st March 2015. Should company X prepare its financial statements as per the Companies (Accounting Standards) Rules, 2006 or the Companies (Indian Accounting Standards) Rules, 2015?

Case B: During the financial year 2015-16, company A has sold off its investment in company Y on 31st December, 2015. Therefore, company Y is no longer a subsidiary of company A for the purposes of preparation of financial statements as on 31st March 2016. Should company Y prepare its financial statements as per the Companies (Accounting Standards) Rules, 2006 or the Companies (Indian Accounting Standards) Rules, 2015?

Case C: During the financial year 2016-17, company A has sold off its investment in company Z on 31st December 2016, therefore company Z is no longer a subsidiary of company A for the purposes of preparation of financial statements as on 31st March 2017. Should company Z prepare its financial statements as per the Companies (Accounting Standards) Rules, 2006 or the Companies (Indian Accounting Standards) Rules, 2015?

Response : Rule 4(1)(ii)(c) of the Companies (Indian Accounting Standards) Rules, 2015, states as under:

“(4) (1) The companies and their auditors shall comply with the Indian Accounting Standards (Ind AS) specified in Annexure to these rules in preparation of their financial statements and audit respectively, in the following manner, namely:-

(ii) the following companies shall comply with the Indian Accounting Standards (Ind AS) for the accounting periods beginning on or after 1st April, 2016, with the comparatives for the periods ending on 31st March, 2016, or thereafter, namely:-

(a) companies whose equity or debt securities are listed or are in the process of being listed on any stock exchange in India or outside India and having net worth of rupees five hundred crore or more;

(b) companies other than those covered by sub-clause (a) of clause (ii) of sub-rule (1) and having net worth of rupees five hundred crore or more;

(c) holding, subsidiary, joint venture or associate companies of companies covered by sub-clause (a) of clause (ii) of sub-rule (1) and sub-clause (b) of clause (ii) of sub-rule (1) as the case may be;”

Rule 4(2) of the Companies (Indian Accounting Standards) Rules, 2015, states as under:

“(2) For the purposes of calculation of net worth of companies under sub-rule (1), the following principles shall apply, namely:-

(a) the net worth shall be calculated in accordance with the stand-alone financial statements of the company as on 31st March, 2014 or the first audited financial statements for accounting period which ends after that date;

(b) for companies which are not in existence on 31st March, 2014 or an existing company falling under any of thresholds specified in sub-rule (1) for the first time after 31st March, 2014, the net worth shall be calculated on the basis of the first audited financial statements ending after that date in respect of which it meets the thresholds specified in sub-rule (1).

Explanation- For the purposes of sub-clause (b), the companies meeting the specified thresholds given in sub-rule (1) for the first time at the end of an accounting year shall apply Indian Accounting Standards (Ind AS) from the immediate next accounting year in the manner specified in sub-rule (1).”

Rule (9) of the Companies (Indian Accounting Standards) Rules, 2015, states that:

“Once a company starts following the Indian Accounting Standards (Ind AS) either voluntarily or mandatorily on the basis of criteria specified in sub-rule (1), it shall be required to follow the Indian Accounting Standards (Ind AS) for all the subsequent financial statements even if any of the criteria specified in this rule does not subsequently apply to it.”

In view of the above requirements, company A meets the criteria as specified in the Rule 4(2) (a) of the Companies (Indian Accounting Standards) Rules, 2015, on 31st March, 2014. Accordingly, the Companies (Indian Accounting Standards) Rules, 2015, will become applicable to the company on mandatory basis from accounting periods commencing 1st April, 2016.

As per the Rule 4(1)(ii)(c) of the Companies (Indian Accounting Standards) Rules, 2015, a holding, subsidiary, joint venture or associate company of a company to which the Companies (Indian Accounting Standards) Rules, 2015 applies will be required to follow the Companies (Indian Accounting Standards) Rules, 2015 for preparing and presenting its financial statements.

In the abovementioned case, company A has net worth of more than ₹500 crore in the financial year ending 31st March 2014. Therefore, ordinarily company A along with its subsidiaries will have to apply Indian Accounting Standards (Ind ASs) for preparing financial statements for the accounting periods commencing 1st April, 2016, except in situations covered by Case A and Case B as discussed below:

Case A

Company A has sold off its entire investment in company X on 31st December, 2014; company X is no longer a subsidiary of company A as at the beginning of 1st April, 2016. Therefore, in this case, company X would continue to prepare financial statements for the accounting periods commencing 1st April, 2016, as per the Companies (Accounting Standards) Rules, 2006.

Case B

Company A has sold its investment in subsidiary company Y on 31st December 2015, in consequence of which company Y is no longer subsidiary of company A as at the beginning of 1st April, 2016.

Therefore, the Companies (Indian Accounting Standards) Rules, 2015 will not be applicable to company Y. Therefore, company Y would continue to prepare financial statements for accounting periods commencing 1st April 2016 under the Companies (Accounting Standards) Rules, 2006.

Case C

In the given case, company A has sold its investment in subsidiary company Z on 31st December 2016; therefore, company Z was a subsidiary of company A as at the beginning of 1st April, 2016. Company Z being subsidiary of company A as at the beginning of 1st April 2016, would have to prepare financial statements for the accounting periods commencing 1st April, 2016 as per the Companies (Indian Accounting Standards) Rules, 2015.

Issue 3: Company XYZ Ltd. having net worth of ₹600 crore as on 31st March 2014 has taken a loan having term of 5 years for importing fixed assets as on 1st July 2014, 1st February 2016 and 3rd May 2016. The company has followed the policy of recognising the exchange differences arising from long term foreign currency monetary items in the cost of fixed assets where such monetary item has arisen for purchase of fixed assets pursuant to paragraph 46/ 46 A of AS 11, *The Effects of Changes in Foreign Exchange Rates*, notified under the Companies (Accounting Standards) Rules, 2006. Considering the requirements of paragraph D13AA of Ind AS 101, *First-time adoption of Indian Accounting Standards*, whether the company can continue to recognise the exchange differences arising from the above said loans in the cost of property, plant and equipment, when adopting Ind AS for the first time?

Response: Paragraph D13AA of Ind AS 101, *First-time Adoption of Indian Accounting Standards* states as follows:

“A first-time adopter may continue the policy adopted for accounting for exchange differences arising from translation of long-term foreign currency monetary items recognised in the financial statements for the period ending immediately before the beginning of the first Ind AS financial reporting period as per the previous GAAP.”

Paragraph D13AA of Ind AS 101, *First-time adoption of Indian Accounting Standards*, provides an option to continue the policy of recognising the exchange differences on long term foreign currency

monetary items as per paragraph 46/46A of AS 11, *The Effects of Changes in Foreign Exchange Rates*, only for those long term foreign currency monetary items which were recognised in the financial statements before the beginning of first Ind AS reporting period.

In the above case, the beginning of the first Ind AS reporting period for company XYZ is 1st April 2016. Therefore, the option given in paragraph D13AA of Ind AS 101 will be available for loans taken as on 1st July 2014 and 1st February 2016 and will not be available for the loan taken after 31st March 2016.

Issue 4: Company ZED Ltd., having net worth of ₹600 crore as on 31st March 2014, has assessed that its functional currency as per the requirements of Ind AS 21, *The Effects of Changes in Foreign Exchange Rates*, is USD. The company has taken loans in USD as well as in INR for importing fixed assets before 1st March 2014. The company follows the policy of recognising the exchange differences arising from long term foreign currency monetary items in the cost of fixed assets where such monetary item has arisen for purchase of fixed assets. Considering the requirements of paragraph D13AA of Ind AS 101, *First-time Adoption of Indian Accounting Standards*, whether the company can continue to recognise the exchange differences arising from the above said loans in the cost of property, plant and equipment, when adopting Ind AS for the first time?

Response: Paragraph D13AA of Ind AS 101, *First-time Adoption of Indian Accounting Standards* states as follows:

"A first-time adopter may continue the policy adopted for accounting for exchange differences arising from translation of long-term foreign currency monetary items recognised in the financial statements for the period ending immediately before the beginning of the first Ind AS financial reporting period as per the previous GAAP."

Paragraph D13AA as stated above provides an option to continue the policy of recognising the exchange differences on long term foreign currency monetary items as per paragraph 46/46A of AS 11, *The Effects of Changes in Foreign Exchange Rates*, only for those long term foreign currency monetary items which were recognised in the financial statements before the beginning of first Ind AS reporting period. Therefore, the option given in paragraph D13AA of Ind AS 101, will be available in case of those long term foreign currency monetary items which were recognised in the financial statements ending on or

before 31st March, 2016 and are regarded as foreign currency monetary items under Ind AS 21.

In the given case, the functional currency of company ZED has changed from INR to USD. Therefore, the USD loans will no longer be regarded as foreign currency monetary items under Ind AS. Hence, such a company cannot continue the policy of recognising the exchange differences, arising from USD loans, in the cost of fixed assets.

Issue 5: ABC Ltd. having net worth of ₹500 crore as on 31st March 2014 wants to assess its functional currency. From which date should company ABC Ltd. assess its functional currency i.e. whether from date of transition or retrospectively as per paragraph 10 of Ind AS 101, *First-time Adoption of Indian Accounting Standards*?

Response: Paragraphs 13-19 of Ind AS 101 *First-time Adoption of Indian Accounting Standards* provide 'Exceptions to the retrospective application of other Ind ASs' and Appendices B-C of Ind AS 101 *First-time Adoption of Indian Accounting Standards*, provide certain 'Exceptions to retrospective application of other Ind ASs' and 'Exemptions for Business Combination', respectively.

Paragraphs 13-19 and Appendices B-C are silent on the assessment of functional currency by an entity, i.e. from date of transition or retrospectively. Since neither any exception nor any exemption has been specified for assessment of functional currency, an entity will have to assess its functional currency retrospectively as per paragraph 10 of Ind AS 101 stated as below:

Paragraph 10 of Ind AS 101 *First-time Adoption of Indian Accounting Standards*, states as follows:

"Except as described in paragraphs 13–19 and Appendices B–D, an entity shall, in its opening Ind AS Balance Sheet:

- (a) recognise all assets and liabilities whose recognition is required by Ind ASs;*
- (b) not recognise items as assets or liabilities if Ind ASs do not permit such recognition;*
- (c) reclassify items that it recognised in accordance with previous GAAP as one type of asset, liability or component of equity, but are a different type of asset, liability or component of equity in accordance with Ind ASs; and*
- (d) apply Ind ASs in measuring all recognised assets and liabilities". ■*

Practical Approach to IndAS 101-“First-Time Adoption of Indian Accounting Standards”



The Ministry of Corporate Affairs (MCA) has notified the Companies (Indian Accounting Standards) Rules, 2015 vide its notification dated 16th February 2015. Accordingly, it has notified 39 Indian accounting standards (IndASs) and set the roadmap for implementation of IndASs for companies other than banking, insurance and non-banking finance companies. The new Ind ASs which are the converged version of international accounting standards (IAS) and international financial reporting standards (IFRS) are different from our existing accounting standards. At the time of transition to Ind ASs, the company and the auditor need to be more cautious about the accounting treatment as well as presentation factors prescribed in these converged standards. The main purpose of this article is to clarify the important areas prescribed in IndAS-101 at the time of transition from existing standards to IndASs. Read on...

Applicability of IndASs

The Companies (Indian Accounting Standards) Rules, 2015 notified vide MCA notification dated 16th February 2015, clearly provide the applicability

and non-applicability criteria of IndASs to various entities.

Synopsis of Applicability of IndASs: Rule-4 of the Companies (Indian Accounting Standards) Rules, 2015

At present, there are two sets of rules in force:

- A. The Companies (Accounting Standards) Rules, 2006
- B. The Companies (Indian Accounting Standards) Rules, 2015.



CA. Debasis Sahoo

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A. Applicability of the Companies (Indian Accounting Standards) Rules, 2015

Description	Phase-I	Phase-II	Phase-III
<i>Effective Date</i>	01-04-2016	01-04-2017	01-04-2015
<i>Condition</i>	Listed or Unlisted Companies ➤ Net worth is >₹500 crore ➤ Holding, Subsidiary, Joint ventures or Associates of these companies.	➤ Listed Companies whose net worth is < ₹500 crore ➤ Unlisted Companies whose net worth is ≥ ₹250 crore but < ₹500 crore ➤ Holding, Subsidiary, Joint ventures or Associates of these companies.	Any company may voluntarily.
<i>Cut-off Date for Calculation of Net Worth</i>	Net Worth shall be calculated in accordance with the stand-alone financial statements of the company as on 31-03-2014 or the first audited financial statements for accounting period which ends after that date. Further, “net worth” shall have the meaning assigned to it in clause (57) of Section 2 of the Companies Act, 2013.		
<i>Date of Transition to IndASs</i>	The beginning of earlier period for which an entity present full comparatives information under IndAS in first IndAS financial statement. <i>For example: If an entity is eligible for Ind ASs from 2016-17, its transition date is 1st April, 2015.</i>		

B. The Companies (Accounting Standards) Rules, 2006 are applicable to those companies which are not falling under any category specified above.**Analysis of Applicability of IndASs to Various Entities**

The applicability of IndASs vide Rule 4 of the Companies (Indian Accounting Standards) Rules, 2015 mentioned that:

- IndASs will be applicable from 1st April, 2016 to the holding, subsidiary, joint venture or associates of those companies which are listed or unlisted having net worth more than ₹500 crore; and
- From 1st April, 2017 to the holding, subsidiary, joint venture or associates of those companies which are listed or unlisted having net worth less than ₹500 crore but more than ₹250 crore.

The Rule specifically does not provide the definition of holding, subsidiary, associate, joint venture. But as per Rule 2(2) of the Companies (Indian Accounting Standards) Rules 2015, the definition provided in the Companies Act 2013 should be used to define holding, subsidiary, joint venture and associates.

Rule 2(2) of the Companies (Indian Accounting Standards) Rules, 2015:

“Words and expressions used herein and not defined in these rules but defined in the Act shall have the same meaning respectively assigned to them in the Act.”

Definition of Subsidiary and Associates as per the Companies Act, 2013:

Subsidiary: As per Section 2(87), “Subsidiary company” or “subsidiary”, in relation to any other company (that is to say the holding company), means a company in which the holding company

- i. controls the composition of the Board of Directors; or
- ii. exercises or controls more than one-half of the total share capital either at its own or together with one or more of its subsidiary companies.

Associate: As per Section 2(6), “Associate company” in relation to another company, means a company in which that other company has a **significant influence**, but which is **not a subsidiary company** of the company having such influence and **includes a joint venture company**.

“Significant influence” means control of at least 20% of the **total share capital**, or of **business decisions** under an agreement.

*From the above interpretation of the Act, two points need to be carefully evaluated for classification of subsidiary: **control the composition of board of directors and control of more than 50% of the total share capital.***

However, the definition of *total share capital* is not clearly mentioned in the Section but the same has been defined in Rule 2(1)(r) of the Companies (Specification of Definitions Details) Rules, 2014:

“Total Share Capital”, for the purposes of clause (6)

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and clause (87) of Section 2, means the aggregate of the –

- (a) Paid-up equity share capital; and
- (b) Convertible preference share capital.

