VOLUME 67 NO.6 PAGES-132 DECEMBER 2018 ₹100

THE CHARTERED ACCOUNTANT

JOURNAL OF THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

SET UP BY AN ACT OF PARLIAMENT

VOLUME 67 | No.6 | PAGES-132 | DECEMBER 2018

The Chartered Accountant

₹100

Driving Corporate India as Lifeline of Business and Economy

- CAs are now *must-haves* for business and industry
- Two rounds of campus placement programmes organised
- Start-up Summit focusing on CAs held
- Idea Placement Programme brings startup ideas and investors together
- Career Ascent programme for experienced CAs
- ICAI CFO's forum puts focus on members-in-industry
- CA Job Portal makes headway
- ICAI's first Incubation Centre in Mumbai
- SME Leader Awards given away to CAs
- International Leader Awards instituted

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CAs as 'Must Have' for Business and Industry

"While accounting is the universal language of modern day business, professional accountants are its lifeline," so goes a saying that aptly applies to the present day India too. With its basic economic credentials remaining strong as ever, even in the face of global turbulence, India is burgeoning with business as well as professional opportunities. This is happening particularly in the backdrop of massive reforms, start-up boom, renewed vigour of small and medium enterprises, technology-induced innovations, push for digital economy, and changing business and regulatory landscape with the introduction of Goods and Services Tax, Insolvency and Bankruptcy Code, etc. And amidst all these deeply impacting developments that have unfolded a new economic era, it is the calibre and versatility of Chartered Accountants that is ably driving growth of corporate India and SMEs alike, converting all challenges into opportunities for the organisations they serve.

When it comes to the importance of CAs in Industry and Business, the latest data available with The Institute of Chartered Accountants of India (ICAI) speaks loud and clear about their pivotal and stupendous role in keeping their organisations on the right track of sustainable growth. It points out that as far as male members are concerned, approximately half of the total 2,19,798 members work in industry and the other half in business. For female members, who total 73,890, the ratio stands at 2:3.

As such, over a period of time the Chartered Accountants have established themselves as an indispensable 'must have' professional, an invaluable asset, and a force to be reckoned with when it comes to strengthening and steering the economy through the times of turmoil. They have been instrumental in the proper and systematic implementation of the policies and reforms and ensuring all the requisite compliances from the stakeholders. Whether involved in their own practice or working in corporate world, today they are the most sought after professionals. They are supporting their organisations in a wide range of job functions, including leadership and management; operational; management accounting and control; and accounting and stakeholder communications. Given their training and skills, today they are ably assisting in formation of corporate strategy, providing advice and helping organisations to reduce costs, and mitigation of risks.

The significance of the role of professional accountants in business in ensuring the quality of financial reporting is paramount. As multifaceted professionals, they are being increasingly entrusted with the task of leading from the front to safeguard the integrity of financial reporting. This, all the more emphasises that, like their counterparts in taxation or auditing, professional accountants in business play important roles that contribute to the overall stability and progress of society.

In this background, the ICAI too has been very much alive to the cause of its members in business and industry and has taken a series of initiatives for them through its dedicated Committee for Members in Industry & Business (CMI&B). The idea is to keep them relevant, up-to-date and well-connected with their alma mater for a sustained career growth. One of the core endeavours is providing 'One Stop Placement Solutions' to both newly Qualified and Experienced Chartered Accountants through its Placement Portal and the newly launched CA Jobs Portal. The 'Start-Up Summit' and 'Incubation Centres for young members with promising business ideas' have also won wide accolades. ICAI's recognition of the members working in Small & Medium Enterprises with a turnover of less than ₹ 100 crore aligns well with the ultimate objective of promoting entrepreneurship. The ICAI has also recently honoured the members who have achieved internationally through International Leader Awards. Besides, various industry specific publications have also been developed to enrich the knowledge of members in industry and business.

However, with the key position in professional order of the country, comes the key responsibility and high expectations. Thus, it is worth stressing that CAs in Business and Industry not only maintain high standards but also inspire, encourage and help their organisations to act ethically. Many a time CAs face conflicts between upholding values central to their profession and the demands of the real world. Balancing these competing demands in the light of set standards and Code of Ethics is a sign of a judicious professional.

They are expected to exercise professional judgment in performing their roles so that when times get challenging, they do not undertake actions that will result in the profession losing the public trust. Regardless of the roles that they perform, they have to uphold values of integrity, objectivity, professional competence and due care, confidentiality and professional behaviour. In all times to come, the value of our professionals will be measured by the extent to which they are perceived to be accountable not only to their own organisations but more importantly to the public.

Looking forward, it is worth reiterating that ICAI members in Business and Industry continue evolving with the times and keep rising to the occasions with excellence, skills and integrity. They must continue to tap opportunities coming in the garb of challenges for the ultimate benefit of their organisations at a micro level and entire nation at the macro level.

Together We Can!

-Editorial Board (ICAI – *Partner in Nation Building)*

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THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA
ICAI Bhawan, Post Box No.7100, Indraprastha Marg, New Delhi-110002, Tel: +91 (11) 39893989.
E-mail: icaiho@icai.in, Website: **www.icai.org**

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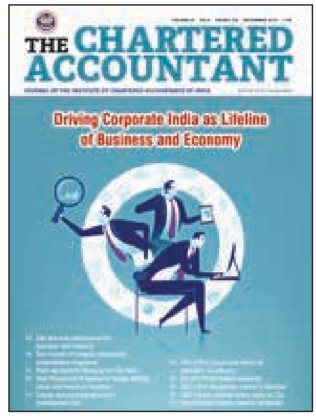

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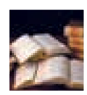
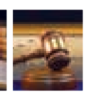

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World Congress of Accountants 2022
Mumbai, India
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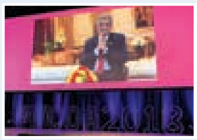

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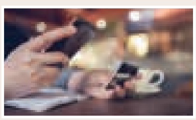

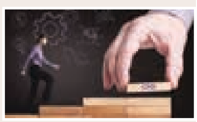

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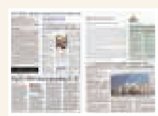

OUR ACHIEVER

ICAI ELECTIONS 2018

From the President

CA. Naveen N. D. Gupta
President, ICAI

My Dear Professional Colleagues,

Elections usher in virtues of democracy in the system; democracy being reflective of freedom of expression, choice and related redeeming virtues in a civil society, results in the improvement in the quality of our day-to-day life. Strong and credible institutions echo the democracy within and when these are also the epitome of the rule of law, they denote the mandate for public welfare. The tenets and virtues of democracy are deeply ingrained in the psyche and actions of the Indian accountancy profession ever since the profession was granted autonomy through the Chartered Accountants Act in 1949. Having preserved and tirelessly upheld the tradition of internal democracy for about 70 years, the accountancy profession of India is now geared up to celebrate its democracy and independence through its triennial elections for the term 2019-22 to the 24th Central Council and 23rd Regional Councils of ICAI.

As you know, the elections will be held on 7th-8th December 2018 at the places having more than 2500 voters, and only on 8th December 2018 at all other places. Abraham Lincoln had said: *Elections belong to the people. It's their decision*. Therefore, I would urge my professional colleagues to exercise their right to vote with the discerning sense of responsibility towards profession for electing your worthy leaders who are your voice and ambassadors for guiding the policy initiatives at ICAI.

Success of elections first depends on our turnout to vote, and then on our objective conduct. It is equally crucial to keep our profession's interests on priority over our personal preferences. The outlook needs to be responsive, since the results of elections will impact and determine the course of our development for the coming years. So, make your choices with a view to secure the vibrancy of the dynamism of our profession. Our actions today will also be in the best interests of our nation, as our profession is intricately connected to its economic welfare. Since inception, ICAI has been an integral partner-in-nation-building. ICAI is all set to conduct this mammoth nation-wide exercise and extending to overseas members in a transparent, efficient and just manner by following the due process. We will do our best and ensure that elections are held with complete fairness and transparency.

I sincerely extend my best wishes to all my professional colleagues including those who are contesting the elections. Let us preserve the legacy of our professional excellence so that we could pass it on to our next generations. John F. Kennedy says: *The prudent heir takes careful inventory of his legacies and gives a faithful accounting to those whom he owes an obligation of trust*. We need to imbibe the said essence here. Let's come forward and join hands for successful elections. Let us demonstrate discipline and integrity in the elections. And let us all ensure that democracy and integrity will eventually be triumphant.

Now, let us observe some of the major developments that took place in profession over the last one month:

India at 77th Rank in Ease-of-Doing-Business

In a big boost to its international outlook, India has recently climbed another 23 points in the World Bank's ease of doing business index, i.e. reaching 77th place, and becoming the top-ranked country in South Asia for the first time. It is a welcome development that in the last two years, India has climbed 53 steps. In the current rankings, the biggest gain was in construction permit where India climbed 129 ranks to 52nd place on the back of targeted government effort to remove the bottlenecks and ease out through reforms.

As per the World Bank's Doing Business Report, an assessment of business regulation across 190 economies, India today holds 25th rank in the world on three indicators, i.e. getting electricity, getting credit and protecting minority investors. Again, it is noteworthy that World Bank has recognised India as one of the top improvers for the year. India has featured in the list of top 10 improvers in the report and it has done this for two years in a row.

It is significant that six reforms recognised in the

Report include starting a business, getting credit, paying taxes and trading across borders, where our Institute and our CA professionals have contributed a lot. For resolving insolvency, India has put in place a new Insolvency and Bankruptcy Code and time-bound reorganization procedure for corporate debtors; all these are steps which will bring more credibility of Indian governance and legal framework for the investing community.

Successful Indian Representation at 20th WCOA in Sydney

World's leading accounting and finance experts got together in Sydney on 5th-8th November 2018 to participate in the 20th World Congress of Accountants (WCOA) on the theme *Global Challenges, Global Leaders*. Being a momentous event for the accountancy profession globally, the Congress provided its participants an opportunity to engage with leaders and representatives of various accountancy institutions of national and international repute. Representing the Indian accountancy profession, I presented the Indian perspective at the IFAC Council congress that attracted the leadership of over 150 countries.

At the IFAC Council meeting, I also addressed the representatives from over 175 member organizations, informing about Indian growing economy and our rich culture and heritage, and about ICAI's regulatory and other contribution to Indian economy; I also stressed on the efforts of ICAI in maintaining the highest technical, ethical and education standards.

As you know, during the launch of Platinum Jubilee celebrations on 1st July 2018, the-then IFAC President Ms. Rachel Grimes had announced that ICAI would host the next, i.e. 21st WOCA in Mumbai that would be held in 2022. This will be a proud moment for our CA fraternity as well as for the fraternity of whole South Asia, since India will be the first in the South Asia to host this Congress.

I am happy to inform that the baton of 21st World Congress of Accountants was formally handed over to me by the newly-elected IFAC President Dr. In-Ki Joo, at the closing ceremony of the 20th Congress. Consul General of India in Sydney, Shri B. Vanlalvawna also witnessed this historic event and occasion. I took this opportunity to invite and requested all delegates to the 21st WCOA in large numbers.

ICAI in collaboration with the Services Export Promotion Council (SEPC) promoted the export of Accountancy Services. One of the 12 champion service sectors of the Government of India , the Indian accountancy services were showcased through a joint ICAI-SEPC kiosk at the Congress on 5th-8th November 2018, which also served the purpose of promoting the WCOA 2022. The stall, inaugurated by the Consul General of India in Sydney, received a positive response from the world delegates and more than 1000 delegates showed their keen interest in attending the WCOA 2022 in Mumbai.

A detailed report in this regard has been published elsewhere in this Journal.

I sincerely request our stakeholders to extend their complete cooperation and support to make the 2022 WOCA a successful event, which will add value to the brand ICAI as well as to our overall standing globally and in process bringing immense value to the credibility of Indian CA profession and its prospects.

ICAI Signs MoU with CPA Canada

I am happy to inform that ICAI has signed the MoU with the Chartered Professional Accountants of Canada (CPA Canada) on 17th November 2018, to facilitate mutual recognition of each other's qualification and prescribing a bridging mechanism between the two institutions. CPA Canada President and CEO Ms Joy Thomas and I signed the MoU representing the two institutions. Members of the managing committee of Toronto and Vancouver Chapters were also present on the occasion. With Canada being one of the most favoured destinations for Indian professionals, this MoU will provide greater mobility to accountancy professionals at either end. Fostering strong working relations between ICAI and CPA Canada, the MoU will benefit more than 1000 Indian Chartered Accountants who are in Canada, besides other members in India who wish to seek international qualification and avail themselves of global opportunities.