Thus, if a company has investments in either equity or convertible preference shares or both of another company, then both the investments will be jointly taken into consideration for determination of the status of subsidiary or associates:

If Investments in (Equity + Convertible Preference Shares)	→ 20% -50% : Associates
	→ More than 50%: Subsidiary

Further, this is prominent to note that the report submitted by the Companies Law Committee (CLC)¹ of the Ministry of Corporate Affairs on 1st February, 2016 has also considered the practical ambiguity relating to the determination of subsidiary and associates on the basis of total share capital which considered both convertible preference shares and equity shares. Therefore, CLC in its report dated 1st February, 2016 recommends for amendments in Section 2(6) and Section 2(87) regarding replacement of the term “total share capital” with the term “total voting power”. If this recommendation is accepted before 1st April 2016, it will have a greater impact on applicability of IndASs to various entities.

Steps to be Taken Before Transition to IndASs

Step1: Find out whether entity is liable for mandatory application of Ind ASs as per the parameters set in the Act and the Rules.

Step2: Find out the eligibility date as per the eligibility criteria mentioned in the notification.

Step3: Carefully readout all the IndASs notified vide notification and find out the areas which require different accounting treatment and presentation.

Step4: Apply Ind AS-101 “First-time Adoption of Indian Accounting Standards” for transition to IndASs:

- a. Carefully evaluate the mandatory exemption (Appendix-B) which will be for prospective application of IndASs in certain areas.
- b. Carefully evaluate the voluntary exemption (Appendix-C and D) which will exempt from specific applicability of particular IndASs.
- c. Take care about the presentation areas prescribed in IndAS-101, etc.

CLC in its report dated 1st February, 2016 recommends for amendments in Section 2(6) and Section 2(87) regarding replacement of the term “total share capital” with the term “total voting power”. If this recommendation is accepted before 1st April 2016, it will have a greater impact on applicability of IndASs to various entities.

IndAS-101: First-Time Adoption of Indian Accounting Standards

IndAS-101 basically provides the framework for preparation of first IndAS financial statement and its interim financial report. An entity is required to prepare its opening IndAS balance sheet on the date of transition to IndAS which is the starting point of Ind AS. Say, for example, if an entity is required to prepare its first IndAS financial statement in FY 2016-17, its IndASs applicable date is 1st April, 2015.

Simplified View of IndAS-101

IndAS-101: First-Time Adoption of Indian Accounting Standards	
Recognition and Measurement (Para: 6 to 19)	Presentation and Disclosure (Para: 20 to 33)
i. Opening IndAS balance sheet	i. Comparative information
ii. Accounting policies	ii. Explanation of transition to IndASs
iii. Exceptions to the retrospective application of other IndASs (Appendix-B)	iii. Reconciliations
iv. Exemptions from other IndASs(Appendix C and D)	iv. Designation of financial assets or financial liabilities
	v. Use of fair value as deemed cost
	vi. Use of deemed cost for investments in subsidiaries, joint ventures and associates
	vii. Use of deemed cost for oil and gas assets
	viii. Use of deemed cost for operations subject to rate regulation
	ix. Use of deemed cost after severe hyperinflation
	x. Interim financial reports

¹ Companies Law Committee (CLC) was constituted by MCA with the directive of making recommendation on issue arising from the implementation of the Companies Act, 2013. Accordingly, CLC on 1st February, 2016 submitted its report and recommend changes in various areas of the Companies Act, 2013.

Few Important Paras of IndAS-101

Para-3: “An entity’s first IndAS financial statements are the first annual financial statements in which the entity **adopts Ind ASs**, in accordance with Ind ASs notified under the Companies Act, 2013 and **makes an explicit and unreserved statement in those financial statements of compliance with IndASs.**”

The above para clearly depicts that along with the adoption of IndASs, an entity should mandatorily provide an **explicit and unreserved statement** in the first IndAS financial statement. Further, the company should not describe financial statements complied with IndASs in explicit and unreserved statement unless and until it complies with all the requirements of IndASs.

Para-10: “Except as described in paragraphs 13–19 and Appendices B–D, an entity shall, in its opening IndAS Balance Sheet:

(a) **Recognise all assets and liabilities whose recognition is required by Ind ASs;**

For example:

- **Creation of liability under constructive obligation:** Earlier, entities did not provide for liability under constructive obligation. Now, IndAS-37 “Provisions, Contingent Liabilities and Contingent Assets” has clearly defined the meaning of constructive obligation i.e. constructive obligation is an obligation that derives from an entity’s actions which created a valid expectation on the part of those other parties that it will discharge those responsibilities.

Example: Formal announcement of VRS scheme by the Board of Directors (BOD) can be treated as constructive obligation at the initial period and became contractual obligation/present obligation after several stages like formulation of draft scheme, approval of draft scheme by BOD, communication to the employee and acceptance of the employee, etc. As per the previous GAAP, provision will be created when the event meet the criteria of present obligation. Now, as per IndAS-37, constructive obligation needs to be accounted for. Hence, when VRS scheme is formally got approved by the BOD, company needs to provide for in accounts.

- **Derivative Financial Instrument Accounting:** Now as per IndAS-109, derivative financial instruments like call options, interest rate swaps, derivatives, commodities derivatives, etc. are to be accounted for.

Now the balance sheet should specifically disclose the financial asset and liability. It is important to note that IndAS-109 is meant for recognition and measurement criteria of financial instruments whereas IndAS-32 is for the presentation of financial instruments.

(b) **not recognise items as assets or liabilities if IndASs do not permit such recognition;**

For example:

IndAS-10: Events after the Reporting Period, Para-12, Proposed Dividend–“If an entity declares dividends to holders of equity instruments (as defined in IndAS- 32, Financial Instruments: Presentation) after the reporting period, the entity shall not recognise those dividends as a liability at the end of the reporting period.”

The company, now at the time of transition to IndAS, derecognise the proposed dividend liability from its opening balance sheet and the same proposed dividend will be treated as liability in subsequent financial year when the dividend is actually paid.

(c) **reclassify items that it recognised in accordance with previous GAAP as one types of asset, liability or component of equity, but are a different type of asset, liability or component of equity in accordance with IndASs; and**

For example:

IndAS-32 Financial Instruments, Presentation: Para-15: “The issuer of a financial instrument shall classify the instrument, or its component parts, on initial recognition as a financial liability, a financial asset or an equity instrument in accordance with the substance of the contractual arrangement and the definitions of a financial liability, a financial asset and an equity instrument.”

Para-28, Compound Financial Instruments: “The issuer of a non-derivative financial instrument shall evaluate the terms of the financial instrument to determine whether it contains both a liability and an equity

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component. Such components shall be classified separately as financial liabilities, financial assets or equity instruments in accordance with paragraph 15.”

Illustration:

Balance Sheet of ABC Ltd. as on 31-03-2015	
Non-Current Liability	₹
10000, 8% Convertible Debenture face value of ₹10 (Note-1)	1,00,000.00
5000, 12% Non Convertible Debenture face value of ₹1	5,000.00
Equity	
Share Capital	6,00,000.00

Note-1: Convertible debentures are issued on 01-04-2014 and will be redeemed on 31-03-2018 at par or can be converted into ordinary equity shares at the option of the holder.

Calculation of Equity Component of Convertible Debenture

Particulars	₹
Present Value (PV) of redemption amount of Convertible Debenture after 4 years (PV of 12%* after 4 years = 0.636)(₹1,00,000 x 0.636)	63,600.00
Interest payment on Convertible Debenture for 4 years	
(Annuity factor of 12% * for 4 years = 3.03) (₹8000 x 3.03)	24,240.00
Total Present Value of Liability	87,840.00
Fair Value of Debenture	1,00,000.00
Equity Component (₹1,00,000 – ₹87,840)	12,160.00

* Note: The reason for discounting the future interest @12% has been clearly indicated in IndAS-32 vide para AG31(a): “The issuer’s obligation to make scheduled payments of interest and principal is a financial liability that exists as long as the instrument is not converted. On initial recognition, the fair value of the liability component is the present value of the contractually determined stream of future cash flows

It is to be noted that while IndAS-101 provides certain exemptions towards retrospective accounting treatment and some other requirements of specified IndASs at the time of transition to IndAS, at the same time it does not provide exemptions from the presentation and disclosure requirements of other IndASs. Therefore, company should take proper considerations towards presentation areas of notified IndASs.

discounted at the rate of interest applied at that time by the market to instruments of comparable credit status and providing substantially the same cash flows, on the same terms, but without the conversion option.”

Balance Sheet of ABC Ltd. as per IndASs as on 01-04-2015

(Opening Balance Sheet of ABC Ltd.)

Non-Current Liability	
Financial Liability	₹
(i) 10000, 8% Convertible Debenture face value of ₹10 /-	87,840
(ii) 5000, 12% Non-Convertible Debenture face value of ₹1/-	5,000
Equity	
Share Capital	6,00,000.00
Component of Equity	12,160.00

Therefore, if one company is having convertible debentures, bonds and convertible preference shares, it should split the financial instruments into equity and financial liability in its opening balance sheet.

(d) apply IndASs in measuring all recognised assets and liabilities.

For example:

1. **Finance/Operating Lease of Land (IndAS-17: Leases):** Earlier, as per AS-19, land lease is specifically excluded from the scope of lease. However, as per IndAS-17, land lease is not excluded, and company has to recognise its interest in leasehold land as operating or finance lease. Therefore, at the time of transition to IndAS, leasehold land should appropriately be categorised as operating or finance lease based on the lease term associated with the lease.

Exemption as per IndAS-101

IndAS-101 lays down various processes of transition to IndASs from current GAAP by incorporating certain exemptions. As far as accounting aspect at the time of transition to IndASs is concerned, it requires retrospective accounting treatment, which is not practically very easy to adopt. Therefore, IndAS-101 provides various exemptions while transition to IndAS.

It is to be noted that while IndAS-101 provides certain exemptions towards retrospective accounting treatment and some other requirements of specified IndASs at the time of transition to IndAS, at the same time it does not provide exemptions from the presentation and disclosure requirements of other IndASs. Therefore, company should take proper considerations towards presentation areas of notified IndASs.

There are two types of exemptions prescribed in IndAS-101:

- Prohibition of retrospective application of some aspects of IndASs (Appendix-B)
- Exemptions from some requirements of other IndASs (Appendix-C and D)

However, this is pertinent to note that list of exemptions mentioned in Appendix-C and D is voluntary in nature and the company should not apply these exemptions by analogy to other items i.e. exemption is restricted to the areas mentioned in the list and could not be extended to other similar areas of other IndASs.

S. no.	Mandatory Exceptions (Appendix-B) (In following areas, only prospective application is permissible)	Relevant IndAS
1	De-recognition of financial assets and financial liabilities	109
2	Hedge accounting	109
3	Non-controlling interests	110
4	Classification and measurement of financial assets	109
5	Impairment of financial assets	109
6	Embedded derivatives	109
7	Government loans	32

S. no.	Optional exemptions (Appendix -C and D)	Relevant IndAS
1	Business combinations	103
2	Share-based payment transactions	102
3	Insurance contracts	104
4	Deemed cost	16
5	Leases	17
6	Cumulative translation differences	21
7	Long term foreign currency monetary items	21
7	Investments in subsidiaries, joint ventures and associates	27
8	Assets and liabilities of subsidiaries, associates and joint ventures	
9	Compound financial instruments	32

S. no.	Optional exemptions (Appendix -C and D)	Relevant IndAS
10	Designation of previously recognised financial instruments	109
11	Fair value measurement of financial assets or financial liabilities at initial recognition	109
12	Decommissioning liabilities included in the cost of property, plant and equipment	16
13	Financial assets or intangible assets accounted for in accordance with Appendix C to IndAS-115 <i>Service Concession Arrangements</i>	115
14	Borrowing costs	
15	Extinguishing financial liabilities with equity instruments	109
16	Severe hyperinflation	
17	Joint arrangements	
18	Stripping costs in the production phase of a surface mine	16
19	Designation of contracts to buy or sell a non-financial item	109
20	Revenue from contracts with customers	115
21	Non-current assets held for sale and discontinued operations	105
An entity shall not apply these exemptions by analogy to other items.		

Brief Analysis of Few Exemptions:

- Government Loan (Appendix-B):** All government loans should be classified as financial liability or equity as per the conditions attached to the government loans. However, any government loan received at a rate which is below the market rate shall be considered as government grant as per IndAS-20 "Accounting for government grant and disclosure of government assistance". If a company receives any government loan below market rate and not considers the benefit of low market rate as government grant is exempt from the retrospective classification of government grant at the time of transition, it should prospectively classify the same as financial liability and government grant as per IndAS-109 and IndAS-20, respectively.
- Deemed Cost (Appendix-D):** Company may elect to measure its property, plant and equipment (PPE), investment property and intangible assets at the following options as deemed cost as on the date of transition to IndASs:
 - At its fair value
 - Previous GAAP revaluation amount

- c. Carrying amount as recognised in the financial statements as at the date of transition to IndASs.

FAQs:

- i. **What is the meaning of *carrying amount*? In this context, what will be the transition value, original amount or net amount?**

Ans: In the context of *carrying amount* specified in Appendix-D for transition to IndAS, it should be the net amount after depreciation as on the date of transition to IndAS.

- ii. **A company intends to book its all assets at its carrying amount as on the date of transition to IndAS. Is it possible?**

Ans: It is clearly mentioned in Appendix-D of IndAS-101 that “an entity shall not apply these exemptions by analogy to other items.” That is, exemption is restricted to the area mentioned in the list and could not be extended to other similar area of other IndAS. Further, similar contention is also mentioned in Para-D7 of the Appendix-D. Therefore, carrying amount of plant and equipment (PPE), investment property and intangible assets only are eligible to be treated as deemed cost as on the date of transition.

3. **Long Term Foreign Currency Monetary Items:** Para-D13AA- *A first-time adopter may continue the policy adopted for accounting for exchange differences arising from translation of long-term foreign currency monetary items recognised in the financial statements for the period ending immediately before the beginning of the first IndAS financial reporting period as per the previous GAAP.*

The company which is availing the benefit of Para-46 and 46A of Accounting Standard-11 “The effect of change in foreign exchange rate” i.e. exchange difference relating to translation of foreign currency monetary item relating to depreciable asset can be added/deducted from the cost of asset or it can be accumulated in “Foreign Currency Monetary Item Translation Difference Account”, can avail the benefit upto the beginning of first IndAS financial year.

Example: If one company is eligible for transition to IndAS from financial year 2016-2017, it can capitalise or accumulate the exchange difference upto 31-03-2016. Any

exchange difference arises after 01-04-2016 will be treated in statement of profit & loss as per IndAS-21 “The Effect of Change in Foreign Exchange Rates”.

Presentation and Disclosure Requirements

1. **Comparative information**

Para-21: An entity's first IndAS financial statements shall include at least three balance sheets, two statements of profit and loss, two statements of cash flows and two statements of changes in equity and related notes, including comparative information for all statements presented.

Suppose, XYZ Ltd. needs to apply IndAS from FY 2016-17, its first IndAS financial statement should contain:

- Balance Sheet as on 01-04-2015, 31-03-2016 and 31-03-2017
- Statement of Profit and Loss : For the period ending 31-03-2016 and 31-03-2017
- Statement of Cash Flows : For the period 31-03-2016 and 31-03-2017
- Statement of Changes in Equity: For the period 31-03-2016 and 31-03-2017
- Related notes including comparative information for all statements presented

Additionally, as per the requirement of para-3 of IndAS, explicit and unreserved statement should be furnished.

2. **Explanation of transition to IndASs through reconciliation statement**

Para-23: An entity shall explain how the transition from previous GAAP to IndASs affected its reported balance sheet, financial performance and cash flows.

To comply with the para-23, a reconciliation statement should be presented along with financial statement as per para-24. Reconciliation statement shall include:

- reconciliations of its equity reported in accordance with previous GAAP to its equity in accordance with IndASs for both of the following dates:
 - the date of transition to IndASs; and
 - the end of the latest period presented in the entity's most recent annual financial statements in accordance with previous GAAP.

b) a reconciliation to its total comprehensive income in accordance with IndASs for the latest period in the entity's most recent annual financial statements. The starting point for that reconciliation shall be total comprehensive income in accordance with previous GAAP for the same period or, if an entity did not report such a total, profit or loss under previous GAAP.

to IndAS is 1st April, 2015. Reconciliation statement as per para 24 shall be:

- a. Equity as per previous GAAP as on 01-04-2015 and after due adjustment, the balance amount of equity as per IndAS as on 31-03-2016.
- b. A reconciliation of its total comprehensive income as per IndAS as on 31-03-2016 with previously reported income as per previous GAAP. Point to be noted is that as per existing accounting standards and the Companies Act 2013, there is no concept of total comprehensive income, therefore the statement of profit and loss should be used for previous year.

Example: If one company is eligible for applicability of IndAS from FY 2016-2017, its date of transition

Few Areas of IndASs which will have significant impact on IndAS financial statements as compared to the previous GAAP financial statements are as follows:

(This is not a part of IndAS-101)

S. no.	Ind AS (Previous GAAP AS No.)	Brief Description
1	IndAS-1 (AS-1)	The manner of presentation of financial statements prescribed in IndAS-1 is quite different from the format prescribed in Schedule-III of the Companies Act 2013 like, other comprehensive income, deletion of extraordinary items from the Statement of P&L, etc.
3	IndAS-7 (AS-3) Statement of Cash Flows	Bank overdraft now to be treated as part of cash and cash equivalents unlike earlier as financing activity as per AS-3. At the time of transition to IndAS, previous year's cash flow statement's financing activity may be reclassified if bank OD existed.
4	IndAS-8 (AS-5): Accounting Policies Estimates & Errors	Now, prior period errors need to be corrected retrospectively, if error is pertaining to previous year then reclassify the item to whom it relates, if error is pertaining to period other than previous year then restatement of opening asset, liability and equity of earlier reported period is to be done rather than disclosing in current financial statements.
5	IndAS-10 (AS-4): Events After the Reporting Period	Now, proposed dividend is no more to be accounted for, it should be disclosed and should be accounted for in the financial year in which it is declared. Hence, the total dividend for a particular year can be derived by extracting interim dividend paid for the year from the balance sheet plus proposed dividend from the notes to accounts.
6	IndAS-12 (AS-22): Income Taxes	Now, deferred tax asset/ liability are to be recognised from the balance sheet approach and not as per income statement approach as per AS-22. Extra efforts need to be provided for calculation of tax base of balance sheet items taking into consideration income computation and disclosure standards (ICDS) of the Income Tax Act, 1961.
7	IndAS-16 (AS-10 and 6) Property, Plant & Equipment	Now, all the fixed assets to be incorporated under PPE model. New component approach of accounting has been introduced which already existed in Schedule-II of the Companies Act, 2013. Further, future decommissioning, site restoration cost need to be accounted for at the time of capitalisation of the asset.
8	IndAS-17 (AS-19) Leases	Lease hold land should specifically categorised as operating or finance lease, as the case may be. Earlier, land lease was specifically excluded from the scope of lease as per AS-19.

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S. no.	Ind AS (Previous GAAP AS No.)	Brief Description
9	IndAS-19 (AS-15) Employee Benefit	Discounting rate for actuarial valuation should be market yield on government bond, however in case of subsidiaries, associates, joint ventures and branches domiciled outside India shall use market yield of high quality corporate bond as discounting rate. Further, actuarial gain or losses should be recognised in OCI as 'remeasurement'.
10	IndAS-20 (AS-12) Accounting for Government Grant & Disclosure of Government Assistance	Grant relating to asset can only be treated as setting up by deferred income not by adjustment with the cost of asset. Further, subsidised rate of government loan should be treated as grant for the amount of difference between the initial recognised amount of loan as per IndAS-109: Financial Instrument (Discounted cash flow of loan with market interest rate) less proceeds of loan.
11	IndAS-21 (AS-11): The Effect of Change in Foreign Exchange Rates	The benefit under Para-46 and 46A (exchange difference relating to translation of foreign currency monetary item relating to depreciable asset can be added / deducted from the cost of asset or it can be accumulated in "Foreign Currency Monetary Item Translation Difference Account") can be avail by the company upto the date of convergence to IndAS, after that benefit can't be availed because the same has been specifically excluded from the scope of IndAS-21(para-7AA .)
12	IndAS-23 (AS-16): Borrowing Cost	Interest expenses should be calculated as per effective interest rate method as per IndAS-109: Financial Instrument: Recognition and Measurement.
13	IndAS-24 (AS-18): Related Party Disclosure	Transaction with KMP of parent company needs to be disclosed.
14	IndAS-32 (AS-31): Financial Instrument: Presentation	Now, balance sheet should specifically disclose the financial asset and liability. Note that, IndAS-109 is meant for recognition and measurement criteria of financial instrument where as IndAS-32 is for presentation of financial instrument. Now, as per IndAS-109, derivative financial Instrument like call options, interest rate swap derivatives, commodities derivatives, etc. is to be accounted for.
15	IndAS-37 (AS-29): Provisions, Contingent Liabilities and Contingent Assets	Now, provision needs to be discounted using discount rate of pre tax rate that reflects the current market assessment. Contingent asset needs to be disclosed in financial statement which is not required as per earlier GAAP AS-29. Constructive obligation need to be accounted for, etc.
16	IndAS-38 (AS-26): Intangible Asset	The useful life period is not specifically mentioned in the IndAS, however, earlier AS-26 clearly provide the maximum useful life of 10 years for amortisation.

Summing Up

Before transition to IndASs, company needs to evaluate all the notified IndASs areas and find out appropriate transactions which need to be assessed for accounting treatment or presentation. The important factor to be considered here is that IndAS-101 which governs the transition area does

not provide any exemption to presentation area. Therefore in IndASs, presentation has an equal prominent role with accounting treatment. Now, both the accountants as well as the auditors have to be prepared for more challenging times ahead of the new version of accounting and presentation of financial statements. ■

Harmonious Interpretation of DTAA on Principles of PE



Principles of constitution of a Permanent Establishment (PE) have been elaborately discussed in UN Model Commentary, Organisation of Economic Development (OECD) Commentary as well as the various International Tax Commentaries by acclaimed authors. Judiciary has also contributed in defining the important principles of taxation as well as determination of a PE. PE constitution/determination need comprehensive and holistic analysis of various factors and the judicial precedence in this context should be relied upon keeping into consideration the different factual matrix of each case. Recently, the Hon'ble Delhi High Court in the case of National Petroleum Construction¹ while determining the taxability of the taxpayer's project office has dealt with various kinds of PE and has intricately clarified on the critical concepts which needs consideration while undertaking PE analysis. The article attempts to provide an analysis of this ruling. Please read on...

I Background

1. Facts of the Case

- National Petroleum Corporation (the 'taxpayer'), a company, incorporated in the UAE, entered into contracts with ONGC Ltd. for installation of petroleum platforms and submarine pipelines.
- The said contracts included various activities. While the survey, installation and commissioning activities were done entirely in India, the platforms were designed, engineered and fabricated at Abu Dhabi.
- The taxpayer computed its income on presumptive basis as per section 44BB of the Income-tax Act, 1961 by taxing the gross receipts pertaining to its activities in India less verifiable expenses at the rate of 10% and the receipts pertaining to activities outside India at the rate of 1%.
- The Assessing Officer (AO) held that the taxpayer had a fixed place Permanent Establishment (PE) in India in the form of a Project Office (PO). It was held that Arcadia Shipping Ltd. (ASL), a consultant, constituted a DAPE of the taxpayer in India. The AO held that the taxpayer also had an installation/construction PE in India.
- The AO held that the contract was a turnkey and a composite contract and, therefore, the entire contractual receipts including the activities performed outside India were taxable in India. The AO held that the consideration received by the taxpayer for design and engineering to be Fees for Technical Services (FTS). The order of the AO was upheld by the Dispute Resolution Panel (DRP) and the Income-tax Appellate Tribunal (the Tribunal).

(Contributed by the Committee on International Taxation of the ICAI. Comments may be sent to citax@icai.in.)

¹ National Petroleum Construction (2016) 66 taxmann 16 (Delhi) dtd 29th January'16

2. High Court's Ruling²

A. Interplay of Article 5(1), 5(2) and 5(3) of India-UAE Treaty

- **Article 5(1)** of the tax treaty provides an overarching general definition of the expression PE and entails satisfaction of two conditions i.e. there should be a fixed place of business and the business of the enterprise should be carried on wholly or partially through the said fixed place of business. It may be relevant to note that the word 'permanent' in the term PE indicates that there should be some degree of permanency attached to the fixed place of business before the same can be construed as a PE of an enterprise. The word 'permanent' does not imply for all times to come but merely indicates a place which is not temporary, interim, short-lived or transitory.
- **Article 5(2)** of the tax treaty provides for an inclusive definition of PE and specifically lists out the places of business that fall within the meaning of that expression. The use of the word 'especially' underscores the intention that the places enlisted therein fall within the definition of PE. Though an inclusive definition is generally used to expand the width of the term sought to be defined, read in the context of the other provisions of Article 5, paragraph 2 clearly indicates that it has been used as an explanatory provision to specifically include the species of places of business that would constitute the PE of an enterprise.
- **Article 5(3)** of the tax treaty is an exclusionary clause and is intended to exclude certain places of business from the scope of the expression PE. Paragraph 3 begins with a non-obstante clause and therefore, even if a place of business squarely falls within the definition of Article 5(1) and is specifically listed in 5(2) of the said Article, the same would not be construed as the PE of an enterprise, if it falls within any of the exclusionary clauses contained in sub-paras (a) to (e) of paragraph 3 of Article 5 of the tax treaty.
- **Article 5(4)** of the tax treaty provides for a legal fiction to include an agent (other than an agent of an independent status) to be a PE of the principal enterprise. Paragraph 4 also begins with a non-obstante clause. Thus, even though an agent may not *stricto sensu* fall within the definition of a PE as defined in paragraph 1 and/or paragraph 2 of Article 5 of the tax treaty, yet it would be deemed that a PE of an enterprise exists if the business of an enterprise is carried out through an agent as described in Article 5(4) of the tax treaty.

This is a welcome ruling of the Delhi High Court laying down sound principles in relation to determination of a PE, which have been internationally accepted as also by several benches of the Income Tax Appellate Tribunal. The High Court has taken a well-considered view clarifying certain ambiguous concepts surrounding the issue of PE.

² Though the ruling discusses issues of taxability of offshore and onshore supplies and also on attribution in spite of the fact that PE is not formed, for the sake of brevity the article draws reference to the finding of the Court on Article 5 only.

- **Interplay of Article 5(1), Article 5(2) & Article 5(3)**- All classes of PEs as enlisted in paragraph 2 of Article 5 of the tax treaty would be construed as a PE subject to the essential conditions of paragraph 1 of Article 5 being met. Thus, provisions of Article 5(1) and 5(2) complement each other. Further clause (h) and (i) of Article 5(2)³ additionally require satisfaction of a specified minimum period of nine months. Thus, places of business as specified under sub-paras (h) and (i) of Article 5(2) of the tax treaty cannot be construed as the PE of an enterprise, unless it exists for a period of at least nine months. Thus, even though the taxpayer's PO established in India falls within the definition of PE in terms of paragraph 1 and 2 of Article 5 of the tax treaty, it would still have to be seen whether it stands excluded under paragraph 3 of Article 5 of the tax treaty. In the case of the taxpayer also, it is not disputed that it carried out part of its business through its PO and, therefore, the conditions as spelt out in paragraph 1 and paragraph 2(c) of Article 5 of the tax treaty are satisfied. However, the matter does not rest here, and it is required to be seen whether any of the exclusionary clauses of Article 5(3) of the tax treaty are applicable.
- **Preparatory & Auxiliary Exclusionary clause**-The rationale for excluding a fixed place of business maintained solely for carrying out an activity of a preparatory or auxiliary character has been explained by Professor Dr. Klaus Vogel. In the context of Article 5(3) (e)⁴ of the tax treaty, the expression would necessarily mean carrying on activities, other than the main business functions, that aid and support the business of the enterprise. In the context of the contracts in question, where the main business is fabrication and installation of platforms, acting as a communication channel would clearly qualify as an activity of auxiliary character-an activity which aids and supports the taxpayer in carrying out its main business. Thus, where the main business is fabrication and installation of platforms, the activity of the taxpayer's PO in acting as a communication channel would clearly qualify as an activity of auxiliary character-an activity which aids and supports the taxpayer in carrying out its main business and would clearly fall within the

A plain reading of Article 5(2) indicates that a PE may well exist, however, it is not provided that it will necessarily exist. In light of the facts of the instant case, though the project office of the taxpayer categorically falls under Article 5(2)(c), yet it would not result in a PE if the conditions specified under Article 5(1) are not satisfied.

exclusionary clause of Article 5(3)(e) of the tax treaty.

B. Installation PE

- Exclusionary clause of Article 5(3)(e) of the tax treaty would equally apply to a place of business falling within Article 5(2)(h) of the tax treaty as it would be an office falling within the scope of Article 5(2)(c) of the tax treaty. Thus, in terms of article 5(2)(h) of the tax treaty, 'a building site or a construction or assembly project or supervisory activities in connection therewith' would also constitute a PE of an enterprise subject to that site, project or activity continuing for a period of at least nine months. Clearly, the purpose of the said clause is also to include a building site or construction or an assembly project as a PE by itself.
- On a harmonious reading of Article 5(2)(h) with Article 5(1) of the tax treaty which necessarily entails a fixed place of business from which the business of an enterprise is carried on, a building site or an assembly project could be construed as a fixed place of business only when an enterprise commences its activity at the project site. An activity which may be related or incidental to the project but which is not carried out at the site in the source country would clearly not be construed as a PE as it would not comply with the essential conditions as stated in Article 5(1) of the tax treaty.
- In order to apply Article 5(2)(h) of the tax treaty, it is essential that the work at a site or the project commences. It is not relevant whether the work relates to planning or actual execution of construction works or assembly activities. The duration of a PE would commence with the performance of business activities in connection with the building site or assembly project.