Under the terms of MoU, ICAI members in good standing with requisite experience are eligible for exemption from the practical training requirements of CPA Canada as well as appearing in the CPA Professional Education Program, Capstone 1 and Capstone 2 modules, and they can acquire the CPA qualification by passing the final examination of CPA Canada, i.e. 3-day Common Final Examination (CFE) only.

MBA from Coventry University, UK

I am happy to inform that ICAI has recently finalised an arrangement with Coventry University, UK, to launch a range of progression routes for the members; to allow them to complete the MBA (Global Financial Services) Degree course from Coventry University.

Established in 1992, Coventry University is ranked 13th best University in UK as per a 2019 report by UK national daily *The Guardian*. Indian Chartered Accountants with three years of post-qualification experience are eligible to enroll in the MBA (Global Financial Services) programme of the University at a cost of £4000 per student. However, first 100 to enrol will be offered a scholarship of £1000 and this brings down the total cost of the programme substantially to £3000. They will be required to complete 60 credits—two 15-credit online courses in *Global Marketing* and *Leadership and Change Management*, and a 30-credit project—in this programme. The fee will be inclusive of enrolment/registration, tuition, online delivery, online examination/evaluation and certification. ICAI members will have the access to all services of the University locations and the complete range of alumni services would be extended upon the successful completion of the programme.

EEG Meeting in Seoul

Recently, my Central Council colleague and AOSSG Vice-Chair CA. S. B. Zaware along with the ICAI's Technical Directorate Head CA. Vidhyadhar Kulkarni attended the meeting of 16th Emerging Economies Group (EEG) on 29th-31st October 2018 in Seoul. ICAI raised its concerns and communicated about the activities of its related study groups and its forthcoming outreach activities at the meeting.

No International Conference at ICAI

I would like to inform you that in a new start of another practice of good governance and to strengthen our culture of independence and probity vis-à-vis our dynamics with the stakeholders, this year we have decided not to hold our International Conference using sponsorship amount. As you are aware, the organisation of the Conference involves taking sponsorship from stakeholders, who also have been the clients of profession, which might create a clash of interests. We want to discourage such a practice to further improve the image of ICAI and the profession.

GST Revenue Crosses ₹1 Lakh Crore in October

It is a pleasure to note that the Goods and Services Tax (GST) collections crossed the psychological barrier of ₹1 lakh-crore in October, coming in at ₹1,00,710 crore, making the October 2018 collections 20.8% higher than that, i.e. ₹83,346 crore, in October 2017. Of this mega collection in October 2018, CGST is ₹16,465 crore, SGST is ₹22,826 crore, IGST is ₹53,419 crore (including ₹26,908 crore collected on imports) and cess is ₹8,000 crore (including ₹955 crore collected on imports). Now that the GST compliance processes are stabilising and the Government's anti-evasion measures have become effective, this collection definitely hints at a shift of perspective of our citizens, which is quite welcome. Let us continue to be tax-compliant citizens of our nation.

GST Training and Development

As you know, after the resolution of initial problems relating to GST compliance, it's time to examine the previously-submitted records, returns and other documents. Section 35(5) of the GST Act mandates every registered person with a turnover exceeding ₹ 2 crore during a financial year to get her/ his accounts audited and accordingly submit a copy of the audited annual accounts, the reconciliation statement under the Section 44 (2) till 31st December 2018.

In view of this development, an online training programme on *GST Annual Return and Audit* was organised for the faculties of ICAI on 22nd-24th October 2018, to train them in GST audit. A series of live webcasts on Annual Return and GST Audit was organised for the members and other stakeholders on 2nd-4th November 2018 to provide an in-depth analysis of various aspects of GST Annual Return and Audit. Further, a number of paid live webcasts on UAE VAT were organised by ICAI from 29th October to 3rd November 2018. Recordings of the two series are available at http://idtc.icai.org/live-webcasts.html and http://idtc.icai.org/vat-in-uae.html respectively for offline viewing. So far, more than 150 programmes on GST Audit have been successfully organised in the last two months, benefitting about 12000 members in the process.

ICAI has also submitted a representation to the Ministry of Finance, requesting to permit the availment of input-tax credit pertaining to the Financial Year 2017-18 till 31st December 2018.

Measuring State of Internal Audit Profession in India

To measure the pulse and the existing state of *internal audit* profession in India, ICAI has reached out to all professionals serving in industry as well as in practice, which will also help it understand the future perspectives. I request all of you to participate in our survey in this regard hosted at https://goo.gl/forms/3IH6loSB0LFpGXxt2. A detailed analysis of the outcome of this survey will soon be made available. This will also help ICAI in developing its consequent vision and smart action plan in this regard.

E-Hearings - A New Initiative

To augment the existing disciplinary mechanism and to make it cost-effective, ICAI has introduced the conduct of disciplinary hearings through *e-hearing* mode (i.e. video-conferencing). Amendments to Chartered Accountants Rules, 2007 providing for *e-hearings* have been approved recently by the Ministry of Corporate Affairs vide notification dated 29th October 2018. Initially, such e-hearings would be conducted at the regional offices of ICAI. Modalities for *e-hearings* have been formulated and arrangements are being made to conduct the first e-hearing of disciplinary proceedings shortly.

Proactive Interventions

Amrapali Fiasco: Based on the media reports about the huge diversion of funds of homebuyers investing in the housing projects of Amprapali Group and alleged irregularity in the conduct of their statutory auditors, as informed by the Supreme-Court-appointed forensic auditors, ICAI *suo moto* issued notices to those statutory auditors, i.e. for the period 2008-2015 and also for the latter period, in terms of the provisions of the disciplinary mechanism as provided in the Chartered Accountants Act, 1949 and the Rules framed there under. ICAI will vigorously investigate and take all necessary steps to ensure that misconduct by errant auditors, if any, are probed in a fast-track mode as per the terms of the procedure prescribed.

Misleading Media Reports: You may be aware that there were certain media reports that carried out the misleading and misinterpreted analysis of recently-released data by the Income-tax Department that only one in three CAs has filed her/his returns during the period of data. This has put the ICAI and the Indian accountancy profession in a bad light. ICAI has taken a very serious note of all such misleading reports and represented to the concerned publications with the correct facts. As a result, many of them have published our clarification, which states that 91% of total CAs during the period of the data have filed their returns.

The Income Tax Return Statistics for Assessment Year 2017-18 issued by the CBDT had with 'type of business' as basis considered for analysis, reported that that over 1 lakh returns had been filed by CAs. This data was grossly misinterpreted. Basically, the figure of 1,03,049 returns filed by CAs pertained to those who are in practice only, i.e. full-time or part-time. As many as 1,42,458 CAs, who are not in practice also file returns. Then, media should also have considered the presence of about 8000 CAs who are above the age of 70, and who may or may not be filing returns, depending on their income.

Leadership Programme at IIM Ahmedabad

To provide opportunity to Chartered Accountants to reflect upon new perspectives, dimensions and strategies to steer their organisations forward, ICAI will organise a 5-day residential programme, *Advanced Leadership Programme for Chartered Accountants*, at the Indian Institute of Management, Ahmedabad, on 24th-28th December 2018. This programme aims to equip Chartered Accountants with the tools and processes required to meet their professional challenges.

Change in Qualification to Become a Registered Valuer

As per the Companies (Registered Valuers and Valuation) Rules, 2017 issued by the Ministry of Corporate Affairs in October 2017, a Chartered Accountant with three years of post-qualification experience could become a Registered Valuer if she/he is a graduate. Since the scheme of Chartered Accountancy course has been approved by the Ministry of Corporate Affairs wherein a Chartered Accountant may or may not be a graduate, ICAI represented the Government with its request to remove the criteria of graduation for becoming a Registered Valuer. I am happy to inform that the Ministry has amended the said Rules on our request and revised the concerned prerequisites. Now, any Chartered Accountant with three years of post-qualification experience as Chartered Accountant can become a Registered Valuer, even if she/he is not a graduate.

Technical Guide on the Functioning of Audit Committee and Its Review Checklist

As you are aware, the Audit Committee is *inter alia* responsible for liaison with the management; internal and statutory auditors, reviewing the adequacy of internal controls and compliance with the significant policies, procedures and reporting to the Board on key issues. The idea of having independent directors on the Audit Committee originates from the concept of effective Corporate Governance. The Independent Directors bring objectivity to Board decisions, protect common interest of the company and its stakeholders.

In this backdrop, I am happy to inform you that we have taken an initiative of bringing out a publication titled "*Technical Guide on the functioning of Audit Committee and its Review Checklist*" which is

From the President

a comprehensive and self-contained reference document for the guidance of Audit committee on its functions, role, duties and ensuring effectiveness. As the name suggests, this Guide also provides a checklist for review of the Audit Committee. I am sure that this publication would be a source of knowledge enrichment and of great help to the members and other stakeholders.

12th ICAI's Leaders & Business Excellence Awards, 2018

Next round of ICAI's Leaders & Business Excellence Awards, 2018 are scheduled to be given away on 19th January 2019 in Mumbai. This is to felicitate our members for their exceptional contribution in industry. As you know, these awards had been instituted in 2007. These also aim to recognize the outstanding performance and contribution of Chartered Accountants in fulfilling the ultimate objective of nation building. Members of the institute holding top management positions, viz. Chairmen, Directors, CFOs and CEOs, have been the recipients of these prestigious awards in the past. This year, ICAI's Leaders Awards have been created to honour our members-in-industry, and Business Excellence Awards to honour our members who have stepped out of the comfort zone and made exemplary achievements. There are 2 categories (i.e. CA Member of the Year and CA Innovator) under the Awards for Start-Ups and 4 (i.e. CA Achiever, CA CFO, CA Business Leader and CA Lifetime Achievement) under ICAI Leader Awards. Members may check https://awards.icai.org/wp-content/uploads/2018/09/12thicaiawards-2018.pdf for more details.

SME Leader Awards- A First in History of ICAI

As you will appreciate, SMEs have emerged as a vital sector for economic growth of India, providing employment in large numbers. To promote an entrepreneurial culture in the country and recognise the exceptional performance of CAs serving in the SMEs, ICAI for the first time instituted and gave away "SME LEADER AWARDS" in a function held in Mumbai on 26th October 2018. It was quite timely to honour the best talents grooming in SMEs for their imagination, commitment and success and valuable contributions to the SME growth. The awards were given away under four main categories of 'Innovator,' 'Emerging Professional,' 'Wealth Creator,' and 'Business Transformer,' and 16 sub-categories. The Chief Guest on the occasion was Maharashtra's Director-General of Audit (Central) Shri Guljari Lal. Under the chairmanship of NPCC Ltd. (National Projects Construction Corporation Limited) CMD Shri Manohar Kumar, the Jury had selected 11 awardees.

International Leader Awards

First time in the history of ICAI, International Leader Awards were also given away on 15th **November 2018 in Abu Dhabi,** to recognize the professional achievements of our members who are based outside India. Such a recognition, I am sure, will motivate our members to excel in profession and contribute to the economy of the respective countries where they serve. Jury under the chairmanship of IRDAI Chairman Dr. Subhash Chandra Khuntia selected 7 awardees to honour for their exemplary contribution.

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In a very simple but profound way, Katie Thurmes informs: *You can't do a good job if your job is all you do*. So, there is a unique perspective of work-life balance; we need to balance our passions and not our time. Striving for excellence is motivating but that for perfection is often demotivating, since there can always be a better alternative to the best.

Let us remember that it is not necessary to keep checking and responding to the communications we receive every now and then. So, actually, it doesn't matter even if we do so once or twice in a day. People around us also deserve our time. Satisfaction never comes in work until we are satisfied in life. Oprah Winfrey says: *I've learned that you can't have everything and do everything at the same time.* So, first, there has to be contentment in the way we lead our life, and this contentment will transcend its essence to other spheres of our life too.

Month of December is important for our personal stock-taking too—when we audit our own personal and professional accomplishments—how we performed and where we lagged. This will help us revise and update our approach profession, and to our life as a whole. However, I congratulate you and extend my greetings for Christmas which falls on 25th December, and for the upcoming New Year 2019. And may the sparkles of joy and immense opportunities unfold for all of you in the New Year!