³ 5(2)(h) of India-UAE Treaty refers to a building site or construction or assembly project or supervisory activities in connection therewith, if such activities continue for a period more than 9 months

⁴ Article 5(3)(e)- maintenance of a fixed place of business solely for the purpose of carrying out preparatory or auxiliary services

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- In the present case, the initial activities at the site were carried out by an independent subcontractor appointed by the taxpayer and was carried for a very short duration. An interruption in the normal course of activities such as a weekly day off would undoubtedly be included in the duration of the PE but in cases where the interruption exceeds substantial periods which represent cessation of the activities at site, it would be difficult to accept that the building/project site continues to represent the fixed place of business of an enterprise.
- In the facts of the present case, where the taxpayer did not have access to the site, the same cannot be construed as its PE under Article 5(2)(h) of the tax treaty. If the period during which the taxpayer did not have access to the site in question is excluded, the aggregate period would be less than nine months, and this would exclude the applicability of Article 5(2)(h) of the tax treaty.
- Even if the time spent by the sub-contractor in conducting the pre-engineering and predesign survey is included, the duration of the project activities in India would not exceed nine months. The taxpayer's PO is inextricably linked to the project. Therefore, if the duration of the project activities in India was less than nine months, it cannot be held that the taxpayer had a PE in India under Article 5(2)(h) of the tax treaty.

C. Dependent Agent PE

- The director's report and the final accounts of ASL evidently indicate that ASL's activities were not limited to providing services to the taxpayer but extended to various other activities. The scope of services were also extended to various companies other than the taxpayer.
- Although ASL had agreed to act as a 'sole and exclusive' consultant for the taxpayer in India and had further agreed not to represent any competitor of the taxpayer or act in a manner

detrimental to the taxpayer's interest, the consultancy agreement did not fetter ASL to carry out its regular activities including providing consultancy services to persons other than the taxpayer's competitors. Thus, the Tribunal's conclusion that ASL was working 'wholly and exclusively' for the taxpayer is clearly not sustainable.

- The consultancy agreement clearly indicates that the contracts would be tendered for and executed by the taxpayer. The presence of ASL at such a meeting was clearly in pursuance of the services agreed to be rendered by them. However, this by itself cannot lead to an inference that ASL constituted a DAPE of the taxpayer in India.
- By virtue of paragraph 5 of Article 5 of the tax treaty, an independent agent who acts outside its ordinary course of business would fall outside the scope of Article 5(5) of the tax treaty. Therefore, in order to consider whether an agent of an enterprise falls within the ambit of Article 5(5) of the tax treaty, it is necessary to consider whether (a) the agent is one of an independent status and (b) whether he/she is acting on behalf of the enterprise in the ordinary course of its business.
- Applying the aforesaid tests in the facts of the present case, it is clear that ASL has not acted on behalf of the taxpayer in its normal course of business. ASL in its regular course of business provides logistics and consultancy support to various entities including the taxpayer. It is also apparent from the final accounts of ASL for the relevant year that it carries on substantial business other than the services provided to the taxpayer.
- Although the correspondence between the taxpayer and ASL indicated that ASL was involved in the project since the pre-bid meeting and had also acted on behalf of the taxpayer, it cannot be concluded that ASL was habitually authorised to conclude contracts on behalf of the taxpayer. Thus, ASL cannot but be considered as an agent of independent status to whom Article 5(5) of the tax treaty applies. In this view, ASL would not constitute a DAPE of the taxpayer in India.

The primary litigation in the context of installation PE revolves around the manner in which the time threshold is computed. It has been held in various cases that PE shall come into existence when the foreign enterprise begins to carry on its business through a fixed place of business. However, the activities which are carried on by the foreign enterprise also play a crucial role in determining existence of PE or otherwise.

II. Some Annotations & Conclusion

1. This is a welcome ruling of the Delhi High Court laying down sound principles in relation to determination of a PE, which have been

internationally accepted as also by several benches of the Income Tax Appellate Tribunal. The High Court has taken a well-considered view clarifying certain ambiguous concepts surrounding the issue of PE.

2. Article 5(2) states that a PE includes a number of items within the meaning of the term 'PE' such as a place of management, a branch, an office, a factory, etc. There are divergent views on the relationship between Article 5(1) and 5(2). One view holds that provisions of Article 5(2) does not stand alone but has to be read in conjunction with Article 5(1).⁵ The other view, based on the principle of interpretation that an inclusive definition is clarificatory and adds to the primary meaning, holds that the Article 5(2) is independent of Article 5(1).⁶

A plain reading of Article 5(2) indicates that a PE may well exist, however, it is not provided that it will necessarily exist. In light of the facts of the instant case, though the project office of the taxpayer categorically falls under Article 5(2)(c), yet it would not result in a PE if the conditions specified under Article 5(1) are not satisfied. The principle has been upheld in various judicial precedents⁷. The High Court, in this case, has also held that Article 5(1) and 5(2) should be read harmoniously which appears to be a better view.

3. Article 5(3) lists a number of business activities such as use of facility, maintenance of stocks for storage or supply, etc. which are treated as exceptions to the general definition laid down in paragraph 1 and which when carried on through fixed places of business, are not sufficient for these places to constitute a PE. The Court has laid down the law that the PO by merely rendering auxiliary services through a fixed place shall fall in the exclusionary clause of Article 5(3)(e) and hence shall not constitute PE of the foreign enterprise. There are no unique features associated with the PO being reckoned as a PE. The determination of whether a PO is engaged in auxiliary activities, constitutes a PE or not shall have to be examined based on facts and circumstances of each case, and it cannot be presumed that a PO will always be excluded from the purview of Article 5. The mode and manner in which functions are carried out by the PO would certainly go a long way in determining /fighting a PE situation.

Article 5(3) lists a number of business activities such as use of facility, maintenance of stocks for storage or supply, etc. which are treated as exceptions to the general definition laid down in paragraph 1 and which when carried on through fixed places of business, are not sufficient for these places to constitute a PE. The Court has laid down the law that the PO by merely rendering auxiliary services through a fixed place shall fall in the exclusionary clause of Article 5(3)(e) and hence shall not constitute PE of the foreign enterprise.

4. The primary litigation in the context of installation PE revolves around the manner in which the time threshold is computed. It has been held in various cases that PE shall come into existence when the foreign enterprise begins to carry on its business through a fixed place of business. However, the activities which are carried on by the foreign enterprise also play a crucial role in determining existence of PE or otherwise. There are numerous factors which needs consideration (viz. time spend by previous contractor, aggregation of sites, treatment of time spend on unconnected sites, etc.) while determining the period of commencement in case of an Installation PE.

As per OECD MC and commentary by Prof. Vogel, a site does not cease to exist when the work is temporarily discontinued. Interruptions, which are usual in the normal course of activity, constitute part of minimum period. However, intentional interruptions have been held to not suspend the time limit. At the same time, interruptions caused by extraordinary circumstances have been held to be excluded for the purpose of computing the threshold. Since each case is peculiar, the above-discussed factors need to be borne in mind while determination Installation PE.

Analysing the factual matrix of the case, the Delhi High Court has held that the existence or otherwise of the Installation PE would have to be tested from the time the activities are actually commenced at the site by the foreign company itself and time spent at the site by the sub-contractor for carrying out survey activities would not be reckoned for the purpose of determination of existence or otherwise of the PE. ■

⁵ *Fugro Engineers BV vs. ACIT* (2008) 26 SOT 78 (Del); *R&B Falcon Offshore Ltd vs. ADIT* (2010) 42 SOT 432 (Del)

⁶ *DDIT vs. Western Union Financial Services Inc* (2012) 50 SOT 109(Del); *Samsung Heavy Industries Co. Ltd. vs. ADIT* 2011 TII 140 ITAT Del

⁷ *Metal One Corporation vs. DDIT* (2012) 22 taxmann 77 (Del Trib); *Linklators LLP vs. ITO* (2010) 132 TTJ 20 (Mum)

Power of Income Tax Appellate Tribunal in Extending Stay beyond Three Hundred and Sixty Five Days



Section 254(2A) of the Income-tax Act, 1961 requires the Income Tax Appellate Tribunal to dispose of the appeal within four years from the end of the financial year in which such appeal is filed. Till the year 2001, there was no proviso to Section 254(2A). Provisos were inserted to this Section by virtue of the Finance Act 2001. The provisos give powers to the Appellate Tribunal to grant stay order for the period of 180 days and require the Tribunal to dispose the appeal within this period. Then, the amendment brought in the Finance Act, 2007 provides that if the appeal is not disposed within 180 days, the Tribunal has the powers to grant stay up to 365 days if the delay is not attributable to the assessee. The amendment brought in the Finance Act, 2008 substituted the third proviso which provided that the Tribunal cannot grant stay order beyond 365 days even the delay in disposing of the appeal is not attributable to the assessee. This proviso has been frequently challenged by the assessees. In some cases, the High Court relied on the legislative provisions, concurrently giving alternate ways for the assessees to get the grievance redressed. However, in the recent case of 'Pepsi Foods Private Limited', the Delhi High Court struck down the said expression as violative of the Article 14 of the Constitution of India.



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Power of Granting Stay

Section 254 of the Income-tax Act, 1961 ('Act') deals with the orders of the Income Tax Appellate Tribunal ('Tribunal'). Section 254(2A) of the Act stipulates that the Tribunal, where it is possible,

By virtue of the Finance Act 2008, the third *proviso* was substituted by the existing *proviso* with effect from 1st October 2008. The newly substituted *proviso* did not allow the Tribunal to extend the stay beyond 365 days even if the delay in disposing of the appeal was not attributable to the assessee. It is evident that the amendment introduced by virtue the Finance Act, 2008 had nullified the effect of the decision of the Bombay High Court in *Narang Overseas Private Limited (supra)*.

may hear and decide the appeal within a period of four years from the end of the financial year in which such appeal is filed under Sections 253 (1), (2) or (2A). Initially, there was no *proviso* to Section 254(2A). The *provisos* were added, for the first time, by virtue of the Finance Act, 2001. The first *proviso* provided that, with effect from 1st June 2001, where an order of stay had been granted, the Tribunal was required to dispose of the appeal within a period of 180 days from the date of the said order. It was further provided that if the appeal was not disposed within the specified period of 180 days, the stay order would stand vacated after the expiry of the said period.

Amendments in Section 254(2A)

The *provisos* to Section 254 (2A) were substituted vide the Finance Act, 2007 with effect from 1st June 2007. The first *proviso* stipulated that the Appellate Tribunal may, after considering the merits of the application made by the assessee, pass an order of stay in any proceedings relating to an appeal filed under sub-Section (1) of Section 253, for a period not exceeding one hundred and eighty days from the date of such order and the Appellate Tribunal shall dispose of the appeal within the said period of stay specified in that order. The second *proviso* stipulated that in case the appeal was not so disposed of within the period initially stipulated by the Tribunal, the Tribunal could, on an application made on this behalf by the assessee and on being satisfied that the delay in disposing of the appeal was not attributable to the assessee, extend the period of stay for a period or periods, provided that the aggregate of the period originally allowed and the period or periods so extended, would not in any case, exceed 365 days. The Tribunal was also required to dispose of the appeal within the period or periods of stay so extended or allowed. The third *proviso* provided

that if such appeal was not so disposed of within the period allowed under the first *proviso* or the period or periods extended or allowed under the second *proviso*, the order of stay should stand vacated after the expiry of such period or periods.

In *Narang Overseas Private Limited vs. ITAT – (2007) 295 ITR 22 (Bom)*, the High Court considered the question whether the third *proviso* to Section 254(2A) of the Act had the effect of denuding the Tribunal of its incidental power to grant interim relief. The power to grant stay or interim relief being inherent or incidental is not defeated by the *proviso* to the sub-Section. The third *proviso* has to be read as a limitation on the power of the Tribunal to continue interim relief in a case where the hearing of the appeal has been delayed for acts attributable to the assessee, it cannot mean that a construction be given that the power to grant interim relief is denuded even if the acts attributable are not of the assessee but of the Revenue or of the Tribunal. The power of the Tribunal, therefore, to continue interim relief is not overridden by the language of the third *proviso* to Section 254 (2A).

Substitution of Third Proviso to Section 254(2A)

By virtue of the Finance Act 2008, the third *proviso* was substituted by the existing *proviso* with effect from 1st October 2008. The newly substituted *proviso* did not allow the Tribunal to extend the stay beyond 365 days even if the delay in disposing of the appeal was not attributable to the assessee. It is evident that the amendment introduced by virtue the Finance Act, 2008 had nullified the effect of the decision of the Bombay High Court in *Narang Overseas Private Limited (supra)*.

Case Laws

i. *Commissioner of Income Tax vs. Maruti Suzuki (India) Limited (2014) 362 ITR 215 (Delhi)*

In this case, the Delhi High Court considered the amendment brought out in Section 254 (2A) with effect from 1st October 2008. The High Court held that the legislative mandate has to be respected and the courts do not legislate but interpret the statute as a legislative edict. The third *proviso* after amendment undoubtedly bars and prohibits the Tribunal from extending interim stay order beyond 365 days. It stipulates deemed vacation and imposes no fault

consequences in strict terms. The language is clear and, therefore, has to be respected. However, the provision does not bar or prohibit an assessee from approaching the High Court by way of writ petition for continuation, extension or grant of stay. The High Court made the following conclusions:

- In view of the third *proviso* to Section 254 (2A) of the Act substituted by the Finance Act, 2008 with effect from 01.10.2008, the Tribunal cannot extend stay beyond the period of 365 days from the date of order of stay;
- In case default and delay is due to lapse on the part of the Revenue, the Tribunal is at liberty to conclude hearing and decide the appeal, if there is likelihood that the third *proviso* to Section 254(2A) would come into operation;
- The third *proviso* to Section 254(2A) does not bar or prohibit the Revenue or departmental representative from making a statement that they would not take coercive steps to recover the impugned demand and on such statement being made, it will be open to the Tribunal to adjourn the matter at the request of the Revenue;
- An assessee can file a writ petition in the High Court pleading and asking for stay and the High Court has power and jurisdiction to grant stay and issue directions to the Tribunal as may be required. Section 254(2A) does not prohibit/bar the High Court from issuing appropriate directions, including granting stay of recovery.

ii. ***New Delhi Television Limited vs. Deputy Commissioner of Income Tax and another – (2015) 376 ITR 51 (Delhi)***

In this case, the assessee filed an appeal before the Tribunal against the assessment order in relation to the assessment year 2009-10. The Tribunal granted stay of the demand on 26.03.2014 subject to certain conditions which had been fulfilled by the assessee. The Tribunal, subsequently on 10.10.2014, passed an order extending the interim stay. According to the jurisdictional High Court, the Tribunal has no authority to extend the period of stay beyond a period 365 days from the initial date of grant of stay. As 365 days were to elapse on 25.03.2015,

the assessee could not approach the Tribunal for any further extension of stay. In the meanwhile, the assessee's appeal before the Tribunal was listed for hearing but could not be taken up for reasons not attributable to the assessee. The Court held that since the assessee had already been granted conditional stay by the Tribunal in respect of the appeal that the Tribunal was in the midst of hearing the appeal, it would be in the interest of justice that the stay order granted by the Tribunal be continued till the disposal of the appeal pending before it as expeditiously as possible.

iii. ***Deputy Commissioner of Income Tax (TDS) vs. Vodafone Essar Gujarat Limited and another – (2015) 376 ITR 23 (Guj)***

In the above case, the respondent filed appeal against the assessment order to the tune of ₹7.21 crore and interest ₹1.20 crore for the assessment year 2008-09 and the assessment order to the tune of ₹9.04 crore and interest ₹1.75 crore for the assessment year 2009-10. The petitioner paid a sum of ₹6.37 crore for the assessment year 2008-09 and ₹8.13 crore for 2009-10. The petitioner filed a stay petition and stay order was granted by the Tribunal on 25.03.2011 for the period of 180 days from the date of receipt of order or till the appeal got decided. The said stay of demand has been extended from time to time and the stay has been extended beyond the period of 360 days, approximately 1000 days. The Revenue, aggrieved against the extension of stay, filed the present petition under Article 226 of the Constitution of India.

The Revenue contended the following:

- In view of Section 254(2A) of the Act, more particularly the second *proviso* and

The High Court was of the view that by no stretch of imagination, it can be argued that where the assessee is not responsible for the delay in the disposal of the appeal, yet the Tribunal has no power to extend the stay beyond the period of 365 days. The intention of the legislature, which has been made explicit by insertion of the words “even if the delay in disposing of the appeal is not attributable to the assessee”, renders the right of appeal granted to the assessee by the statute to be illusory for no fault on the part of the assessee.

the third *proviso* to Section 254 (2A) of the Act, any extension of stay and/or granting of stay or demand beyond the period of 365 days is absolutely illegal, wholly or without jurisdiction and contrary to Section 254(2A) of the Act;

- The Tribunal is barred from passing an order extending the stay of demand beyond 365 days;
- The Tribunal, being a creature of statute, is bound by the provisions of Section 254(2A) of the Act;
- When under the law/statute, it is provided that there cannot be any stay beyond the total period of 365 days, the same has to be responded by everybody including the Tribunal;
- The legislative intent of restricting the period of stay for a maximum period of 365 days is to see that appeals by the Tribunal are heard expeditiously and the assessee may not get undue benefit of the stay;
- In the present case, a huge tax liability is pending since many years and the stay has been extended for about 1,000 days;
- On the one hand, the appeals are not heard and on the other hand, the Tribunal goes on extending the stay of demand and, therefore, the interest of the Revenue has been prejudiced.

The respondent submitted the following:

- There may be number of reasons for the delay in disposing of the appeal by the Tribunal;
- The assessee cannot be punished, more particularly when the initial stay has been granted after due application of mind by the Tribunal and after a strong case is made out by the assessee for the grant of stay of demand;
- In the present case, the appeals were not decided and disposed of by the Tribunal as the issue involved in the appeals was pending before the Hon'ble Supreme Court;
- A substantial amount has already been paid by the assessee;
- The Tribunal has not committed any error in extending the stay of demand for more than 365 days by passing the impugned order.

The High Court analysed the provisions of

Section 254 (2A) of the Act. As per the third *proviso* of the Section, if appeal is not disposed within the period allowed under the first *proviso* i.e., within 180 days from the date of the stay order of the period or periods extended or allowed under the second *proviso*, which shall not, in any case, exceed 365 days, the order of stay shall stand vacated after the expiry of such period or periods, even if the delay in disposing of appeal is not attributable to the assessee. Therefore, the intention of the legislation seems to be very clear. However, the purpose and object of providing such time limit is required to be considered. The purpose and object of providing the time limit seems to be that after obtaining stay order, the assessee may not indulge into delay tactics and may not proceed further with the hearing of the appeal and may not misuse the grant of stay of demand. At the same time, it is the duty of the Tribunal to decide and dispose of such appeals as early as possible within the prescribed period under the first *proviso* and the second *proviso* to Section 245 (2A). There may be number of reasons for the Tribunal in not disposing of the appeal within the maximum period of 365 days despite their best efforts. There cannot be a legislative intent to punish a person though there is no fault of the assessee and/or the appellant.

The power to grant stay being inherent or incident is not defeated by the *proviso* to the sub-Section. The third *proviso* has to be read as a limitation on the power of the Tribunal to continue interim relief in a case where the hearing of the appeal has been delayed for acts attributable to the assessee. It cannot mean that a construction be given that the power to grant interim relief is denuded even if the acts attributable are not of the assessee but of the Revenue or of the Tribunal. The power of the Tribunal, therefore, to continue interim relief is not overridden by the language of the third *proviso* to Section 254(2A).

The extension of stay order beyond 365 days from the date of grant of initial stay would always be subject to the subjective satisfaction by the Appellate Tribunal and on an application made by the assessee-appellant to extend stay and on being satisfied that the delay in disposing of the appeal within a period of 365 days is not attributable to the assessee-appellant. The Appellate Tribunal is required to consider the facts of each case and arrive at subjective satisfaction in each case whether the delay is not disposing of the appeal within the period of 365 days is attributable to the appellant-assessee or not and/or whether

the assessee-appellant in whose favor stay has been granted, has co-operated in early disposal of the appeal or not and/or whether there is any delay tactics by such assessee-appellant. Therefore, the Tribunal is required to pass a speaking order on each application and after giving an opportunity to the department and record its satisfaction.

The High Court relied on the judgment in *Maruti Suzuki Limited (supra)* and it held that if the procedure laid down in the above said judgment is followed, it would meet the end of the justice and it may not increase the litigation either before the High Court and/or appropriate forum and the purpose and object of Section 254(2A) of the Act is achieved. The High Court directed the Tribunal to dispose of the appeals in the case where there is stay of demand by following the procedure as observed by that Court and in case of extension of stay, the Tribunal is to satisfy itself and also give a speaking order.

iv. ***'Pepsi Foods P. Limited vs. Assistant Commissioner of Income Tax and another' – (2015) 376 ITR 87 (Delhi)***

In this case, the writ petitioner challenged the validity of the third *proviso* to Section 254(2A) of the Act. The petitioners submitted the following before the High Court:

- The right of appeal is not inherent but once it has been granted it has to be construed as one which effectively redress the grievances;
- The right to obtain a stay of demand was integral and cardinal to an effect right of appeal;
- The introduction of the words '*even if the delay in disposing of the appeal is not attributable to the assessee*' in the third *proviso* by virtue of amendment of the Finance Act, 2008 has made the right of appeal illusory and the amendment is clearly arbitrary and contrary to the provisions of the Article 14 of the Constitution of India;
- The said amendment introduces a classification which has no nexus with the object sought to be achieved;
- It clubs assessee belonging to two different categories as one class;
- The assessee who are not responsible for any delay in the hearing of the appeal have been clubbed together with those assessee

to whom the delay was attributable, which caused hostile discrimination against the assessee who are law abiding and did not cause any delay in the hearing of their respective appeals;

- It was violative of Article 14 of the Constitution of India and liable to be struck down as being invalid.

The Revenue submitted the following as counter to the contentions of the petitioner:

- There was nothing wrong with the amendment brought about in 2008 in as much as all it did was to clarify the legislative intent and make it explicit;
- What was already provided under the said Act in the third *proviso* to Section 254(2A) has merely been clarified;
- There has been no class treatment given by the Legislature and that the said provision is not discriminatory;
- The intention behind the amendment was to clarify that the period of stay cannot be extended beyond 365 days under any circumstances.

The High Court analysed the provisions of Section 254(2A) of the Act and also the judgments relied on by both parties. The High Court held that this is not a case of excessive delegation of powers. The High Court was concerned with the question of discrimination, based on an impermissible or invalid classification. It is abundantly clear that the power granted to the Tribunal to hear and entertain an appeal and to pass orders would include the ancillary power of the Tribunal to grant a stay. The exercise of that power can be subjected to certain conditions. In the present case, the Court found that there are several conditions which have been stipulated.

- As per the first *proviso*, a stay order could be passed for a period not exceeding 180 days and the Tribunal should dispose of the appeal within that period;
- The second *proviso* stipulates that in case the appeal is not disposed within the period of 180 days, if the delay in disposing of the appeal is not attributable to assessee, the Tribunal has the power to extend the stay for a period not exceeding 365 days in aggregate;
- The third *proviso* stipulates that if the

appeal is not disposed of within the period of 365 days, then the order of stay shall stand vacated, even if the delay in disposing of the appeal is not attributable to the assessee.

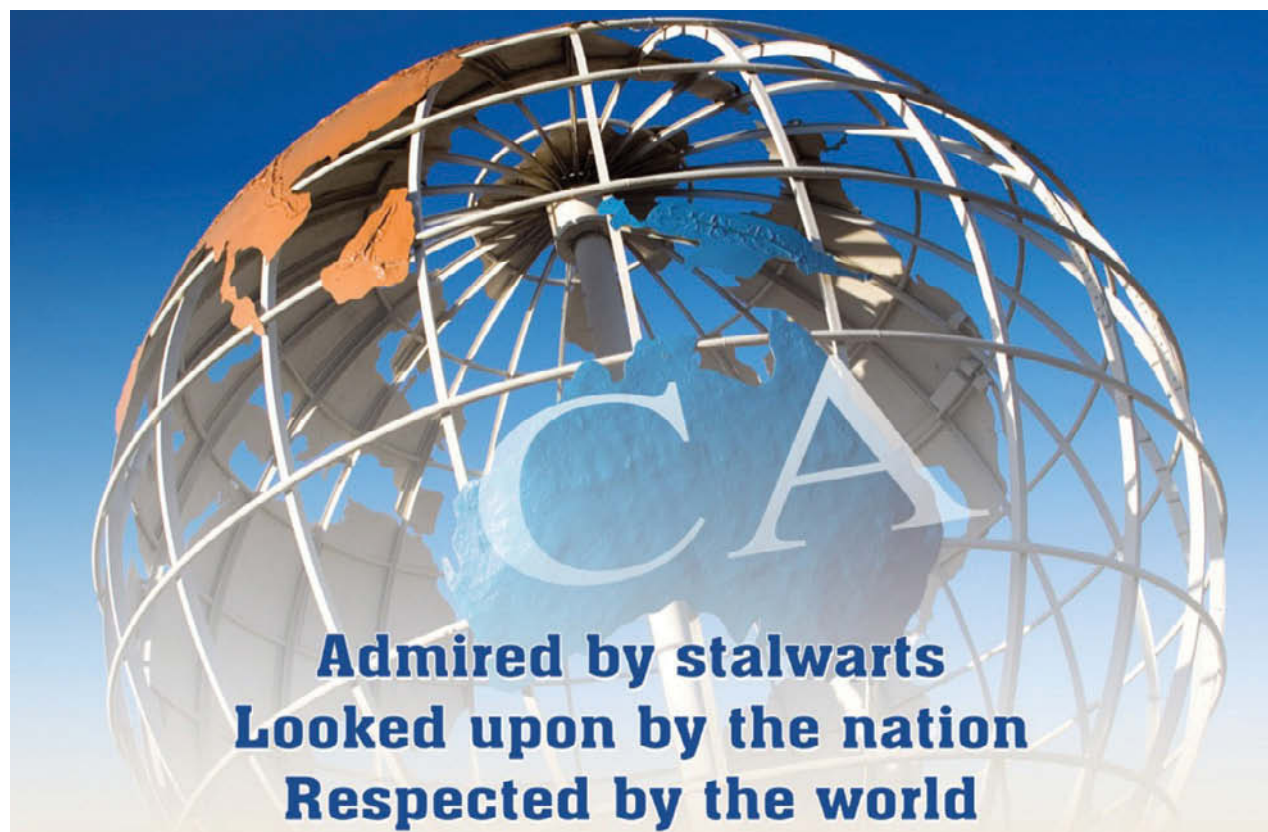
The High Court was of the view that by no stretch of imagination, it can be argued that where the assessee is not responsible for the delay in the disposal of the appeal, yet the Tribunal has no power to extend the stay beyond the period of 365 days. The intention of the legislature, which has been made explicit by insertion of the words *“even if the delay in disposing of the appeal is not attributable to the assessee”*, renders the right of appeal granted to the assessee by the statute to be illusory for no fault on the part of the assessee.

The High Court also considered the contentions of the petitioner that unequals have been treated equally. Assesseees who, after having obtained stay orders and by their conduct delay the appeal proceedings, have been treated in the same manner in which assesseees, who have not, in any way, delayed the proceedings in the appeal. The two classes of

assesseees are distinct and cannot be clubbed together. Such clubbing has led to hostile discrimination against the assesseees to whom the delay is not attributable. It is for the reason, the High Court found that the insertion of the expression *“even if the delay in disposing of the appeal is not attributable to the assessee”* by virtue of the Finance Act, 2008 violates the non discrimination clause of Article 14 of the Constitution of India. The High Court struck down the said expression as violative of Article 14 of the Constitution.

Conclusion

The above discussion clearly describes that how Section 254(2A) has travelled various courses of amendments. While the High Courts initially decided by relying and respecting the amendments brought by the legislation, the Delhi High Court in 2015 struck down the expression *‘even if the delay in disposing of the appeal is not attributable to the assessee’* found in third proviso to Section 254(2A) as violative of the Article 14 of the Constitution of India. ■



ACCOUNTANT'S BROWSER

'PROFESSIONAL NEWS & VIEWS PUBLISHED ELSEWHERE'

Index of some useful articles taken from Periodicals received during January-February 2016 for the reference of Faculty/Students & Members of the Institute.

1 | Accountancy

Accounting by Real Estate Companies by Dolphy D'Souza. *Bombay Chartered Accountant Journal*, January 2016, Vol.47-B/4, pp.87-96.

Changes Proposed to Peer Review Standards by Ken Tysiac. *Journal of Accountancy*, January 2016, pp.18.

FRS 102: Ten Things You Need to Know by Helen Lloyd. *Accountancy*, January 2016, pp.60-63.

IFRS 9: A Case of Too Little Too Late. *Accountancy*, January 2016, pp.57.

2 | Auditing

Case to Answer: KPMG has been Cleared Seven Years after HBOS's Failure but if the Matter is Reopened, the Firm may still Need to Account for its Audit Work to Regulators by Penny Sukhraj reports. *Accountancy*, January 2016, pp.14-17.

Restricting Non-Audit Services in Europe-The Potential (Lack of) Impact of a Blacklist and a Fee Cap on Auditor Independence and Audit Quality. *Accounting in Europe*, 2015, Vol.12, 1-2, pp.61-86.

Small Firm Audit Partner Hiring Crisis: A Role Play for Critical Thinking and Negotiation Skills by George R. Aldhizer III. *Issues in Accounting Education*, November 2015. Vol.30/4, pp.275-296.