Best wishes

CA. Naveen N. D. Gupta
President, ICAI
New Delhi, 26th November 2018

Photographs

20th World Congress of Accountants in Sydney

ICAI President CA. Naveen N. D. Gupta addresses the IFAC Council (1st November 2018)

ICAI President CA. Naveen N. D. Gupta along with ICAEW newly-elected President Mr Paul Alpin and ICAEW Chief Executive Mr. Michael Izza, during the Congress (8th November 2018)

ICAI President CA. Naveen N. D. Gupta and ICAI past President CA. M. Devaraja Reddy with the newly-elected IFAC President Dr. In-Ki Joo, during the Congress (8th November 2018)

ICAI Central Council member CA. Shyam Lal Agarwal stands together with IAASB Chairman Prof. Arnold Schilder and other participants during National Auditing Standard Setters meeting (5th November 2018)

Photographs

ICAI Signs MoU with CPA Canada

ICAI President CA. Naveen N. D. Gupta along with CPA Canada President and CEO (and IFAC Board member) Ms. Joy Thomas showcase the MoU (17th November 2018)

ICAI President CA. Naveen N. D. Gupta shares dais with CPA Canada President and CEO (and IFAC Board member) Ms. Joy Thomas, while Toronto Chapter Chairman CA. (Dr.) Rajender Mantra and past Chairman CA. Baljeet Kaliravna, and British Columbia Chapter's past Chairman CA. Vijay Kumar Gupta and the managing committee members get together to celebrate the moments (17th November 2018)

ICAI President CA. Naveen N. D. Gupta and CPA Canada President and CEO (and IFAC Board member) Ms. Joy Thomas get together Toronto Chapter Chairman CA. (Dr.) Rajender Mantra and past Chairman CA. Baljeet Kaliravna, and British Columbia Chapter's past Chairman CA. Vijay Kumar Gupta and with the managing committee members of Toronto and Vancouver Chapters on the occasion (17th November 2018)

16th EEG Meeting in Seoul

ICAI Central Council member and AOSSG Vice-Chair CA. Shiwaji Bhikaji Zaware along with ICAI's Technical Directorate Head CA. Vidhyadhar Kulkarni, among other representatives of other emerging economies, at the meeting (29th October 2018)

2-Day National Conference in Jaipur

ICAI President CA. Naveen N. D. Gupta lights the lamp to inaugurate the Conference, in presence of ICAI past President CA. M. M. Chitale and ICAI Central Council member CA. Shyam Lal Agarwal, and CIRC Chairman CA. Ankit Jain, among others on the occasion (21st November 2018)

Visit to Centre of Excellence in Jaipur

ICAI President CA. Naveen N. D. Gupta along with his Central Council colleague CA. Shyam Lal Agarwal, among other officials of the Institute, during his visit (21st November 2018)

World Congress of Accountants 2022
Mumbai, India
ज्योतिर्गमय:
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ICAI Highlights India Perspective at 20th World Congress of Accountants, Setting the Stage to Hold Next WCOA in Mumbai in 2022

ICAI President CA. Naveen N.D. Gupta inviting 6000 delegates from 130 countries to WCOA 2022 to be held in Mumbai

World's leading accounting and finance experts got together in Sydney on 5th- 8th November 2018 to participate in the 20th World Congress of Accountants (WCOA) on the theme titled 'Global Challenges. Global Leaders.' Being a momentous event for the accountancy profession globally, the Congress provided its participants an opportunity to engage with leaders and representatives of various accountancy institutions of national and international repute. Representing the Indian accountancy profession, ICAI President CA. Naveen N D Gupta presented the Indian perspective at the Congress, which attracted more than 6,000 delegates from more than 130 countries. Read on to know the details in this regard…

WCOA and ICAI

As you know, world's leading accounting and finance professionals got together in Sydney recently to participate in the 20th World Congress of Accountants (WCOA) in a momentous quadrennial global congregation of global accountancy professionals.

Being held every four years under the auspices of International Federation of Accountants (IFAC) since 2002, history of this World Congress of Accountants dates back to 1904 when for the first time, a World Congress was organised; since 2002, this World Congress is being held every four years.

Being an active member of IFAC, the Institute of Chartered Accountants of India (ICAI), had bid to host the next (i.e. 21st) WCOA that would be held in 2022. And, after the rigorous assessment with regard to the abilities and experience of ICAI, suitability of the proposed venue, attractiveness for potential delegates, including their site visits, etc., ICAI won the bid to host the WCOA 2022 in Mumbai. At the launch of Platinum Jubilee celebrations of the ICAI on 1st July 2018, the then IFAC President Ms Rachel Grimes who attended the event as Guest of Honour, informed that ICAI has been selected to host the next WCOA. Calling the

World Congress the Olympics for accountants, she hoped that ICAI will put up a great show in Mumbai in 2022 and that she looked forward to be there. The then IFAC President had also urged the Indian accountancy professionals to go and attend the 20th WCOA in Sydney first so that they could come back and share their knowledge with others in India so as to organise a better and more successful World Congress in Mumbai in 2022.

ICAI at 20th WCOA in Sydney

20th World Congress of Accountants (WCOA) was held in Sydney with the congregation of World's leading accounting and finance experts on 5th-8th November 2018, which was organised on the theme titled *Global Challenges. Global Leaders.* Being one of the most significant events for the global accountancy professionals, the World Congress provided its participants a platform and a host of opportunities to engage with leaders and representatives of various accountancy institutions of national and international repute.

Representing the Indian accountancy profession, ICAI President CA. Naveen N. D. Gupta represented the ICAI and presented the Indian perspective at the Congress. More than 6,000 delegates from over 130 countries were present on the occasion. ICAI President also interacted with a number of accounting leaders on the sidelines of this event.

The WCOA 2018 was held against the backdrop of a rapidly changing economic and political landscape. This forum effectively discussed, reimagined and reformed the future strategic direction of our profession. The event also marked the 40th anniversary of IFAC, taking a look at its past, present and future as the peak global body for accountants.

Next (21st) WOCA in Mumbai

The baton of 21st World Congress of Accountants (WCOA) was formally handed over to ICAI President CA. Naveen N. D. Gupta, by the IFAC President Mr. In Ki Joo, at the closing ceremony of the 20th WCOA 2018 in Sydney. Consul General of India in Sydney Shri B. Vanlalvawna was also present to witness this historic event. A short video message of ICAI CA. Naveen N. D. Gupta, President, ICAI was also played at the occasion. Through this message, President, ICAI also invited about 6000 delegates from over 130 countries to attend the 21st WCOA in large numbers.

The WCOA 2018 was held against the backdrop of a rapidly changing economic and political landscape. This forum effectively discussed, reimagined and reformed the future strategic direction of our profession.

ICAI President described the insignia for the World Congress of Accountants 2022 as the National Bird of India 'Peacock', which signifies the dynamism and hue of rich Indian culture and connects to the Government of India Champion Service Sector initiative with the Accountancy being one of those focal sectors.

Later, a promotional video was played showcasing India as the fastest growing economy and briefly touching upon the famous monuments and world heritage sites of India. The video also touched upon the approved venue of the Conference, i.e. *Jio World Centre,* which is a multi-use development project covering 75,000 square meters of prime land with about 8 lakh square meters of operational area. This World Centre would have a convention and exhibition centre, a state-of-art auditorium, a cultural plaza, serviced apartments and an office block. It has many conference halls for breakout session and small meetings with capacity ranging from 200 to 3000.

Supported by the Services Export Promotion Council of India, Indian Chartered Accountants were offered a highly subsidised participation through the India Pavilion at the WCOA 2018 in Sydney. In order to promote the WCOA 2022 in India, ICAI, in collaboration with the Services Export Promotion Council (SEPC) of India had taken a booth at the

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World Congress of Accountants 2018 in Sydney, which also served the purpose of promoting the export of *Accountancy Services,* one of the 12 Champion Service Sectors of the Government of India; this would signify the importance of developing countries like India. This step gave impetus to the ICAI's endeavours and project India as a friendly, welcoming world-class location that is open for business and promote the next WCOA in India. The stall was inaugurated by Consul General of India in Sydney Shri B. Vanlalvawna. The stall received a very positive response from all delegates of the Congress—with over 1000 delegates showed their keen interest in attending the WCOA 2022 in Mumbai.

Hosting WCOA in Mumbai will be a matter of great pride for ICAI as well as for India, since the World Congress of Accountants is one of the most prestigious global event of professional accountants where a conglomeration of 6000 delegates from over 130 countries would exchange views with other Accountancy and Finance professionals from other parts of the world and engage with the leaders to bring their own expertise to the fore on a global stage.

ICAI seeks the support of its members and stakeholders in achieving a very successful Congress which would not only help in enhancing the brand value of ICAI but India as a whole. Incidentally 2022 will also happen to be the India's 75th year of independence.

IFAC Council Meeting in Sydney

On the sidelines of the World Congress of Accountants in Sydney, ICAI President CA. Naveen N. D. Gupta also addressed the IFAC Council on 1st November 2018 in Sydney, which was attended by the representatives from over 175 member-organizations. In his address, the ICAI President briefly referred to India as a fastest growing economy, its rich culture and heritage explaining why the world accountancy fraternity should attend the WCOA 2022 in Mumbai. He briefly apprised the delegates about the ICAI, its regulatory role and contribution towards the growth of the economy, and its efforts towards maintaining the highest standards in technical and ethical areas and sustaining the most stringent examination and education standards. ■

Know Your Ethics

*Ethical Issues in Question-Answer Form**

Q. Whether member in practice is permitted to respond to announcement for empanelment for allotment of audit and other professional work and quote fees on enquiries being received?

A. It has been clarified by the Council under proviso (ii) to clause (6) of the part-I of the First schedule of the Chartered Accountants Act, 1949 that if announcements are made for empanelment by the Government, Corporations, Courts, Co-operative Societies, Banks and other similar institutions, the members may respond to such announcements provided the existence of panel is within their knowledge. The Council has further clarified that the quotations of fees can be sent, if enquiries are received by the members in this regard.

Q. Whether a member in practice is permitted to have his name published in Telephone Directory?

A. Yes, a member in practice is permitted to have his name published in the telephone directory subject to certain conditions. Para (c) under Clause (6) of Part I of the First Schedule to the Chartered Accountants Act, 1949 appearing in the Code of Ethics, 2009 provides for publication of Name or Firm Name by Chartered Accountants in the Telephone or other Directories published by Telephone Authorities or Private Bodies.

The Council has held that it would not be proper for a Chartered Accountant to have entries made in a Telephone Directory either by making a special request or by means of an additional payment. The Council has also considered the question of permitting entries in respect of chartered accountants and their firms under specified groups in telephone/ trade directories brought out by Government and non-Government agencies. It has decided to permit such entries subject to the following restrictions:

1. The entry should appear in the section/ category of "Chartered Accountants".
2. The member/firm should belong to the town/city in respect of which the directory is being published.
3. The entry should be in normal type of letters. Entry in bolder type or abnormal type of letters or in a box is not permissible.
4. The order of the entries should be alphabetical and logical.
5. The entry should not appear in a manner giving the impression of publicity/ advertisement. Entry should not be given in a manner which gives prominence to it as compared to other entries.
6. The payment, if any, for the entry should not be unreasonable.
7. The entries should not be restricted and should be open to all the chartered accountants/firms of chartered accountants in the particular city/town in respect whereof the directory is published.
8. Subject to the above conditions, the members can also include their names in trade directories which are published and/ or otherwise available such as electronic media e.g. Internet, telephone services like "Ask Me Services" etc.

(Contd. on Pg.123)

(Contd. from Pg.17)

Q. Whether it is permissible for members to have paid listing of Firms in telephone directories, with certain privileges attached to the listing depending on the payment made?

A. The Council Guidelines on Directories have permitted entries in respect of Chartered Accountants and their firms under specified groups in telephone/ trade directories, which specifically mention that it would not be proper for a Chartered Accountant to have entries made in a Telephone Directory either by making a special request or by means of an additional payment. Hence, making an additional payment to get certain privileges (e.g. guaranteed leads) is not permissible.

Q. Can a member in practice indicate in a book or an article, authored/ contributed/published by him, his association with any firm of Chartered Accountants?

A. No, as per Para (e) under Clause (6) of Part I of First Schedule to the Chartered Accountants Act,1949 as appearing in the Code of Ethics, 2009 a member is not permitted to indicate in a book or an article, authored/contributed/ published by him, the association with any firm of Chartered Accountants.

Q. Whether the designation "Chartered Accountant" along with the name of Chartered Accountants Firm can be used on the greeting cards or invitations?

A. Yes, as per Para (f) under Clause (6) of Part I of First Schedule to the Chartered Accountants Act,1949 as appearing in the Code of Ethics, 2009, the Council is of the view that the designation "Chartered Accountant" as well as the name of the firm may be used in greeting cards, invitations for marriages and religious ceremonies and any invitations for opening or inauguration of office of the members, change in office premises and change in telephone numbers, provided that such greeting cards or invitations etc. are sent only to clients, relatives and friends of the members concerned.