3 | Economics

Currency Manipulation: Legal Provisions under IMF and WTO by Anshul Thakur and Shalini Kurmi. *Company Law Journal*, January 2016. Vol.1, pp.19-29.

FEMA Update by Mayur Nayak and Natwar Thakrar. *The Chamber's Journal*, January 2016. Vol. 4/4, pp.129-131.

Game of Risk: Rising Interest Rates, Political Uncertainty, US Elections and a Possible Brexit all Threaten to Undermine Growth by Chris Williamson. *Accountancy*, January 2016, pp.18-19.

Indian Real Estate: 2015 in Review & Gazing into 2016 by Anuj Puri. *The Global Analyst*, January 2016, pp. 22-25.

4 | Investment

Introduction of Secretarial Standards-A New Era of Corporate Governance by Divesh Goyal. *Chartered Secretary*. January 2016, Vol. 46/01, pp.38.

SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015: An Analysis by Prateek Suri. *Company Law Journal*, January 2016. Vol.1, pp.40-45.

Secretarial Standards and Corporate Governance by Dipti Mehta. *Chartered Secretary*. January 2016, Vol. 46/01, pp.34-37.

Secretarial Standards for All Stakeholders by Ahlalada Rao V. *Chartered Secretary*. January 2016, Vol. 46/01, pp.60-67.

5 | Law

Dissenting Opinions of Judges in the Supreme Court by Yogesh Pratap Singh and Affoz Alam. *Economic and Political Weekly*, January 2016, Vol.51/5, pp.13-19.

6 | Management

Challenges in Sustainability and Integrated Reporting by Lies Bouten and Sophie Hoozee. *Company Law Journal*, November 2015. Vol.30/4, pp.373-381.

Top People in Business by Mark Zuckerberg. *Fortune India*, January 2016, pp.62-69.

7 | Taxation & Finance

Central Excise and Customs-Case Law Update by Hasmukh Kamdar. *The Chamber's Journal*, January 2016. Vol. 4/4, pp.116-117.

How to Avoid the 10% Additional Tax on Early Retirement Distributions by Jillian K. Poyzer and Timothy R. Yoder. *Journal of Accountancy*, January 2016, pp.47-53.

International Taxation: Framework of Sources of Exchange of Information in Tax Matters-An Overview by Anil D. Doshi and Mayur Nayak. *Bombay Chartered Accountant Journal*, January 2016, Vol.47-B/4, pp.44-53. ■

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 011-30110419 and 011-30110420 or by e-mail at library@icai.in; kmray@icai.in.

ICAI Awards for Excellence in Financial Reporting

ICAI Awards for Excellence in Financial Reporting for the year 2014-15

Category		Award	Name of the Entity	Annual Report and Accounts for the year ended
I	Public Sector Banks	Decided not to give any award in this category		
II	Private Banks (including Co-operative banks and Foreign Banks)	Decided not to give any award in this category		
III	Insurance Sector	Gold Shield	HDFC ERGO General Insurance Company Limited	March 31, 2015
		Silver Shield	HDFC Standard Life Insurance Company Limited	March 31, 2015
		Plaque for commended Annual Report	ICICI Prudential Life Insurance Company Limited	March 31, 2015
IV	Financial Services Sector (other than Banking and Insurance)	Decided not to give any award in this category		
V	Manufacturing Sector (Turn over equal to or more than ₹500 crore)	Gold Shield	Nil	Nil
		Silver Shield	Jointly to ACC Limited Asian Paints Limited Abbott India Ltd.	December 31, 2014 March 31, 2015 March 31, 2015
		Plaque for commended Annual Report	Nil	Nil
VI	Manufacturing Sector (Turn over less than ₹500 crore)	Gold Shield	Nil	Nil
		Silver Shield	Kewal Kiran Clothing Ltd.	March 31, 2015
		Plaque for commended Annual Report	Nil	Nil
VII	Infrastructure and Construction Sector – (Turnover equal to or more than ₹500 crore)	Decided not to give any awards in this Category		
VIII	Infrastructure & Construction Sector (Turnover less than ₹500 crore)	Decided not to give any awards in this Category		
IX	Service Sector (other than financial services sector) (Turn over equal to or more than ₹500 crore)	Gold Shield	Nil	Nil
		Silver Shield	Zensar Technologies Limited	March 31, 2015
		Plaque for commended Annual Report	Mindtree Limited	March 31, 2015
X	Service Sector (other than financial services sector) (Turn over less than ₹500 crore)	Gold Shield	Nil	Nil
		Silver Shield	Nil	Nil
		Plaque for commended Annual Report	Alphageo (India) Limited	March 31, 2015
XI	Not-for- Profit Sector	Gold Shield	Nil	Nil
		Silver Shield	Vidya Dairy	March 31, 2015
		Plaque for commended Annual Report	Swami Vivekananda Youth Movement	March 31, 2015
XII	Local Bodies	Nil		
XIII	Agricultural Sector	Nil		

Disclaimer: The awardees have been selected by the panel of judges on review of accounting practices adopted by the participating enterprises in the preparation of their financial statements without regard to their financial condition and operating

performance. Accordingly, the awards signify that the accounting policies followed by the concerned enterprise are the best amongst the enterprises that have participated in the Competition.

Result: IPC - November 2015



**TOPPERS IN CHARTERED ACCOUNTANTS
INTERMEDIATE (IPC) EXAMINATION
HELD IN NOVEMBER - 2015**

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The result of the Chartered Accountants Intermediate (IPC) Examination was declared recently.

The details of percentage of candidates passed in the above said examinations are given below:

EXAMINATION	GROUP	No. of candidates appeared	No. of candidates passed	% of pass
Intermediate (IPC)	Both Group	50,892	2,108	4.14
	Group-I	1,19,449	15,197	12.72
	Group-II	1,07,145	11,450	10.69

The details of top three rank holders on the all India basis for the Intermediate (IPC) Examination held in November-2015 with the marks secured by them are also given herewith.

PRESS RELEASE	ALL INDIA TOPPER FIRST RANK	ALL INDIA TOPPER SECOND RANK	ALL INDIA TOPPER THIRD RANK
			
	NAME	PRANAV PRATIK TULSHYAN	ABHISHEK AGARWAL
	CITY	KATHMANDU	NEW DELHI
	ROLL NO.	400127	340230
	MARKS	544	539
	%	77.71	77.00
	PHONE	8972452605	9990661717
			AYUSHI GOYAL
			DELHI
			352779
			535
			76.43
			9654975434

A Humid 2

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Committee for Members in Industry (CMII)
The Institute of Chartered Accountants of India
(Set up by an Act of Parliament)

The Committee for Members in Industry (CMII) of The Institute of Chartered Accountants of India (ICAI) is, inter-alia, the one stop destination for providing the placement services to the members of the Institute. The CMII organizes Campus Placement Programmes to provide placement assistance to the Members twice a year. CMII augments the venture of getting the Chartered Accountants placed in apex industries through the ICAI Job Portal.

We are extremely happy to inform that the ICAI Job Portal supplements the existing placement assistance provided by the Committee for Members in Industry to the Newly qualified Chartered Accountants and Experienced Members, by providing a converging platform for the potential employers as well as the Members of the Institute.

Welcome to the ICAI Job Portal

The ICAI Job Portal has been designed on the lines of the premium Job Sites and aims to provide world-class services free of cost to our Members. This Job Portal is unique in the sense that it serves as one stop destination to Chartered Accountants as they don't need to visit other Job sites for Job Search.

The Prominent Features of this portal are as follows:

For Employers:

- Hot Vacancy-Premium Job Posting Services
- Advanced Search Tools

- Reach through Job Alerts
- Resume Database Access Subscription
- Unlimited writing for Job Advertisement
- Extremely fast display of Job Advertisement
- Facility to monitor the activities such as a 'MIS' on the number of logins, duration of logins, candidates contacted etc done through the Account.

For Candidates

- Update Alert for CV
- Job Messenger and SMS Facility
- Email Alerts
- Resume Building Services
- Job Search Facility on the Basis of Functional Area, Industry, Experience, Locations, Expected Salary, Job Type, Freshness etc
- Hot Employer/Preferred Employer marking facility

We sincerely hope that this Job Portal will be extremely helpful to the recruiting entities in their venture.

ICAI Job Portal –World Class Job Portal for recruiting World Class Finance and Accounting Professionals.

Chairman, CMII

For more details please contact:-

CMII Secretariat at 011-30110548/491/450,
ruchi_gupta@icaai.in; campus@icaai.in; placements@icaai.in

CAMPUS PLACEMENT PROGRAMME

February-March, 2016

For Newly Qualified Chartered Accountants

The Committee for Members in Industry of the Institute organises Campus Placement Programme for newly qualified Chartered Accountants at various centres all over India. The scheme has been evolved to provide an opportunity both to employing organisations as well as the young professional aspirants to meet and explore the possibility of taking up positions in Industry.

Invitation to Organisations/CA Firms

Campus Placement Programme will be organized at various bigger centres viz. Bangalore, Chennai, Hyderabad, Kolkata, Mumbai and New Delhi.

The schedule of programme is given below.

Schedule of the Campus Placement Programme February-March, 2016 at Bigger Centres

Centre	Dates
New Delhi	14th, 15th, 16th, 17th, 18th & 19th March, 2016
Mumbai	14th, 15th, 16th, 17th, 18th & 19th March, 2016
Chennai & Kolkata	15th, 16th, 17th, 18th & 19th March, 2016
Bangalore	15th, 16th, 17th, 18th & 19th March, 2016
Hyderabad	16th, 17th, 18th & 19th March, 2016

The programme would be organized in the months of February-March, 2016 for the candidates who would be passing in the CA Final examination held in November, 2015 and also for others who are eligible.

Chairman

Committee for Members in Industry

The Institute of Chartered Accountants of India



Organised By:

Committee for Members in Industry (CMII)

The Institute of Chartered Accountants of India

(Set up by an Act of Parliament)

'ICAI BHAWAN', Post Box No 7100, Indraprastha Marg, New Delhi- 110002

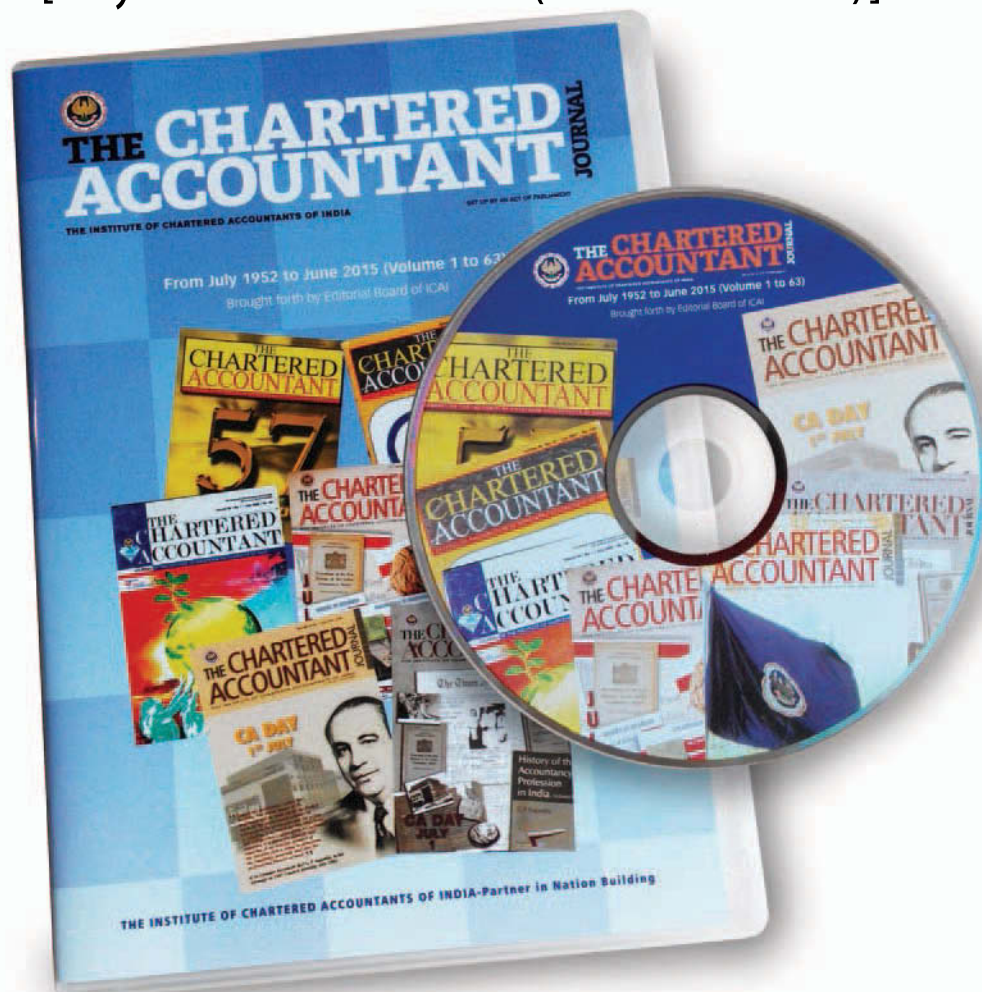
Tel. No. (011) 30110491/548/549

E-mail: campus@icai.in, placements@icai.in, cmii@icai.in

Website: www.icai.org, www.placement.icai.org

DVD of The Chartered Accountant Journal

[July 1952 to June 2015 (Volume 1 to 63)]



The Editorial Board of the Institute of Chartered Accountants of India has brought out a dynamic HTMLised searchable DVD of the past issues of *The Chartered Accountant Journal* from July 1952 to June 2015 (Volume 1 to 63).

Users can 'global search' the contents through key words relating to Accounting, Auditing, Taxation, etc., besides searching year-wise/Volume-wise/month-wise, author's name-wise and even category-wise like Government Circulars & Notifications, Legal Decisions, ICAI News, etc.

Price: ₹ 150/- (including postage)

Ordering Information: The DVD may be purchased directly from the sales counter at the Head Office of the ICAI. To order by post, requisition may be sent to the Postal Sales Department of the ICAI at postalsales@icai.in or contact at 120-3045947.



**The Institute of
Chartered Accountants of India**

'ICAI Bhawan', Post Box Number 7100.
Indraprastha Marg, New Delhi - 110 002

Announcement

**The Institute of Chartered Accountants of India,
ICAI Bhawan, Indraprasth Marg,
New Delhi-110 002**

25th January, 2016

In pursuance of Regulation 81(5) of the Chartered Accountants Regulations, 1988, read with Rule 4 of the Chartered Accountants Students' Association Rules, the Council of the Institute of Chartered Accountants of India is pleased to announce the setting up of Branches of **Southern India Chartered Accountants Students' Association** at **Anantapur, Kalaburgi, Kurnool and West Godavari District** with effect from **December 11th 2015**.