Q. Whether the word "Chartered Accountants" and name of city after the name of the members of the Institute be mentioned in the articles contributed by such members and published in the Institute's Journal?

A. Yes, under Clause (6) of Part I of the First Schedule to the Chartered Accountants Act,1949 there is no restriction in the Code of Ethics for mentioning the word "Chartered Accountant" and also the name of city in an article contributed by a member in the Institute's Journal as well as in newspapers and other periodicals.

Q. Can a Chartered Accountant in practice solicit professional work by making roving enquiries?

A. No, it is not permissible for a member to address letters or circulars to persons who are likely to require services of a Chartered Accountant. It would tantamount to advertisement (as per para (g) under clause (6) of Part-I of the First Schedule to the Chartered Accountants Act, 1949 of Code of Ethics, 2009).

Q. Can a Chartered Accountant in practice seek professional work from his professional colleagues?

A. Yes, in terms of proviso (i) of Clause (6) of Part-I of the First Schedule to the Chartered Accountants Act,1949 a member is permitted to apply or request for or to invite or to secure professional work from another Chartered Accountant in practice.

The issue of advertisement or a circular by a Chartered Accountant, seeking work from professional colleagues on any basis whatsoever is in violation of Clause (6) of Part I of the First Schedule to the Chartered Accountants Act, 1949. However, classified advertisement in the Journal/Newsletter of the Institute is permissible in this regard. A member is permitted to issue a classified advertisement in the Journal/Newsletter of the Institute intended to give information for sharing professional work on assignment basis or for seeking professional work on partnership basis or salaried employment in the field of accounting profession provided it only contains the accountant's name, address, telephone, fax number and E-mail address. ■

* Contributed by the Ethical Standards Board of ICAI

Treatment of disputed amount (Principal and Interest) in respect of cases pending before various regulatory authorities

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

A. Facts of the Case

1 The company (hereinafter referred to as the 'company') is a central public sector undertaking under the Ministry of Petroleum & Natural Gas. The company is engaged in engineering consultancy services and execution of turnkey contracts in the field of petroleum refineries, pipelines, oil & gas processing, petrochemicals, offshore structures and platforms, ports and terminals, metallurgy, fertilizers, power, highways and bridges, airports and intelligent buildings and urban development. The company being a listed company and having net worth of more than ₹ 500 crore, has prepared and presented its financial statements for the year ended 31st March 2017 as per Ind AS.

2. The querist has stated that in the note - 40 forming part of financial statements of the company for the year ended 31 march 2017, the company had disclosed the information with respect to contingent liability as on 31 March 2017 (relevant extracts have been separately supplied by the querist).

3. The querist has stated that the disclosure with respect to contingent liability includes:

a) Income Tax (IT) department is in appeal against tax demand of ₹ 373.83 Lakhs with Income Tax Appellate Tribunal, against the Commissioner of Income Tax (Appeals) orders in the company's favour for various assessment years detailed below:

Assessment Year	**Amount (₹ in Lakhs) 31 March 2017**	**Amount (₹ in Lakhs) 31 March 2016**	**Amount (₹ in Lakhs) 1 April 2015**
2002-03	204.22	204.22	204.22
2004-05	76.07	76.07	76.07
2010-11	-	32.26	32.26
2011-12	50.82	50.82	-
2012-13	42.72	-	-
Total	**373.83**	**363.37**	**312.55**

b) The company has filed a writ petition before Hon'ble Andhra Pradesh High Court against the VAT assessment order of commercial tax officer dated 27 August 2016 levying tax of ₹ 6,999.17 Lakhs for the period July 2011 to March 2014.

c) The company has filed an appeal against the order of Additional Commissioner (Appeal), Mathura before Sales Tax Tribunal, Agra, which has been subsequently transferred to Sales Tax Tribunal, Noida, for an amount of ₹ 18.71 Lakhs (previous year 31 March 2016 and 1 April 2015 : ₹ 18.71 Lakhs) on account of entry tax for the year 1999-2000 against which the company has deposited an amount of ₹ 5.01 Lakhs (previous year 31 March 2016 and 1 April 2015 : ₹ 5.01 lakhs).

4. The querist has informed that during the course of audit of accounts of the company for the year ended 31 March 2017, Office of the Director General of Commercial Audit and Ex-officio Member Audit Board-II, New Delhi has raised observations with respect to contingent liabilities disclosed as per 3(a, b & c) above.

5. The observations raised by the Comptroller and Auditor General office (CAG) on 3(a, b & c) are as under:

a) This includes an amount of ₹ 373.83 Lakhs payable to IT department for different financial years 2001-02 to 2011-12 pertaining to the disallowance as commission paid to foreign agents, short grant of advance tax, short grant of Tax Deducted at Source (TDS) and excess levy of interest. The company has not included the interest payable of ₹ 548.49 Lakhs on this disputed amount up to March 2017.

b & c) Similarly, the above head includes 7012.87 Lakhs payable to Sales Tax (ST) Department pertaining to entry tax (₹13.70 Lakhs) for the financial year 1999-2000 relating to job work and VAT payable to Andhra Pradesh ST department for the period July 11 to March 2014. The company has not included the interest payable of ₹ 4859.02 Lakhs on this disputed amount up to March 2017.

Hence, this has resulted in understatement of contingent liabilities by ₹ 5407.51 Lakhs and by the same extent in the disclosure of the dues of IT department and sales tax department which was disputed and shown in annexure A, point VII(b) of independent auditors' report.

6. The querist has also informed that management replies with respect to above observations of CAG are as under:

a) It is submitted that in these cases, the Commissioner of Income Tax (CIT Appeals) has given order in the favour of the company and against the order of CIT Appeals, IT department has referred these cases before the Income Tax Appellate Tribunal (ITAT).

(The copies of assessment order, order of commissioner (appeals) and notices for referral of cases to ITAT by IT department for assessment years 2002-03, 2004-05, 2011-12 & 2012-13 have been separately supplied by the querist).

Although, the case has been decided in favour of the company, since IT department has moved to ITAT, the company has disclosed an amount of ₹ 373.83 Lakhs as contingent liability.

Since the cases have already been decided in favour of the company by the CIT appeals, based on facts and circumstances of the case, the incurrence of any interest liability on the above account is very remote and as such is not considered as contingent liability. However, since, the case is pending in ITAT, the amount of ₹ 373.83 Lakhs has been disclosed as contingent liability.

b) With respect to contingent liability on account of VAT assessment order of Commercial Tax Officer, Kakinada for an amount of ₹ 6999.17 Lakhs, it is submitted that based on orders passed by VAT authorities, the company has disclosed the order amount as contingent liability. (The copy of assessment order of commercial tax officer is separately supplied by the querist). However, the company has filed a writ petition before Hon'ble High Court of Andhra Pradesh against the assessment orders. Since the judgment is yet to be delivered by the Hon'ble High Court of Andhra Pradesh, the contingent liability, if any, on account of interest etc. is not ascertainable and as such the assessment order demand amount has been disclosed as contingent liability.

It is further submitted that transit sales have been allowed in all other states except Andhra Pradesh and Karnataka, where the company has executed these types of projects and, as such, it is expected that there is remote possibility of fructifying the demand.

Regarding the inclusion of interest as contingent liability, it is submitted that the same shall be reviewed including an opinion of experts shall be taken based on facts and circumstances of the case in the year 2017-18.

c) In respect of entry tax demand order of ₹ 13.70 Lakhs by Additional Commissioner (Appeal) Mathura, the company has filed an appeal before Sales Tax Tribunal. (The Copies of order of Dy. Commissioner Commercial Tax, Mathura and Additional Commissioner (Appeal), Grade-2 have been separately supplied by the querist).

In this regard, it is submitted that in earlier years, there were two cases involved, wherein the company was in appeal with the tribunal against the orders of the Commissioner (Appeals), Mathura.

In one of the cases, the ST department was disallowing the transit sales made by the Company to the project owner. The said cases for the years 1999-2000 and 2000-2001 have been decided by the commercial tax tribunal in the favour of company (relevant extract have been separately supplied by the querist). Since, as per the decided case of sales tax, the sales tax liability is on account of project owner and, as such, liability for entry tax as per the provision of law shall be borne by the project owner. The company, based on the demand order, has disclosed amount of ₹ 13.70 Lakhs as a contingent liability, although based on decided case for sales tax, no liability shall fall on the company.

In view of above, it is submitted that there has been no understatement of contingent liabilities by ₹ 5407.51 Lakhs and as such, audit is requested to drop its observations.

7. According to the querist, in terms of Ind AS 37, a contingent liability is a possible obligation that arises from the past events and whose existence will be confirmed by the occurrence or non-occurrence of one or more uncertain future events not wholly within the control of entity.

   On the basis of above, the company, on the basis of orders, etc. passed by the respective statutory authorities, has made disclosure in the financial statements of the company. The levy of interest, if any and quantum thereof shall fructify only on the basis of decision made by the tribunal/court, etc. as these are not a part of orders passed by statutory authorities. As of date, the company has in its possession only the order passed by the statutory authorities and the same has been disclosed as contingent liability in the financial statements of the company.

8. The company has further assured the office of Director General of Commercial Audit and Ex-officio Member Audit Board-II, New Delhi that independent expert opinion shall be taken from the Expert Advisory Committee of the Institute of Chartered Accountants of India.

B. Query

9. Considering the facts as stated above, the company has sought the opinion of the Expert Advisory Committee of the Institute of Chartered Accountants of India in respect of the following:

a) i) Whether the amount of ₹ 373.83 Lakhs disclosed as contingent liabilities is correct, although CIT (Appeals) has given the orders in favour of the company but IT department has referred these cases to Income Tax Appellate Tribunal (ITAT).

   ii) If the above disclosure is correct, then :

      (1) Whether interest liability on the above amount of ₹ 373.83 Lakhs is required to be computed and disclosed as contingent liability as on balance sheet date, although, as such, there is no demand for it; or

      (2) Since, there is no demand for interest on the company, whether the fact that above amount of ₹ 373.83 Lakhs does not include interest, if any, is required to be disclosed; or

      (3) None of above (1) or (2) is required to be disclosed.

b) i) Whether disclosure of VAT assessment order of Commercial Tax Officer, Kakinada levying tax of ₹ 6999.17 Lakhs on the company as contingent liability is correct, although the company has filed writ petition against the order before Hon'ble Court of Andhra Pradesh.

   ii) If the above disclosure is correct, then:

      (1) Whether the interest liability on above amount of ₹ 6999.17 Lakhs is required to be computed and disclosed as contingent liability as on balance sheet date, although as such, there is no demand for it; or

      (2) Since there is no demand for interest on the company, whether the fact that above amount of ₹ 6999.17 Lakhs does not include interest, if any, is required to be disclosed; or

      (3) None of above (1) or (2) is required to be disclosed.

c) i) Whether disclosure of entry tax demand order of ₹ 13.70 Lakhs by the Additional Commissioner (Appeals), Mathura as contingent liability is correct, considering that as per decided cases of sales tax by the commercial tax tribunal, the sales tax liability in respect of transit sales made by the company shall be on account of project owner and, as such, liability for entry tax as per provision of law shall also be borne by the project owner.

ii) If the above disclosure is correct, then:

(1) Whether the interest liability on above account is required to be computed and disclosed as Contingent Liability as on balance sheet date, although as such, there is no demand for it; or

(2) Since there is no demand for interest on the Company, whether the fact that above amount of ₹ 13.70 Lakhs does not include interest, if any, is required to be disclosed; or

(3) None of above (1) or (2) is required to be disclosed.

C. Points considered by the Committee

10. The Committee notes that the basic issue raised by the querist relates to whether the disclosure of demand raised in respect of cases pending before various tax authorities as contingent liability is correct. Further, whether interest liability that may arise in respect of said cases is also required to be computed and disclosed as contingent liability. The Committee has, therefore, considered only these issues and has not examined any other issue that may be contained in the Facts of the Case such as calculation of demand and interest thereon in respect of cases pending before various regulatory authorities, adjustments on transition to Ind ASs, etc. Further, the Committee wishes to point out that its opinion is expressed purely from accounting point of view and not from any legal perspective. The Committee also wishes to point out that the opinion expressed hereinafter, is in the context of Indian Accounting Standards (Ind ASs) notified under the Companies (Accounting Standards) Rules, 2015 and not in the context of Accounting Standards, notified under the Companies (Accounting Standards) Rules, 2006.

11. The Committee notes the following terms as defined in paragraph 10 of Indian Accounting Standard (Ind AS) 37, 'Provisions, Contingent Liabilities and Contingent Assets':

"A *provision* is a liability of uncertain timing or amount.

A liability is a present obligation of the entity arising from past events, the settlement of which is expected to result in an outflow from the entity of resources embodying economic benefits.

An *obligating event* is an event that creates a legal or constructive obligation that results in an entity having no realistic alternative to settling that obligation.

A *legal obligation* is an obligation that derives from:

(a) **a contract (through its explicit or implicit terms);**

(b) **legislation; or**

(c) **other operation of law.**

A *constructive obligation* is an obligation that derives from an entity's actions where:

(a) **by an established pattern of past practice, published policies or a sufficiently specific current statement, the entity has indicated to other parties that it will accept certain responsibilities; and**

(b) **as a result, the entity has created a valid expectation on the part of those other parties that it will discharge those responsibilities.**

A *contingent liability* is:

(a) **a possible obligation that arises from past events and whose existence will be confirmed only by the occurrence or non-occurrence of one or more uncertain future events not wholly within the control of the entity; or**

(b) **a present obligation that arises from past events but is not recognised because:**

(i) **it is not probable that an outflow of resources embodying economic benefits will be required to settle the obligation; or**

(ii) **the amount of the obligation cannot be measured with sufficient reliability."**

12. The Committee further notes the following paragraphs of Ind AS 37 "Provisions, Contingent Liabilities and Contingent Assets":

"14 A *provision* shall be recognised when:

(a) an entity has a present obligation (legal or constructive) as a result of a past event;

(b) it is probable that an outflow of resources embodying economic benefits will be required to settle the obligation; and

(c) a reliable estimate can be made of the amount of the obligation.

If these conditions are not met, no provision shall be recognised.

15 In rare cases, it is not clear whether there is a present obligation. In these cases, a past event is deemed to give rise to a present obligation if, taking account of all available evidence, it is more likely than not that a present obligation exists at the end of the reporting period.

16 In almost all cases it will be clear whether a past event has given rise to a present obligation. In rare cases, for example in a lawsuit, it may be disputed either whether certain events have occurred or whether those events result in a present obligation. In such a case, an entity determines whether a present obligation exists at the end of the reporting period by taking account of all available evidence, including, for example, the opinion of experts. The evidence considered includes any additional evidence provided by events after the reporting period. On the basis of such evidence:

(a) where it is more likely than not that a present obligation exists at the end of the reporting period, the entity recognises a provision (if the recognition criteria are met); and

(b) where it is more likely that no present obligation exists at the end of the reporting period, the entity discloses a contingent liability, unless the possibility of an outflow of resources embodying economic benefits is remote (see paragraph 86)."

"23. For a liability to qualify for recognition there must be not only a present obligation but also the probability of an outflow of resources embodying economic benefits to settle that obligation. For the purpose of this Standard, an outflow of resources or other event is regarded as probable if the event is more likely than not to occur, ie the probability that the event will occur is greater than the probability that it will not. Where it is not probable that a present obligation exists, an entity discloses a contingent liability, unless the possibility of an outflow of resources embodying economic benefits is remote (see paragraph 86)."

"27 An entity shall not recognise a contingent liability.

28 A contingent liability is disclosed, as required by paragraph 86, unless the possibility of an outflow of resources embodying economic benefits is remote."

"86 Unless the possibility of any outflow in settlement is remote, an entity shall disclose for each class of contingent liability at the end of the reporting period a brief description of the nature of the contingent liability and, where practicable:

(a) an estimate of its financial effect, measured under paragraphs 36–52;

(b) an indication of the uncertainties relating to the amount or timing of any outflow; and

(c) the possibility of any reimbursement."

13. The Committee notes from the above that an element of judgement is required to determine whether the demand raised in respect of cases pending before ITAT, Honourable High Court of Andhra Pradesh and Sales Tax Tribunal should be provided for in the accounts or treated as contingent liability and disclosed by way of a note to the accounts. It is for the management of the enterprise to decide and for the auditor to assess, considering the circumstances of each case, whether the demand raised warrants recognition of provision or disclosure of contingent liability. The Committee is of the view that while making

such judgement, all facts and circumstances available on the balance sheet date, including for example, legal opinion of an expert on the possibility and extent of outcome (success or failure) of the company's cases in the court of law, experience of the company or other enterprises in similar cases, decisions of appropriate authorities, etc. should be considered. The Committee is further of the view that mere expert opinion should not be considered in isolation; other factors prevailing on the balance sheet date, as suggested above should also be considered while making the judgement. Further, the Committee is also of the view that in determining whether the demand raised should be provided for in the accounts or treated as contingent liability and disclosed by way of notes to the accounts at the balance sheet date or not, events occurring after the balance sheet date but, before the date of finalization of accounts, should also be taken into consideration.

14. Further, the Committee is of view, the interest liability that may arise on demands raised in respect of cases pending before ITAT, Honourable High Court of Andhra Pradesh and Sales Tax Tribunal, will depend on the decision taken by respective authorities i.e. whether interest needs to be paid in addition to the principal amount or not in case the outcome does not result in favour of the company (which itself is uncertain). The Committee also wishes to clarify that the fact that no demand has been raised by the authorities does not necessarily indicate that demand cannot be raised. Accordingly, whether interest liability that may arise in respect of cases pending before various authorities requires to be disclosed as contingent liability or not, requires an element of judgement and should be decided by the management of the company on the basis of all facts and circumstances available on the balance sheet date such as the past decisions taken by the taxation and judicial authorities in similar cases etc.

D. Opinion

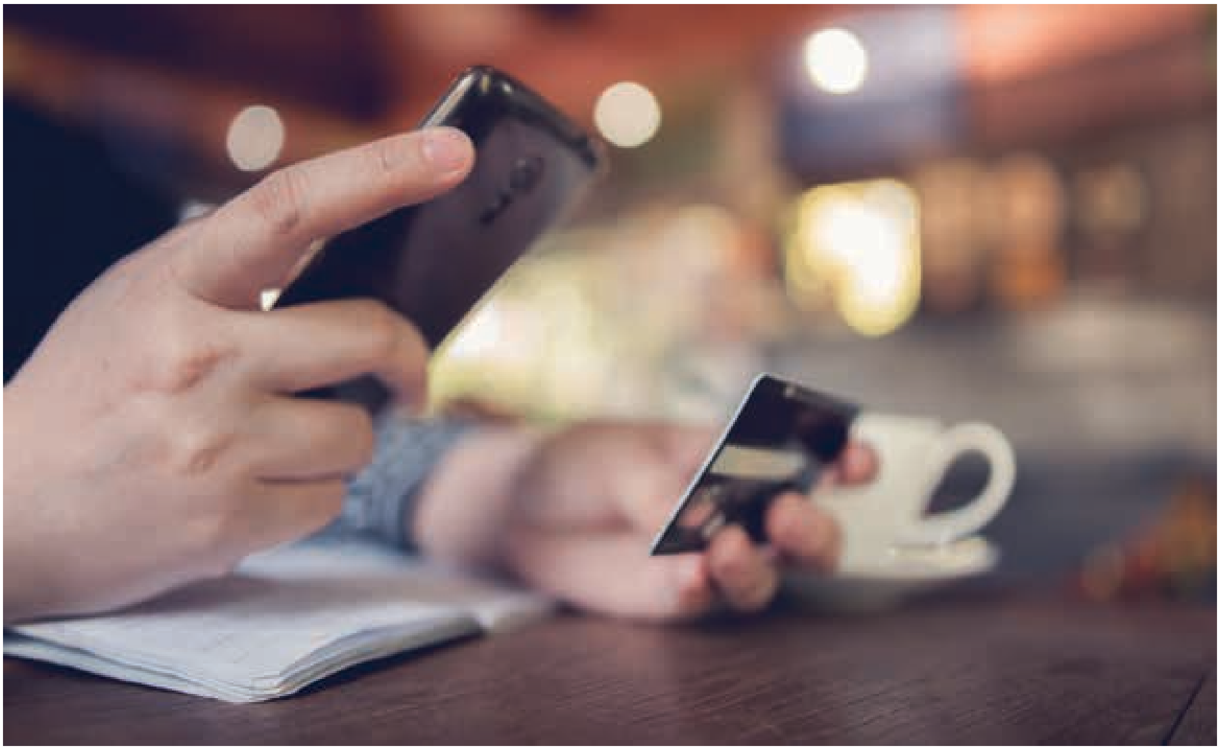
15. On the basis of the above, the Committee is of the following opinion on the issues raised in paragraph 9 above:

(a) The company should, based on all the available evidence, assess whether there is a present or possible obligation towards the demand raised in respect of cases pending before ITAT, Honourable high Court of Andhra Pradesh and Sales Tax Tribunal. If it is considered probable that a present obligation exists at the balance sheet date and the said obligation will be settled, of which a reliable estimate can be made, the company should recognise a provision for the demand raised. If, however, it is considered that the recognition criteria for making a provision are not met, then, the company should instead, disclose the same as a contingent liability , unless the possibility of an outflow of resources embodying economic benefits is remote.

(b) Further, the Committee is of the opinion that based on all facts and circumstances available on the balance sheet date such as the past decisions taken by the taxation and judicial authorities in similar cases etc., it should be decided by the management of the company as to whether the interest liability that may arise in respect of cases pending before various authorities is required to be computed and disclosed as a contingent liability or not.

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 January 4, 2018. 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 five volumes. A CD of Compendium of Opinions containing thirty five volumes has also been released by the Committee. These are available for sale at the Institute's office at New Delhi and its regional council offices at Mumbai, Chennai, Kolkata and Kanpur.
4.	Recent opinions of the Committee are available on the website of the Institute under the head 'Resources'.
5.	Opinions can be obtained from EAC as per its Advisory Service Rules which are available on the website of the ICAI, under the head 'Resources'. For further information, write to eac@icai.in. ■

Fintech: Innovation, Solutions and Collaboration Culture



With the rapid advancement of technology and change in customer preferences, the power of financial technology to deliver last mile financial services and for achieving financial inclusion is now being increasingly taken note of, more than ever before. "Fintech", which refers to technology-enabled financial solutions–an inter-linkage of financial solutions and information technology – is witnessing a new era of growth both in developed and developing worlds, especially since the global financial meltdown of 2008. This article focuses on Fintech from the perspective of professional accountants in Business and Industry. Read on...

Tracking the Fintech Evolution

Evolution of fintech has a long history spanning over six decades or more. The advent of credit cards in the 1950s was the first electronic replacement for cash in our wallets. Some experts claim it was the deployment of the world's first ATM or automated teller machine by the Barclays Bank in 1967, which marks the commencement of the modern evolution of today's FinTech. ATMs diverted away the long queues from the bank teller counters and ensured cash availability for the public 24x7.

CA. Paresh Rajde

The author is a member of the Institute and founder of Suvidhaa Infoserve Private Limited. He can be reached at pareshrajde@gmail.com)

The 70s decade was the beginning of the electronic stock trading with the establishment of NASDAQ in 1971, which marked the transition from physical trading of securities dating to the late 1600s to today's fully electronic securities trading.

By the 80s, the banks started getting computerised and sophisticated systems started to be deployed for record and data keeping. Online banking was first introduced in the US in 1980 and in the UK in 1983 by the Nottingham Building Society (NBS). By this period, most of the financial institutions increased their use of IT in their internal operations, gradually replacing most forms of paper-based mechanisms by the 1980s, as computerisation proceeded and risk management technology developed to manage internal risks.

By the late 1980s, electronic transactions were being done around the world, making financial services largely interlinked with technology. People by then had started to communicate over fax, which supplemented the telex and the first of mobile phones were introduced in 1983. The effect of the "Black Monday" stock market crash in the US in 1987, four years after the introduction of the first mobile phone, proved how financial services had begun to be interlinked through technology in a new way all together.

The next phase, from the late 80s to 2008, was the era when financial services became completely digitised. However, till this period, technology was primarily used by the traditional financial service providers which operated under strict regulatory rules.

The technology innovations in Fintech helped in modernisation, process automation and last mile connectivity of banks and financial services firms.

Technology tools were also deployed for more sophisticated risk management, trade processing, treasury management and data analysis processes. Setting up of Bloomberg terminals by Michael Bloomberg is an early example of such FinTech innovation, which is all the more relevant today.

Fintech in the Present Day

The Fintech space, in its present form, is essentially a post-crisis paradigm. The new era post 2008 is defined not just by the innovative product and services but more on who is delivering these financial services. Technology giants and even tech start-ups are conjoining with financial services institutions worldwide to reinvent their offerings as per the market demand and consumer convenience. The United States, Hong Kong, Singapore and the United Kingdom have bloomed as global hubs for Fintech.