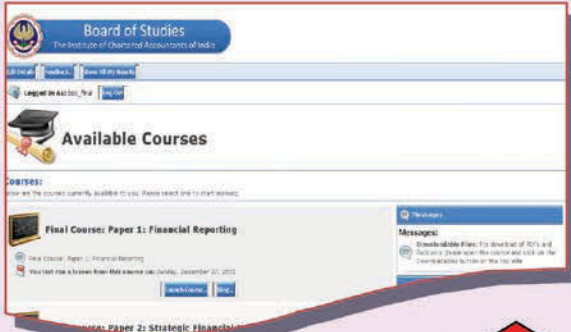
The Branches shall be known as **Anantapur Branch of SICASA, Kalaburgi Branch of SICASA, Kurnool Branch of SICASA and West Godavari District Branch of SICASA.**

As prescribed Rule 4(b) of the Chartered Accountants Students' Association Rules, the Branch shall, at all time function subject to the control, supervision and direction of the Central Council, exercised through the Regional Council or the Regional Students' Association and shall be governed by the directions issued by the Central Council from time to time, for the functioning of the Branches of Students' Association or such other directions that may be issued from time to time.

(V. Sagar)
Secretary

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The Institute of Chartered Accountants of India

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Announcement

Extension of date to complete GMCS-I Course by the students registered for articleship training on or after 1st May, 2012

It has been decided to grant extension to students, who were registered for practical training on or after 1st May, 2012 and completed one year of their practical training but not completed the GMCS-I course, are required to complete GMCS-I Course latest by 31st December, 2016.

The above students are advised to register at the online portal www.icaionlineregistration.org or contact the nearest Regional Council/Branch for registration in GMCS-I Course and complete the same at the earliest but not later than 31st December, 2016.

Additional Secretary
Board of Studies

FORM IV (SEE RULE 8)

1. Place of Publication : New Delhi
2. Periodicity of its publication : Monthly
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Nationality : Indian
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Institute of Chartered Accountants of India, Indraprastha Marg, Post Box 7100,
New Delhi-110002.
6. Name and addresses of individuals who own the newspaper and partners or shareholders holding more than one per cent of the total capital : Council of the Institute of Chartered Accountants of India, constituted under the Chartered Accountants Act, 1949 (Act XXXVIII of 1949). There is no share capital.

I, V. Sagar hereby declare that the particulars given above are true to the best of my knowledge and belief.

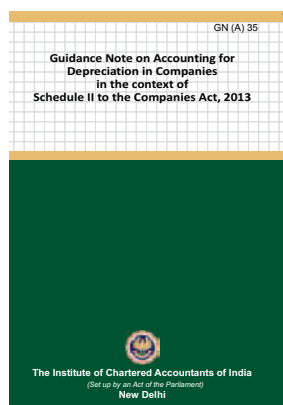
Date: February 22, 2016
sd/-
V. Sagar
Signature of publisher

NEW GUIDANCE NOTE ON ACCOUNTING

GN (A) 35 Guidance Note on Accounting for Depreciation in Companies in the context of Schedule II to the Companies Act, 2013 (Issued 2016)

The Council of the Institute has brought out 'Guidance Note on Accounting for Depreciation in Companies in the context of Schedule II to the Companies Act, 2013'. This Guidance Note provides guidance on certain significant issues that may arise from the practical application of Schedule II to the Companies Act, 2013 with a view to establish consistent practice with regard to the accounting for depreciation.

This Guidance Note becomes applicable for accounting periods beginning on or after 1st April, 2016; its earlier application is encouraged.



Ordering Information :

Price: ₹ 60/-

Available at: Sale counters of the Institute of Chartered Accountants of India at New Delhi, Chennai, Mumbai, Kolkata and Kanpur. Copies can also be obtained by post. To order by post, request may be sent along with a demand draft for the amount of the price of the publication plus the shipping charges in favour of "The Secretary, The Institute of Chartered Accountants of India", payable at New Delhi, to the Postal Sales Department, The Institute of Chartered Accountants of India, ICAI Bhawan, A-29, Sector-62, Noida – 201309 (U.P) or alternatively at postalsales@icai.in

Events

Forthcoming Events¹

Sl. No.	Title of the Seminar/Conference	Date	Place	CPE Hours
Committee on Management Accounting				
1.	Announcement of MBFCC 10 th batch	Tentatively from March , 2016	Delhi, Mumbai & others	100 CPE hours
Topics	MBFCC 10 th Batch			
Fees	Registration Fee ₹ 30,000/-, Residential Programme Fee ₹ 20,000/-			
Contact Person	Programme/Course Co-ordinator: Dr. S. Z. H. Zaidi For Registration & Further Details: CMA Office: vaishalijaggi@icai.in Ph: 0120-3045905 Secretary, CMA: zaidi@icai.in Ph: 0120-3876879 Link- http://www.icai.org/post.html?post_id=4092			
Committee on Financial Markets and Investors Protection				
Course Chairman: CA. Anuj Goel				
2.	Certificate course on Forex and Treasury Management	12-March-16	Noida	48 hrs
		26-March-16	Mumbai	48 hrs
		9-April-16	Bangalore	48 hrs
Topics	The Certificate course covers the following topics: Module – I Chapter– 1 Treasury – Organisational Structure Chapter– 2 Treasury – Process Chapter– 3 Treasury – Domestic Chapter– 4 Treasury – Forex Chapter– 5 Treasury – Mathematics Chapter– 6 Treasury – Technology Module – II Chapter– 7 Treasury – Accounting Chapter – 8 Treasury – Taxation Chapter – 9 Treasury – Types Chapter – 10 Treasury – Risk Management Chapter – 11 Treasury – Regulation, Supervision And Compliance Chapter – 12 Treasury – Auditing Module III Practical Concepts			
Fees	₹ 17,500			
Contact Person	Course Co-ordinator: Committee Secretariat For Registration and making online payment, please visit: http://www.icai.org/post.html?post_id=3552&c_id=266 For any other queries, contact at: 0120-3045945 or email at: fxtm@icai.in			

¹ For more details about the forthcoming events, please refer the detailed announcements hosted on the ICAI website www.icai.org

Classifieds

- 5372** Jamshedpur (Jharkhand) based CA firm, is looking for CA's India for expansion of their Firm "Jaluka & Associates" as partner on mutually agreeable terms. Contact-9709138711, jalukanandan@gmail.com.
- 5373** Mumbai based CA Proprietorship firm having experience of 12 years in respected field looking for partnership/merger for Mumbai from the firm outside Mumbai and intend to start office here. Please connect on cafirmmumbai@gmail.com
- 5374** Mumbai based CA firm is seeking professional work on assignment/sharing/retainer basis relating to Consolidation, Due Diligence, GAAP convergence, Valuations and other related areas. Contact: mantri.hemant@sm-ca.com; 9892554244
- 5375** A Ludhiana based CA firm with 5 partners in practice for 22 years looking for work on assignment, partnership basis all over Punjab/North India. Contact: info@cakkassociates.co.in
- 5376** Navi Mumbai based CA firm is looking for Work on assignment/sub contract basis. Proprietor has good experience in audit, taxation, and valuation. Contact: nkp9870@gmail.com, 7738644480.
- 5377** FCA with 35 yrs professional experience wishes to join a CA firm on retainer/partnership basis preferably in Kanpur/Lucknow/Mumbai. Contact: 9839029218, vinod3216@gmail.com
- 5378** Mumbai based CA with 31 years of industry experience in India & abroad seeks professional work on assignment/retainer basis. Contact 9867268432, linushahs@yahoo.co.uk.
- 5379** DISA Qualified, 25 years experienced, Chennai based FCA available for Bank Audits and other Professional Work on an assignment/sharing basis. Contact: ca.prakashdugar@gmail.com, Mobile: 8695680960.
- 5380** FCA, CISA seeks from CAs, CIT/ITAT appeals, Transfer pricing, DTAA, FEMA, Forensic/IT audits assignments as partner/networking. Delhi based. Contact: sathi231@gmail.com/+91965458202
- 5381** Patel & Deodhar, a firm of Chartered Accountants, operating from Western Suburb of Mumbai have vacancies for Chartered Accountants with 2–3 years experience, team leading capabilities and communication skills at their Mumbai and Delhi office. The firm has experience in the field of Internal, Statutory audits, Consultancy work etc. Apply with complete details to: mumbai@pateldeodhar.com; Call: 2643 6359/2643 6370
- 5382** Mumbai based CA is seeking professional work on assignment/sharing/retainer basis relating to Accounting, Auditing, Direct & Indirect Taxation, Assessments, Company Law. 7506043193, cafdoshi@gmail.com
- 5383** Jalandhar (Punjab) based firm invites Networking Proposals and seeks Professional Work on assignment/sub-contract/sharing basis. Contact : anandchopra25@gmail.com, 98725 42300
- 5384** Banka (Bihar) based CA firm requires professional work on assignment, subcontract basis. Contact 8128990469.

ICAI Committees 2016-17



COMPOSITION OF ICAI COMMITTEES 2016-17

A. Standing Committees

Executive Committee

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Vice-President in Office

CA. Nilesh Shivji Vikamsey Mumbai

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CA. K. Sripriya Chennai
CA. Ranjeet Kumar Agarwal Kolkata
CA. Kemisha Soni Indore
CA. Sanjay Vasudeva New Delhi
Shri Manoj Kumar New Delhi

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CA. Rajesh Sharma New Delhi
Shri Guruprasad Mohapatra New Delhi

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CA. Nilesh Shivji Vikamsey Mumbai

Members

CA. Manu Agrawal Kanpur
CA. Sanjay Vasudeva New Delhi

B. Non-Standing Committees

Accounting Standards Board

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CA. Shiwaji Bhikaji Zaware Pune

Vice-Chairman

CA. M. P. Vijay Kumar Chennai

Members

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CA. Nilesh Shivji Vikamsey, Vice-President (Ex-Officio) Mumbai
CA. Anil Satyanarayan Bhandari Mumbai
CA. Tarun Jamnadas Ghia Mumbai

CA. Nandkishore Chidamber Hegde

CA. Nihar Niranjana Jambusaria

CA. Dhinal Ashvinbhai Shah

CA. Debashis Mitra

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Dr. P. C. Jain

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Mumbai

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Kolkata

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New Delhi

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New Delhi

Faridabad

New Delhi

New Delhi

New Delhi

Kolkata

New Delhi

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CA. G. Sekar

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CA. Shiwaji Bhikaji Zaware

CA. M. P. Vijay Kumar

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CA. Sanjiv Kumar Chaudhary

Ms. Indu Malhotra

Kolkata

Chennai

Ahmedabad

Pune

Chennai

Jaipur

New Delhi

New Delhi

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Vice-Chairman

CA. Sanjay Vasudeva

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CA. Ranjeet Kumar Agarwal

CA. Sushil Kumar Goyal

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Mumbai

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CA. Manu Agrawal Kanpur
CA. Atul Kumar Gupta New Delhi
Dr. P. C. Jain New Delhi
Government Nominee (Name awaited)

Corporate Social Responsibility

Chairman

CA. Prafulla Preme Sukh Chhajed

Mumbai

Vice-Chairman

CA. Rajesh Sharma

New Delhi

Members

CA. M. Devaraja Reddy, President (Ex-Officio) Hyderabad
CA. Nilesh Shivji Vikamsey, Vice-President (Ex-Officio) Mumbai
CA. Jay Chhaira Surat
CA. Nihar Niranjan Jambusaria Mumbai
CA. Dhiraj Kumar Khandelwal Mumbai
CA. Mangesh Pandurang Kinare Mumbai
CA. Babu Abraham Kallivayalil Kochi
CA. Madhukar Narayan Hiregange Bangalore
CA. G. Sekar Chennai
CA. Manu Agrawal Kanpur
CA. Naveen N. D. Gupta New Delhi
CA. Vijay Kumar Gupta Faridabad
Shri Manoj Kumar New Delhi
Shri Guruprasad Mohapatra New Delhi

Infrastructure Development Committee

Chairman

CA. M. Devaraja Reddy

Hyderabad

Vice-Chairman

CA. Nilesh Shivji Vikamsey

Mumbai

Members

CA. Jay Chhaira Surat
CA. Prafulla Preme Sukh Chhajed Mumbai
CA. Mangesh Pandurang Kinare Mumbai
CA. Dhinal Ashvinbhai Shah Ahmedabad
CA. Babu Abraham Kallivayalil Kochi
CA. G. Sekar Chennai
CA. M. P. Vijay Kumar Chennai
CA. Ranjeet Kumar Agarwal Kolkata
CA. Shyam Lal Agarwal Jaipur
CA. Mukesh Singh Kushwah Ghaziabad
CA. Sanjay Agarwal New Delhi
CA. Naveen N. D. Gupta New Delhi
Shri Sunil Kanoria Kolkata
Government Nominee (Name awaited)

HR Transformation Committee

Chairman

CA. M. Devaraja Reddy

Hyderabad

Vice-Chairman

CA. Nilesh Shivji Vikamsey

Mumbai

Members

CA. Nandkishore Chidamber Hegde Mumbai
CA. Nihar Niranjan Jambusaria Mumbai
CA. Dhiraj Kumar Khandelwal Mumbai

ICAI Committees 2016-17

CA. Mangesh Pandurang Kinare	Mumbai
CA. Babu Abraham Kallivayalil	Kochi
CA. K. Sripriya	Chennai
CA. Manu Agrawal	Kanpur
CA. Sanjiv Kumar Chaudhary	New Delhi
CA. Naveen N. D. Gupta	New Delhi
CA. Rajesh Sharma	New Delhi
Dr. P. C. Jain	New Delhi

Digital Transformation and Process Reengineering Committee

Chairman	
CA. Sanjay Agarwal	New Delhi

Vice-Chairman

CA. Anil Satyanarayan Bhandari	Mumbai
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Members

CA. M. Devaraja Reddy, President (Ex-Officio)	Hyderabad
CA. Nilesh Shivji Vikamsey, Vice-President (Ex-Officio)	Mumbai
CA. Prafulla Premsukh Chhajed	Mumbai
CA. Nandkishore Chidamber Hegde	Mumbai
CA. Dhiraj Kumar Khandelwal	Mumbai
CA. Madhukar Narayan Hiregange	Bangalore
CA. K. Sripriya	Chennai
CA. M. P. Vijay Kumar	Chennai
CA. Debashis Mitra	Kolkata
CA. Manu Agrawal	Kanpur
CA. Atul Kumar Gupta	New Delhi
CA. Sanjay Vasudeva	New Delhi
Shri Chandra Wadhwa	New Delhi
Government Nominee (Name awaited)	

Management Committee

Chairman	
CA. M. Devaraja Reddy	Hyderabad

Vice-Chairman

CA. Nilesh Shivji Vikamsey	Mumbai
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Members

CA. Nandkishore Chidamber Hegde	Mumbai
CA. Nihar Niranjan Jambusaria	Mumbai
CA. Shiwaji Bhikaji Zaware	Pune
CA. G. Sekar	Chennai
CA. K. Sripriya	Chennai
CA. M. P. Vijay Kumar	Chennai
CA. Debashis Mitra	Kolkata
CA. Mukesh Singh Kushwah	Ghaziabad
CA. Prakash Sharma	Jaipur
CA. Naveen N. D. Gupta	New Delhi
CA. Vijay Kumar Gupta	Faridabad
CA. Rajesh Sharma	New Delhi
Shri Manoj Kumar	New Delhi