With consumers increasingly doing business with non-traditional players in the financial services industry, fintechs and financial institutions are coming together more than ever before.

According to a global accounting firm's Global Fintech Report 2017, the fintech space is currently "all about innovation, disruption and transformation, and will undoubtedly impact and shape the way financial institutions around the world operate." The report states that FinTech has evolved from start-ups that "want to take on and beat incumbents, to a broader ecosystem of different businesses looking in many cases for partnerships."

Due to the rapid growth in global financial innovation and technology around FinTech, it has become core to the government policies for achieving financial inclusion and inclusive growth in nations across the world.

Fintechs today have become a global phenomenon with mind boggling innovations attracting huge investments worldwide. From an investment perspective, the global fintech sector has witnessed H1 2018 investments surpassing 2017 total to reach USD57.9 billion, as per a reliable report of September 2018.

Due to the rapid growth in global financial innovation and technology around FinTech, it has become core to the government policies for achieving financial inclusion and inclusive growth in nations across the world.

What Makes the Indian Fintech Opportunity Unique

India opportunity for Fintech is one of the most promising ones considering a large population of over 1.3 billion people and the largest unbanked or underbanked population, backed by a strong technology and entrepreneurial ecosystem.

Among the Asian economies, India along with China are making giant strides towards Fintech revolution, as is evident from emergence of new-age fin-tech start-ups, huge inflow of investments and presence of non-core players in the financial services industry.

India's rapid phase of economic growth along with a large market base, huge manpower and skill-set availability and the right kind of policy push for startups has been the biggest boosters for the county's FinTech sector.

Fintech Innovations in India led by Collaborations

The post Liberalisation era of the 1990s was the beginning of technology-driven developments in the financial industry, starting with the banking industry and all the efforts were government driven. The initial innovations such as MICR, electronic funds transfer and other electronic payments revolutionised the banking system.

The banking correspondent (BC) model which came in 2005, is one of the initial examples of fintech start-ups, which helped in enhancing penetration of financial services in the interiors of India.

Next came the start-ups in mobile wallets; e-bill payment and mobile recharge services in 2010 following which there have been multiple Fintech start-ups in different segments such as lending, personal finance management and investment management.

The positive interest from venture capitalists (VCs) has helped in the start-ups to flourish – between 2014 and 2016, there was 40% growth in investments or funding activity from VCs.

***(Data Source:** Pulse of Fintech 2018, Global analysis of investment in fintech, KPMG International (data provided by PitchBook) 9 July, 2018.)*

According to some reports, the private equity (PE) and venture capital (VC) space in India is on track to record investments of $28-29 billion in 2018 due to a vibrant economy and high returns

India opportunity for Fintech is one of the most promising ones considering a large population of over 1.3 billion people and the largest unbanked or underbanked population, backed by a strong technology and entrepreneurial ecosystem. Among the Asian economies, India along with China are making giant strides towards Fintech revolution, as is evident from emergence of new-age fin-tech start-ups, huge inflow of investments and presence of non-core players in the financial services industry.

This will make it a landmark year for the sector; its current best performance is $26.2 billion, recorded in 2017.

The rapid growth and investor interest in the Indian Fintech space over the last few years have been the result of conjoined efforts by the start-ups, traditional financial service providers like banks, as well as the government and regulators to develop, implement and propel innovative solutions.

Symbiotic Collaborations Speed up Growth

Some landmark initiatives by the government and regulators in conjunction with the huge growth in internet and smartphone penetration, have led to have created huge opportunities for FinTech and financial services sector to for deliverance of last mile services. Technology giants and even tech start-ups are conjoining with financial services institutions in newer ways than ever to reinvent their offerings as per the market demand and consumer convenience.

Among one of the most prominent initiatives undertaken in the recent years to connect the people financially and digitally such as the Prime Minister's Jan dhan Yojana, the 'Digital India' and the 'Mobile Stack' initiative, the 'Aadhaar' scheme to provide a unique identification number to every India, the stress on manufacturing with 'Skill India' and 'Make in India schemes, in addition to the huge surge in mobile and internet penetration, all together have thrown open a million of new investment avenues for our citizens.

The Jan Dhan scheme was launched with the aim to provide 'Banking for All' and has led to inclusion of an additional 320 million people into the formal banking sector. More than 24 crore RuPay debit cards have been issued to beneficiaries of these accounts so far.

Symbiotic collaborations between ecosystem players have been at the heart of innovation in the financial ecosystem infrastructure in the country. While launch of UPI – Universal Payment Interface – was yet another very significant move that leveraged the increasing usage of smartphones and mobile apps to facilitate account-to-account transfers, UPI also led other Fintech innovations.

UPI, which offers a superior payments experience, pushed banks to partner with technology companies to improve their service to customers. In April 2015, e-retailer Snapdeal acquired digital wallet Freecharge and sold it to Axis Bank in July 2017. In April 2016, Flipkart acquired UPI-based payments startup PhonePe. Taxi-hailing company Ola, picked up 100 per cent stake in wallet firm ZipCash. In July 2017, e-commerce company Infibeam announced the acquisition and merger of payment gateway firm CCAvenue. Tech giants Amazon and Google have launched their own payment product solution in form of Amazon Pay and Google Pay respectively.

The latest form of such symbiotic linkeages in the Indian fintech space are banks moving indirectly into the e-commerce space through payment services to compete with the likes of Flipkarts and Amazons. Banks have reinvented their mobile apps and are offering their customers products and services that are technically not their core business.

Such sweeping changes at the policy level along with unique collaborations have spurred innovation in the industry and led to mushrooming of fintech start-ups in India, ultimately altering the way the traditional financial services industry delivered their services and products to the customers at the last mile. There are 1,500 fintechs in India and 82 per cent of them are located in the three metros–Delhi, Mumbai and Bengaluru. Payments and credit have attracted the most attention, while savings and insurance remain far behind. About 75 per cent of investments are made in 10 fintechs and 74 per cent of the investments are made in credit and payments fintechs.

Sweeping changes at the policy level along with unique collaborations have spurred innovation in the industry and led to mushrooming of fintech start-ups in India, ultimately altering the way the traditional financial services industry delivered their services and products to the customers at the last mile. There are 1,500 fintechs in India and 82 per cent of them are located in the three metros – Delhi, Mumbai and Bengaluru.

Way Forward – To Forge Win-Win Relations

Despite such massive efforts to create conducive environment for the growth of FinTech and Financial services, the business growth has been rather skewed. As per an international report, Fintechs till now have succeeded in catering to only 23 per cent of the elite/affluent section of the Indian economy while a huge portion still remains untapped. Further as per report jointly by Bain & Co, Google and Omidyar Network, while India has the second-highest active Internet users globally (~390 million), the transacting user base is small – only 40% of 390 Mn i.e. 160 Mn transact online. As per same report, top reasons for not transacting online comprising overall 60% of respondents are lack of trust, no touch and feel, convenience of offline and offline being more reliable.

Given the large demographic dividend of India, there obviously exists a large opportunity to tap the potential of providing financial services through FinTech solutions to the remaining population, especially to the lower and middle income segment.

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The next wave of innovation and growth in the Fintech and financial services space would be triggered by meaningful collaborations that help in sustaining the existing growth momentum and helping the existing players to create sustainable business models. While some consolidation in the industry is likely to bring in such sustainability, understanding and working within the regulatory policy framework would also be a key to triggering the next phase of growth.

Fintechs indeed have a sea of opportunity awaiting them considering the growing mobile and internet usage. The need of the hour is to think out of the box and introduce innovative solutions and services to effectively use digital channels in serving this segment which is still not digitally and financially included. At the same time, Fintech start-ups and established financial service providers should recognise the objectives of regulatory framework especially in terms of stability of system & customer protection and collaborate with them in sharing the innovative solutions on anvil. ■

Peace is its own reward. - Mahatma Gandhi

The Tiger Awakens: India's Rise as the World's Best Start-Up Ecosystem

India potentially has one of the very best start-up ecosystems in the world. With an estimated 20,000 ventures, the country has the world's third-largest start-up ecosystem and is home to 20 start-ups valued at a billion dollar or more. It has the highest number of billion-dollar ventures per the number of start-ups than any other country in the world, averaging at one Unicorn for every thousand ventures, despite receiving only around $8 billion in average start-up funding each year. This, for a country that really started out on the global start-up arena barely a decade and a half ago, is more than impressive. The Chartered Accountants, as a 'must have' for business and industry today, are playing a crucial facilitating role in this phenomenon. This article will look at the various factors which have driven the growth of the Indian entrepreneurial ecosystem and have played a role in establishing the country into a promising land full of entrepreneurial and professional opportunity.

CA. Anuj Golecha

(The author is a member of ICAI, Active Angel Investor and Founder of Venture Catalysts. He can be reached at anuj.golecha@gmail.com)

The New Land of Opportunity: How India's Start-Up Ecosystem is Successfully Taking on the World

What does it mean to be successful?

If that question had been asked to an Indian barely a decade ago, the most-likely answer would have revolved around securing a well-paying job, buying a good home and a decent car, getting married, raising a family, providing good education to the children, and retiring on a comfy pension. This was the traditional Great Indian Dream, where stability and comfort held prominence. Not a bad dream, by any stretch of imagination.

But things have changed drastically in the intervening time. The world is more interconnected today. We are ordering everything – from pizzas to groceries to the latest couture to cabs and long-distance travel arrangements – at the touch of a button. Such access to instant gratification has led to a concomitant transformation in the way Indians approach and define success.

Evolving Sensibilities of New-Age Indians and Rise of Entrepreneurial Class

This change in the priorities and mentality of modern-day Indians is also giving wings to the country's start-up ecosystem and has transformed it into a high-potential global entrepreneurial hub – currently one of the very best in the world.

Sounds too implausible, does it? A quick look at the numbers will be more than enough to dissipate all of your doubts. Home to an estimated 20,000 start-ups at present, India is the third largest start-up ecosystem in the world. In terms of the number of start-ups, the country is behind only the large economies of China and the US, which have around 1 million and 650,000 start-ups, respectively. This achievement, for a country that really started out on the global start-up arena barely a decade and a half ago, is more than impressive.

But it isn't the sheer quantum of ventures that makes India such a bright light on the entrepreneurial stage; it also is the exponential value that the country's start-ups are driving through innovation. With 20 ventures valued at a billion dollar or more operating from within its borders, India also has the third biggest Unicorn Club in the world.

What's even more impressive is the fact that it has the highest number of billion-dollar ventures per the number of start-ups than any other country in the world. India averages at one Unicorn for every thousand ventures and receives only around $8 billion in start-up funding each year. In comparison, the US has one Unicorn for every 6,500 ventures, China has one for every 27,000 ventures, and Israel has one billion-dollar venture for every 2,000 start-ups; the average annual investment secured by start-ups in these countries is $100 billion, $60 billion, and $15 billion, respectively. In terms of the returns on the value of investment, those are some pretty amazing numbers.

What's even more impressive is the fact that it has the highest number of billion-dollar ventures per the number of start-ups than any other country in the world. India averages at one Unicorn for every thousand ventures and receives only around $8 billion in start-up funding each year.

Factors Facilitating India's Rise as the Global Start-Up Juggernaut

So, what makes India – a relative new entrant in the global start-up landscape – such a promising land full of entrepreneurial opportunity? There are several factors that have been driving the country's prominence as a major start-up hub. Primarily, it has to do with the sheer unrealised business opportunity within the country. There are more than 1.3 billion potential digital consumers in the country. That's a big opportunity – most of which hasn't even been realised, unlike the more developed economies. From e-commerce start-ups and fintech players to retail-focused ventures, entrepreneurs have been tapping into India's latent market potential to increase the brand value of their start-ups and drive these innovative ventures to success.

But the massive business opportunity that it represents is not the only thing that is causing India to be realised as the *new* entrepreneurial hotspot. Several other factors have been integral to the exponential rise of the Indian start-up landscape, some of which are listed below:

- **Socially-driven Entrepreneurship**

  Entrepreneurs typically establish their start-ups when their founders identify a big market white space and seek to address that need-gap. In India, however, most start-ups come with an added caveat. It is not only about the money for Indian entrepreneurs. It *can't* be: the country's economy is neither inherently capitalistic, like that of the US is, nor is it completely state-controlled, like China. The thing that would come closest to even beginning to define the India economy is a liberal socio-capitalist setup within a loose federal framework. In a country as diverse as India, this leaves a lot of room for social entrepreneurship, as well as for business ventures which are able to strike the fine balance between the social and the commercial aspects.

Take Paytm, for instance, which has been transforming in pace with the changing requirements of the Indian consumer base. Starting out as a prepaid mobile and DTH recharge solution used mostly by college students, it is today one of the biggest digital commerce and payments platforms and currently the most valuable start-up in the country, following Flipkart's sale to Walmart. It also helped millions of Indians, across multiple geographies, tide through the cash crunch that followed the 2016 demonetisation drive and helped businesses sustain their operations without disruption of services. In effect, start-ups such as Paytm have paved the way for India's cash-based economy to take the first steps towards becoming a digitally-driven economy by providing a seamless, swift, efficient, and easily accessible alternative to paper transactions.

Faircent.com is another example of successful social entrepreneurship. The peer-to-peer (P2P) lending platform has been utilising technology to provide seamless access to credit to creditworthy borrowers across the country. The borrowers on Faircent.com mostly comprise new-to-credit individuals, small and medium businesses, and students – consumer segments which have been overlooked by traditional banking and financial institutions as risky investments. It is therefore surprising that the non-performing assets, or NPAs, on P2P lending platforms such as Faircent.com are actually much lower than that of established BFSI players. The impact that fintech players such as Faircent.com have created in India have led the Reserve Bank of India to recognise the space as NBFC-P2Ps, a market segment in its own right.

- **Support from the Central and State Governments and regulatory bodies**

  Institutional support is critical to driving the growth and scale for any sector, as well as ensuring its long-term success. Indian start-ups have been extremely lucky in this regard. The government – both in the Centre and in various Indian states – have provided gratuitous support to the country's booming start-up ecosystem, putting it on an accelerated growth trajectory. Initiatives such as Digital India and BharatNet have helped in increasing digital connectivity across geographies, thus helping drive the adoption of digital technology-based services and solutions that most start-ups offer. Other more sector-oriented programmes, such as 'Start Up India, Stand Up India,' have also played a pivotal role in simplifying the process of launching a new business, and are providing emerging ventures with the handholding, funding support, and other incentives.

  The Securities and Exchange Board of India (SEBI) also made some major relaxations in the regulations governing Alternate Investment Funds. Not only did it reduce the minimum amount of investment made into a start-up from INR 50 lakh to INR 25 lakh, but also lifted the restrictions on the number of angel investors in a start-up from 49 to 200. The minimum lock-in period was also reduced from the erstwhile 3 years to just one year, allowing early-stage investors to realise value on their investments more swiftly. In doing so, SEBI provided HNIs across India with a huge incentive to look at start-ups as a viable asset class, thus stimulating the early-stage funding activity and increasing investment opportunities for start-ups during the initial phases of their business operations. Such institutional support has helped in not only nurturing a more conducive environment for start-up growth, but has also stimulated the Indian investment landscape.

  Moreover, several state governments have also partnered with leading ecosystem players to provide incubation, investment, mentoring, technological, and networking support to innovative business ideas from the next wave of entrepreneurs. The Government of Uttar Pradesh, for instance, tied up with Venture Catalysts in February 2018 to facilitate investments of up to INR 500 crore into UP-based start-ups till 2022. The move is aimed towards building a holistic, end-to-end entrepreneurial support ecosystem in the region and to nurture capacity-building partnerships with key stakeholders in the state.

- **Corporates promoting entrepreneurship and nurturing start-ups**

  Start-ups and corporate businesses have an extremely symbiotic relationship. Using technology as an enabler, start-ups cause disruption and create novel business opportunities in stagnant markets. Corporate players then capitalise on these emerging opportunities and technologies by using their substantial resources and established brand presence. This is why several leading corporate organisations are now fostering start-up innovation, either in-house or by providing investment, mentoring, and networking opportunities to newer businesses.

  A prominent example of this approach is HDFC RED, a real estate-focused marketplace that lists new properties and provides tech-led marketing services to property developers. Despite being a 100% subsidiary of HDFC Limited, the business operates on a lean and agile start-up model and has been disrupting the space with its innovative use of AR/VR technologies, as well as advanced machine learning capabilities. Global players such as Microsoft, SAP, and Qualcomm have also launched start-up focused initiatives in India to further bolster the country's innovation quotient.

Start-ups and corporate businesses have an extremely symbiotic relationship. Using technology as an enabler, start-ups cause disruption and create novel business opportunities in stagnant markets. Corporate players then capitalise on these emerging opportunities and technologies by using their substantial resources and established brand presence.

- **The push towards entrepreneurship from the academia**

  Of all key stakeholders within a business ecosystem, the academia is often the last to respond to any disruptive changes. This is not the case as far as the Indian start-up ecosystem and top educational institutions are concerned. Many of the most prominent Indian start-ups have been founded while the entrepreneurs in question were still pursuing their higher education, and have been incubated till scale at various innovation labs situated at top academic institutions across the length and breadth of the country.

  Many academic institutions, such as IIM Lucknow, IIT Delhi, and IIT Kanpur, have gone a step further in their aim to nurture the next wave of successful entrepreneurs and serial investors from within their ranks. In addition to partnering with top accelerators and incubators to provide a conducive environment for innovative business ideas, these institutions have also been using their strong alumni networks to provide funding and mentorship opportunities to emerging ventures.

  For example, IIT Delhi Alumni Association has recently entered into a partnership with Venture Catalysts to provide present and future investors from the institute access to high-profile investor education events, joint pitches, global summits, boot camps and conclaves.

Entrepreneurship-Focused Reality Shows Bringing more Visibility to the Start-Up Landscape

There is nothing more powerful for an emerging business than gaining the public limelight with a story well told. Not only does it expose their products and services to a larger target audience, but also helps them in gaining the brand visibility that can help them secure better investment opportunities. Gaining the said limelight, however, has traditionally been a big challenge for emerging ventures, especially at the early stages of their growth. This challenge is being addressed by new-age, entrepreneurship-focused reality TV shows such as *MTV Dropout* and *The Vault*.

The Vault, for instance, brings top investors, business persons, and serial entrepreneurs in touch with high-potential start-ups from across the country on one podium in an entertaining, game show-inspired format. These interactions help the next wave of entrepreneurs to showcase their products and innovative business ideas to a group of seasoned business persons in a bid to secure seed or growth funding. It also provides an opportunity to highlight their entrepreneurial journeys, their struggles and challenges, and their solutions to business challenges.

Something similar has been done by *MTV Dropout*, a show which highlighted the latent entrepreneurial potential in the country by encouraging a handpicked bunch of college dropouts to come up with disruptive business ideas. The youth-oriented show served to drive home the point that the failure to obtain a college degree alone cannot be a limiting factor in the pursuit of innovation, and that business ideas with a high potential can come from anywhere. With stories ranging from inspirational to impactful delivered in an entertaining format, such shows have helped in raising awareness about entrepreneurship amongst audiences across India, inspiring more people to make the entrepreneurial leap.

Ask any Indian what it means to be successful now, and most of them will firmly reply with a "doing my own thing" without batting an eyelash. The new generation of Indians no longer prioritises material comforts and stability, even if it appreciates them. Rather, they crave fulfilling personal experiences and explosive growth.

Ask any Indian what it means to be successful now, and most of them will firmly reply with a "*doing my own thing*" without batting an eyelash. The new generation of Indians no longer prioritises material comforts and stability, even if it appreciates them. Rather, they crave fulfilling personal experiences and explosive growth. They are taking risks their predecessors would not have taken, and reaping the just rewards for their ambition. Their dreams have changed in step with their ever-altering realities. The entrepreneurial ecosystem in India is growing – and with it, the country's stature as the new land of opportunities. And the journey is barely just beginning. And this journey is being ably facilitated by Chartered Accountants in various capacities across all echelons of business and industry. ■

Just as a candle cannot burn without fire, men cannot live without a spiritual life. - *Buddha*

The 21st Century CFO: In Volatile, Uncertain, Complex and Ambiguous Environment

In the last 20 years, the pace of advancement has been so fast that it is difficult to talk about what lies in future. From the invention of Internet, mobile technology, to artificial intelligence, our ability to seamlessly connect with anyone or anything in the world had changed the way we do business. The social networking platforms like Whatsapp, Facebook, YouTube, and Twitter did not even exist a decade ago. Today, these digital platforms have totally changed the way business is done or even how society works. These new platforms and technology allow innovators to launch new products and services that are operationally better and cost efficient and which are putting the major players out of business.

We have seen companies vanishing due to lack of disruption—Nokia, Blackberry, Kodak, Yahoo are few examples. These companies featured amongst the top 10 companies a decade ago. They are now replaced by names like Apple and Google who quickly adapted to the fast changing world and turned it into opportunity. With these massive changes taking place so frequently, we must learn to deal with VUCA (volatile, uncertain, complex and ambiguous) environment. Read on…

Ideas like Hyper-loop Transportation which we thought are difficult to commercialise can be a reality in coming years. We can find innovations like this happening every day. It's just a decade ago when we started experiencing rise of shopping malls in our neighbourhood but with the growth of online market place we can already experience changing trend and consumer behaviour.

CA. Prateek Jain

(The author is a member of the ICAI and CFO Reliance Nippon Life Asset Management Limited. He can be reached at prateekmjain@hotmail.com)

Events of the last two years have been unforeseeable – demonetisation, GST, Brexit and Eurozone instability, geo-political turbulence, the North Korea crisis, choppy global markets, technological disruptions, recent financial crimes and so on. Business leaders, as a result, have to contend with a whole new era, which requires new ways of leading. All of these unforeseen events have also created new vulnerabilities for business, and traditional management techniques are no longer sufficient to address these uncertainties.

Evolution is everywhere, Amazon's Alexa and Apple's Siri use voice command for processing and are making decisions, Tesla and Google are competing to bring autonomous self-driving cars to consumers, nano-technology, robotics and many more. Everything is changing so fast around us that it is very difficult to forecast what lies in future. As Leaders we continuously need to evolve to keep ourselves relevant in the business.

As professionals scramble to meet new expectations, CFOs or Chartered Accountants in general are well positioned to leverage their existing knowledge and core competencies to tackle an organisation's rapidly changing needs.

We live in a VUCA world, which stands for volatile, uncertain, complex and ambiguous. *"It requires different skills than, for example, people leading companies in the '90s and the early part of the 21st Century."* As professionals scramble to meet new expectations, CFOs or Chartered Accountants in general are well positioned to leverage their existing knowledge and core competencies to tackle an organisation's rapidly changing needs. Below is a brief perspective on how Finance leaders can use their skills to help lead their organisation into the future.

Volatility has become a constant feature of today's business environment. We being very close to the financial markets are first to observe these shifts. The changes in consumer behaviour, technology, government's priority have brought about structural shifts. Every change or shift comes for a cost and thus as an enabler the finance function needs to closely work around these changes and be fast and responsive which can enable them to support business teams to implement organisation's strategies.

To respond to the uncertainty and understanding the situation with a clear vision in hand, the business leaders need an in-depth understanding of their organisation's capabilities and strategies. We as financial custodians act as facilitator to provide this vision and help to formulate a concrete strategy to reduce the impact and also find opportunity in such uncertainties.

Uncertainty in market behaviour has made it very difficult to predict. This coupled with changing regulatory environment, government policies like GST and Demonetisation has created kneejerk reactions in financial markets. These events were not really foreseeable and demonstrate how easily we can be overtaken by a course of events. This uncertainty is prevalent in the economy today. To respond to the uncertainty and understanding the situation with a clear vision in hand, the business leaders need an in-depth understanding of their organisation's capabilities and strategies. We as financial custodians act as facilitator to provide this vision and help to formulate a concrete strategy to reduce the impact and also find opportunity in such uncertainties.

Complexity in today's world is rising and it is directly connected to the privilege of having too many choices. The financial markets are not only fragmented but there has been a significant increase in the range of financial instruments which are available in the market, which gives rise to more complex products offering. With the changing business environment the business is also getting complex every day. As finance leaders we not only have to deal with competitive pressure of containing costs and improving profitability but also need to be very innovative in our product offering, service standards and customer experience.

Ambiguity can be more than just unsettling; it can be downright frightening. In an era of rapid political, economic and regulatory changes you are many times indecisive and are unable to make firm commitment on anything which may result in inaction or business may lack proper direction and focus. We have witnessed this in recent decision by apex court on usage of Aadhar UID for KYC. The GST implementation was another such issue where we had to quickly upgrade our systems to be able to run our business smoothly. We as Finance function needs to be agile on such changes and upgrade ourselves to be able to adopt such changes and evaluate its operational risks on operational structures in line with a rapidly-changing environment.