Legal Coordination Committee

Chairman	
CA. Sanjay Agarwal	New Delhi

Vice-Chairman

CA. Madhukar Narayan Hiregange	Bangalore
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Members

CA. M. Devaraja Reddy, President (Ex-Officio)	Hyderabad
CA. Nilesh Shivji Vikamsey, Vice-President (Ex-Officio)	Mumbai
CA. Tarun Jamnadas Ghia	Mumbai
CA. Nandkishore Chidamber Hegde	Mumbai
CA. Dhinal Ashvinbhai Shah	Ahmedabad
CA. M. P. Vijay Kumar	Chennai
CA. Ranjeet Kumar Agarwal	Kolkata
CA. Debashis Mitra	Kolkata
CA. Shyam Lal Agarwal	Jaipur
CA. Sanjiv Kumar Chaudhary	New Delhi
Ms. Indu Malhotra	New Delhi
Government Nominee (Name awaited)	

Committee for Members in Entrepreneurship and Public Service

Chairman

CA. Babu Abraham Kallivayalil	Kochi
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Vice-Chairman

CA. Prakash Sharma	Jaipur
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Members

CA. M. Devaraja Reddy, President (Ex-Officio)	Hyderabad
CA. Nilesh Shivji Vikamsey, Vice-President (Ex-Officio)	Mumbai
CA. Tarun Jamnadas Ghia	Mumbai
CA. Nihar Niranjan Jambusaria	Mumbai
CA. Dhiraj Kumar Khandelwal	Mumbai
CA. Shiwaji Bhikaji Zaware	Pune
CA. G. Sekar	Chennai
CA. Ranjeet Kumar Agarwal	Kolkata
CA. Shyam Lal Agarwal	Jaipur
CA. Sanjay Agarwal	New Delhi
CA. Naveen N. D. Gupta	New Delhi
CA. Rajesh Sharma	New Delhi
Shri Manoj Kumar	New Delhi
Shri Guruprasad Mohapatra	New Delhi
Shri P. K. Mishra	New Delhi
Shri Sunil Kanoria	Kolkata

National Economic Affairs Committee

Chairman

CA. Atul Kumar Gupta	New Delhi
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Vice-Chairman

CA. Anil Satyanarayan Bhandari	Mumbai
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Members

CA. M. Devaraja Reddy, President (Ex-Officio)	Hyderabad
CA. Nilesh Shivji Vikamsey, Vice-President (Ex-Officio)	Mumbai
CA. Mangesh Pandurang Kinare	Mumbai
CA. Babu Abraham Kallivayalil	Kochi
CA. Madhukar Narayan Hiregange	Bangalore
CA. G. Sekar	Chennai
CA. Ranjeet Kumar Agarwal	Kolkata
CA. Debashis Mitra	Kolkata
CA. Mukesh Singh Kushwah	Ghaziabad
CA. Rajesh Sharma	New Delhi
CA. Sanjay Vasudeva	New Delhi
Shri Guruprasad Mohapatra	New Delhi
Shri Sunil Kanoria	Kolkata

C. Other Committees

Board of Discipline (u/s 21A)

Presiding Officer

CA. M. Devaraja Reddy	Hyderabad
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Members

CA. Atul Kumar Gupta	New Delhi
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Disciplinary Committee (u/s 21 B) Bench 1

Presiding Officer

CA. M. Devaraja Reddy	Hyderabad
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Members

CA. Dhinal Ashvinbhai Shah	Ahmedabad
CA. Debashis Mitra	Kolkata

Disciplinary Committee (u/s 21 B) Bench 2

Presiding Officer

CA. Nilesh Shivji Vikamsey	Mumbai
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Members

CA. Mangesh Pandurang Kinare	Mumbai
CA. Naveen N. D. Gupta	New Delhi

International Update

A Vision for Integrated Thinking and the Role of Finance Professionals

Integrated reporting continues to gain global momentum and help change the way businesses think about creating value over time—but it is integrated thinking that will ultimately change corporate behavior and lead to more resilient organizations and greater trust in business and government, says Stathis Gould, Head of Professional Accountants in Business, IFAC on IFAC Knowledge Gateway. *Integrated thinking* as the critical foundation of integrated reporting. Without it, the ultimate objective of sustainable organizations, markets, and societies cannot be achieved. The chicken and egg analogy can be applied to integrated thinking and integrated reporting: while reporting can lead to a journey of greater transparency and, hopefully, behaviour change within an organization, leadership on integrated thinking is the key to unlock a change of mindset and purpose, he said. IFAC recently published *Creating Value with Integrated Thinking: The Role of Professional Accountants* to highlight the important role accountants play in integrated thinking. Integrated thinking and reporting provides a means and additional incentive for CFOs, and their finance teams, to focus on the information and decisions that matter to the organization and its potential success. For finance teams that have begun to shift toward business partnership within their organization, the principles and concepts of integrated thinking and reporting are a natural progression on their journey.

(Source: <https://www.ifac.org/>)

Creating an Optimised Environment for Audit Quality

Firms of all sizes must create an environment with the features that facilitate audit quality, according to Monica Foerster, Deputy Chair, IFAC SMP Committee and Rogério Garcia, Technical Director, IBRACON. In a write-up on IFAC Knowledge Gateway, they say that the business environment around the globe is in constant change and getting more and more complex almost on a daily basis. Auditors have been challenged by regulators and other stakeholders to demonstrate that they can keep pace with such changes while maintaining a high level of quality in their work. While

initiatives taken by auditors are essential on the path to enhancing audit quality, external factors also play an important role. An analysis as to how to enhance audit quality should consider a holistic view that includes auditors, preparers, other market participants, and regulators. Effective continuous education programmes for preparers and auditors are key to keeping the professionals up to date with relevant changes in rules and regulations. Companies can also contribute to audit quality by having a robust corporate governance structure. The adoption of an ethical culture within the organization, as well as a recruitment and training policy for employees, especially those involved directly or indirectly in key internal control and financial reporting processes, is critical.

(Source: <https://www.ifac.org/>)

IESBA Nears Finalisation of Revised Long Association Provisions in Ethics Code

IESBA, the Ethics Board recently released for public comment the Exposure Draft, Limited Re-exposure of Proposed Changes to the Code Addressing the Long Association of Personnel with an Audit Client (the ED). The ED relates to the IESBA's project to develop more robust and comprehensive provisions dealing with the long association of personnel with an audit or assurance client. It contains a basis for conclusions regarding proposals that have been finalised, as well as the limited re-exposure of three remaining issues. Included in the ED are revised provisions addressing other long association proposals that the IESBA has now finalized, including an increase in cooling-off period for EPs from two to five years on audits of all PIEs; and additional restrictions on activities that can be performed during the cooling-off period. To assist stakeholders in better understanding the re-exposed proposals, the ED includes a set of proposed IESBA Staff Questions and Answers, which will be issued with the final provisions to facilitate implementation. The Ethics Board invites all stakeholders to comment on the ED. To access the ED and submit a comment, please visit the Ethics Board's website at www.ethicsboard.org. Comments on the Long Association ED are requested by May 9, 2016.

(Source: <http://www.ifac.org/>)

IPSASB Publishes Exposure Draft 61 Proposing Revisions to the Cash Basis IPSAS

The International Public Sector Accounting Standards Board (IPSASB) recently released for comment Exposure Draft (ED) 61, *Amendments to Financial Reporting under the Cash Basis of Accounting* (the Cash Basis IPSAS). The Cash Basis IPSAS has two parts. Part 1 identifies requirements that a reporting entity needs to adopt to claim that its financial statements comply with the IPSAS. It presently includes requirements for preparation of consolidated financial statements and for disclosure of information about external assistance and payments made by third parties. ED 61 proposes that these requirements be revised, recast as encouragements, and moved into Part 2 of the IPSAS. Part 2 identifies encouraged disclosures that an entity may choose to provide, but which are not required to claim compliance with the IPSAS. The ED also proposes amendments to ensure that the existing requirements and encouragements of the Cash Basis IPSAS are better aligned with the equivalent accrual IPSAS, unless there is a reason to deviate as a result of adopting the cash basis of accounting. This will better support entities' expected use of the Cash Basis IPSAS as a platform from which to transition to accrual IPSAS. First issued in 2003, the Cash Basis IPSAS is the only IPSASB pronouncement that deals with the cash basis of accounting. Respondents to the IPSASB's 2014 strategy consultation supported retaining the Cash Basis IPSAS. To access the ED, the marked-up proposed IPSAS, and the At-a-Glance document, which provides a summary of the ED, or to submit a comment, please visit the IPSASB website at www.ipsasb.org. Comments on the ED are requested by July 31, 2016.

(Source: <http://www.ifac.org>)

Reactions to Proposed Amendments about Different Effective Dates of IFRS 9

IASB recently published ED/2015/11 'Applying IFRS 9 'Financial Instruments' with IFRS 4 'Insurance Contracts' (Proposed amendments to IFRS 4)'. ED/2015/11 proposed two options for entities that issue insurance contracts within the scope of IFRS 4: one that would permit entities to reclassify, from profit or loss to other comprehensive income, some of the income or expenses arising from designated financial assets; this is the so-called overlay approach; and the other as an optional temporary exemption from

applying IFRS 9 for entities whose predominant activity is issuing contracts within the scope of IFRS 4; this is the so called deferral approach. The comment letters on the ED made available on the IASB website. Expectations are currently (as communicated at the October 2015 IASB meeting) that the IASB will begin re-deliberation of the exposure draft in the second quarter of 2016. Final amendments are expected in the third quarter of 2016. (Source: <http://www.iasplus.com/>)

FASB Adds Four Projects to Research Agenda

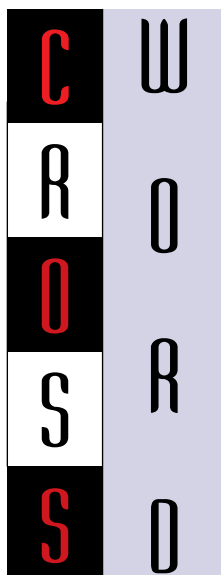
As result of a survey of different advisory groups, the FASB decided to add four new financial reporting issues in its upcoming agenda discussion paper expected in the first half of 2016. The financial reporting issues to be added are: Pensions and other post-retirement employee benefit plans; Intangible assets; Distinguishing liabilities from equity; and Financial performance reporting. With the exception of intangible assets, which the IASB currently does not address in a research project, the issues to be added correspond to a large part with the issues respondents to the *IASB's agenda consultation*, which had asked respondents to rank the IASB's research projects as high, medium or low priorities, ranked as "high importance".

(Source: <http://www.iasplus.com/>)

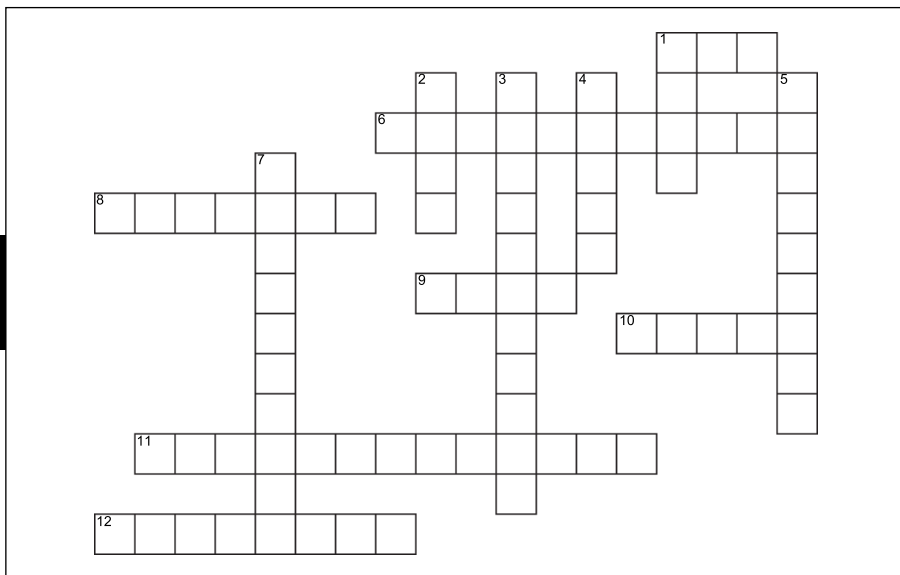
IASB Responds to Investors' Call for Improved Disclosures

The International Accounting Standards Board (the Board), responsible for IFRS Standards, recently issued amendments to IAS 7 Statement of Cash Flows. The improvements to disclosures announced today require companies to provide information about changes in their financing liabilities and come as a response to requests from investors for information that helps them better understand changes in a company's debt. The amendments will help investors to evaluate changes in liabilities arising from financing activities, including changes from cash flows and non-cash changes (such as foreign exchange gains or losses). The improvements are part of the Board's Disclosure Initiative—a portfolio of projects aimed at improving the effectiveness of disclosures in financial reports. The IAS 7 amendments become mandatory for annual periods beginning on or after 1 January 2017.

(Source: <http://www.ifrs.org/>)



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ACROSS

1. An initiative of leading world institutions of chartered accountancy to develop and promote vital role that chartered accountants play in global economy, established in February 2013.
6. Chief Guest on the occasion of 66th annual function of ICAI held in New Delhi.
8. ICAI Awards for Excellence in Financial Reporting were held in _____ in February 2016.
9. In July 2015, the _____ Board and Committee meetings were held in Colombo.
10. _____ XBRL Asia Roundtable was held in Mumbai, where a close-door workshop of XBRL International representatives and regulators from Asian XBRL jurisdictions was held.
11. _____ audit techniques are ideal tools to enable the branch auditor to cover full year's transactions in a handful of days.
12. A large amount spent on special advertisement is _____ Revenue Expenditure.

DOWN

1. During 2015-16 a "Job Fair" was organised by Women



The owner of a company tells his employees:

"You worked very hard this year, therefore the company's profits increased dramatically. As a reward, I am giving everyone a cheque of ₹50,000."

Thrilled, the employees gather round and high five one another.

"And if you work with the same zeal next year, I'll sign those cheques!"

Member Empowerment Committee of the Institute in association with _____ for SMEs for Women Chartered Accountants.

2. Committee created by SEBI, represented by ICAI, Stock Exchanges, etc. to guide SEBI in processing the audit reports where auditors have given qualified audit reports.
3. CA. _____, elected as the Deputy President of Confederation of Asian and Pacific Accountants (CAPA) on October 27, 2015 at Seoul for a period of two years.
4. Double Entry System was introduced in _____.
5. CA. T. V. Mohandas Pai is one among CA fraternity who has been awarded _____ last year.
7. ICAI Bhawan of the _____ Branch of CIRC was inaugurated via electronic mode on 12th March 2015.

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.

SOLUTION CROSSWORD 118