Changing Role of CFO in VUCA Environment

The world of the CFO already has undergone rapid changes, but the pace, complexity and nature of change is now at a critical stage. In fact, I don't believe that the current definition of the title adequately captures the diversity of their position. To the CFOs I would say; *Are you ready to be the Chief Future Officer?* That is what I imagine to be the ultimate role of today's CFO, to be *Chief Future Officer*, someone who offers the kind of multifaceted, high-end skills that organisations can use to achieve their strategic financial goals and drive innovation.

The ultimate role of today's CFO is to be Chief Future Officer, someone who offers the kind of multifaceted, high-end skills that organisations can use to achieve their strategic financial goals and drive innovation.

Finding the skills needed to move an organisation forward is going to be an ongoing challenge. One critical trend that will have an impact on the CFO's role is the growing appreciation of the importance of non-financial measures and big data. Big data and better analytics would change the way business is done over the next 10 years. Meanwhile, CFOs will play big role in helping organisations benefit from big data projects, with many envisioning collaboration between finance and IT and leaders from other departments.

Thus I believe that the future success of CFOs would depend on high-end analytical skills on the technical side and softer skills like being collaborative, communicative and creative. The five key traits expected from the data-enabled CFO will be:

- The ability to identify the data points that are useful in understanding what drives the business.
- A clear sense of what customers care about most, and ideas on how to track this.
- The ability to embrace new forms of data and incorporate them into business decision making.
- Being comfortable with uncertainty, including the reality that big data may not provide definitive answers.
- Being able to explore new ways to interpret data to better inform management.

A CFO has to respond to all this volatility, uncertainty, complexity & ambiguity not just as a book keeper but should go beyond his traditional responsibilities to being a true business partner. CFO has to continuously put efforts towards learning and adopting to these changes and to formulate a concrete strategy to overcome these changes.

The Change Is the Only Constant: People, Processes or Technology

Now more than ever, CFOs must address rapid changes across the three key areas of people, processes and technology.

People: Is Your Team the Team of the Future? The robots are here and more are coming, the workforce is restless. Given the technology advancements automation may deliver 80 percent of accounting and finance tasks in the next few years. Many in today's finance department are spending two-thirds of their time collating MIS; advances in Business & Artificial Intelligence (AI) may put their jobs at risk. Changing workforce demographics mean that up to four generations – Baby Boomers, Gen X'ers, Gen Y'ers, and Millennials – will be co-existing. The CFO must be very innovative in thinking about what will work for the changed workforce of today. They need to invest in employee skills, training or re-training, and enablement in technology. They must not forget that on one hand Customers are becoming more demanding and on the other hand the expectations of CEOs for the value they need from their CFOs has really increased in recent years. Therefore, they need to constantly explore option of outsourcing low level tasks and create robotic process automation strategies for cyclical processes so that they can focus on high-expertise roles.

Process: Keeping up with the Speed of Change; the demand for changing the existing processes and systems is higher than ever. "Changes in Customer Expectations" have had an impact on their industries in the last two years, this "Amazon effect" cannot be ignored. "Customers now expect organisations to be fast with everything. Their demands are forcing CFOs to shorten their cycle of activities that support the business's offerings – developing compressed timelines to add new products, new packaging, new pricing, and new billing methods. All of this requires automating more routine business processes to support sales, marketing and operations teams, and developing and positioning people to focus on what the customers care about. CFOs must collaborate with other executives to ensure process improvements, transparency, automation and adaptability so that their organisation can scale and grow fast enough to anticipate customer demands.

Technology: Today CFOs are showing a desire to build the business case for innovative technology. The key is to truly optimise the current technologies already owned and ensure new investments are made in systems that will fully integrate across the technology ecosystem. There's no question that detailed analysis of "big data" in particular, predictive analytics – can help companies find patterns in customer behaviour and market trends, show the relationship between revenue and market segments, and improve competitive advantage. Technology advances will mean that the way in which your team accomplishes their day-to-day tasks will be unrecognisable. A key driver behind this shift is robotic process automation (RPA), which can be applied to many areas within the finance function. Another cognitive technology – artificial intelligence – uses an algorithm that can incorporate a wide range of internal and external data sources. With increased analysis, finance departments can use more accurate, data-driven insights to informed business decisions. Of course, AI will replace some employees, but it also offers great opportunity to free people to do other functions that add more value, in turn making them more valuable to the company.

In all the uncertainties of today's world, the winners will be those business leaders who will stay focused and adapt to these changes and who have courage to quickly change or modify their strategy by building on their strengths and capacities. Those who lock themselves into fixed positions, will find it very difficult to adopt and will end up losing. Our offerings need to stand out like never before. The underlying principle is that your financial and support ecosystem should be ready to serve as a growth engine of your company. You need to navigate for sustainable profitability and value innovation. In this ever changing and dynamic world, many Start-up's have become world's leading companies like Flipkart, Paytm, Ola, etc. while many world class companies have vanished like Nokia. This is not the time for financial re-engineering which was prevalent in last decade. Today we need multiple contingency plans while also preserving strong financials to support the changing business strategy to be implemented.

Embrace the VUCA Environment

The world is changing and so do we; we are learning to deal with this environment; we need to be ready to look at the unknown in a different way, to become capable of working with the uncertainties. We want to be ready to gather all the benefits of engaging with the unknown, we believe this unknown can be turned into opportunity and we keep looking to create something new to grow our business in this VUCA environment. As Tom O'Shea put it *Are you ready to shift your VUCA to VUCA Prime*. VUCA PRIME calls for leaders to focus on building *Vision, Understanding, Clarity and Agility* as the pathway to coping and overcoming the daunting and somewhat paralysing impacts of the VUCA world.

Volatility can be countered with Vision
Uncertainty to be transformed into Understanding
Complexity can be countered by Clarity
Ambiguity can be countered with Agility!

CFOs today are expected to thrive in volatile, uncertain, complex and ambiguous (VUCA) environments. Stakeholder relationships and processes within and around organisations have become increasingly dynamic and unpredictable. In order to thrive in the VUCA world, be consistently aware of the changing trends around you and plan your strategies early to remain flexible and AGILE. Do not be afraid in taking well-informed and calculated risks. Cultivate a collaborative work environment with other functional leaders and multi-disciplinary teams to tackle issues that may require creativity and innovation. An AGILE CFO is one who *creates a perfect alignment between people, process and technology and the one who:*

Anticipates Change,
Generates New Ideas,
Initiates Action,
Liberates Thinking, &
Evaluates Results

Denise Caron said "*We are moving from a world of problems, which demands speed, analysis, and elimination of uncertainty to solve, to a world of dilemmas, which demands patience, sense-making, and an engagement of uncertainty.*"

Finally but Most Importantly – A CFO Must Stay Grounded:

"*I have just three things to teach: simplicity, patience, compassion. These three are your greatest treasures.*" - Lao Tzu. ■

Life is like riding a bicycle. To keep your balance, you must keep moving - Albert Einstein

Digital Chief Financial Officer (CFO): Value Creator through Technology Investments

If you do not change direction, you may end up where you are heading - Lao Tzu

We are living in times of Alexa, Echo and Google Assistant among others, where a digital device or app, understands and executes simple voice commands - eliminating the need to push a button or remote. It is interesting how technology or digital has become all pervasive across activities that we engage in. This has changed the way we behave – be it as individuals or organisations. Corporate entities as torch bearers of the nation's economy have been deploying technology to improve efficiencies, cut costs, increase production as well as sales, enhance profits and gain customer loyalty. We are living in a dynamic world where new technology solutions are being developed and deployed at a far greater pace than ever before. Organisations that are slow in responding to these changes or are comfortable with the status quo are at a major risk of business disruption. Read on…

CA. Rishi Gupta

(The author is a member of the ICAI and MD & CEO, Fino Payments Bank. He can be reached at eboard@icai.in)

As a part of risk management, top management needs to ask questions about the organisation's preparedness for a technology-induced disruption, experiment to create new systems and even leverage talent that is outside of the organisation.

Going Digital is Critical

To put the business disruption in perspective, a 2016 Harvard Business Review Analytic Services global survey reported that firms that embraced digital transformation averaged a 55% increase in gross margins over a three-year period. On the other hand, companies that were slow in adopting new age technology solutions generated an average of 37% growth during the same period.

In this context, it is worth recalling what John Chambers, former CEO and current Chairman Emeritus of CISCO Systems said : ***"At least 40% of all businesses will die in the next 10 years… if they don't figure out how to change their entire company to accommodate new technologies."***

What is behind this shift?

It's strategic. Going digital is no longer a simple IT challenge. Organisations are turning to digital technologies to gain competitive advantage and strengthen their ability to compete. The digital initiatives support new products, business models and customer experiences, in the process collaborating with other support functions.

It is not surprising that firms are gradually increasing spend on digital initiatives. As per International Data Corporation (IDC) estimates, enterprises are expected to spend USD 1.7 trillion on digital transformation in 2019, which is a 42% increase compared with 2017!

It is, therefore, not surprising that firms are gradually increasing spend on digital initiatives. As per *International Data Corporation (IDC) estimates, enterprises are expected to spend USD 1.7 trillion on digital transformation in 2019, which is a 42% increase compared with 2017!*

This change is crucial that indicates a marked shift in the way organisations perceive the impact of digital interventions.

But change has never been easy. Companies face formidable barriers, be it achieving business goals or adopting digital strategy.

Amongst all the departments and functions, the one that can benefit the most from digital transformation as

Surprisingly, at a time when emerging technologies such as artificial intelligence and predictive analysis are buzz words to drive customer centric innovation, in many organisations, the finance function seems to be held back by legacy systems. According to Innovation in the Finance Function Survey 2018 a staggering 65% of respondents are not actively committed to innovation.

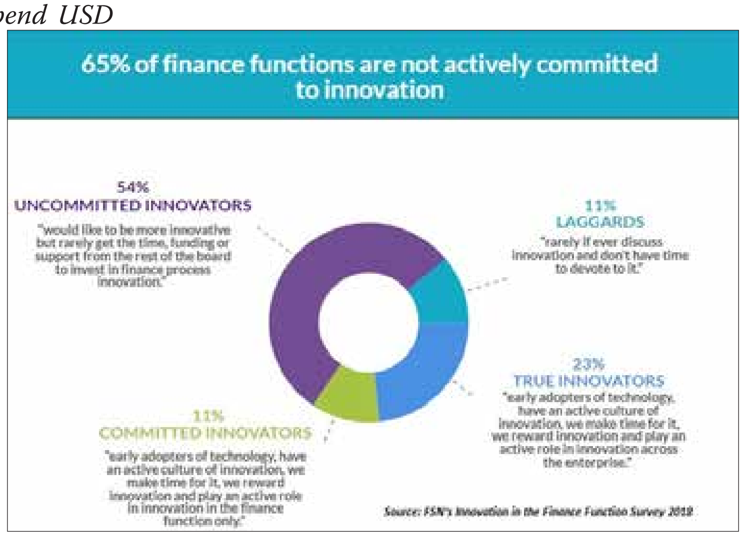
well as contribute immensely to business growth is *finance and accounts (F&A).* **There lies the catch!**

Paradigm Shift

Surprisingly, at a time when emerging technologies such as artificial intelligence and predictive analysis are buzz words to drive customer centric innovation, in many organisations, the finance function seems to be held back by legacy systems. Such systems are not integrated and as such don't communicate with each other. That means the organisation doesn't have access to a single, real-time view of customer engagement.

According to *Innovation in the Finance Function Survey 2018 a staggering 65% of respondents are not actively committed to innovation.*

The study was conducted by **FSN Modern Finance Forum on LinkedIn that has over 50,000 senior finance professionals as members (survey respondents) across 23 countries and 13 industry sectors.*



That brings to the fore a pertinent question. ***Why does F&A function shy away from digital innovation?***

- *Fear of making mistakes?*
- *Culture of indifference?*
- *Lack of platform to share ideas?*
- *Failure of leadership to drive innovation?*

It could be a combination of more than one factor. However, ***what comes out clearly is the need to bring about a paradigm shift in the F&A function's thought process, especially from digital transformation perspective.***

Redefining CFO's Role

It is extremely important for F&A function to make the digital transition as historical data in legacy systems has no real significance in strategizing future outcomes. This change invariably should be initiated by the CFO whose role has evolved over the years from a financial controller to a strategic partner in business growth. As such, along with the core duties of a CEO, the CFO further needs to drive digital transformation.

That is possible when CFOs rethink process architecture to **reduce complexity, improve effectiveness and increase collaboration.** Integrated data and digital analytical tools help CFOs detect and quickly respond to business changes with timely decision making.

A recent Accenture research report puts the role of the new age CFO in perspective, "today's CFOs oversee more than just the finance function and are now integral players in directing enterprise-wide digital investments and managing their economic outcomes and impacts."

In this context, future of the business is a key priority for CFOs

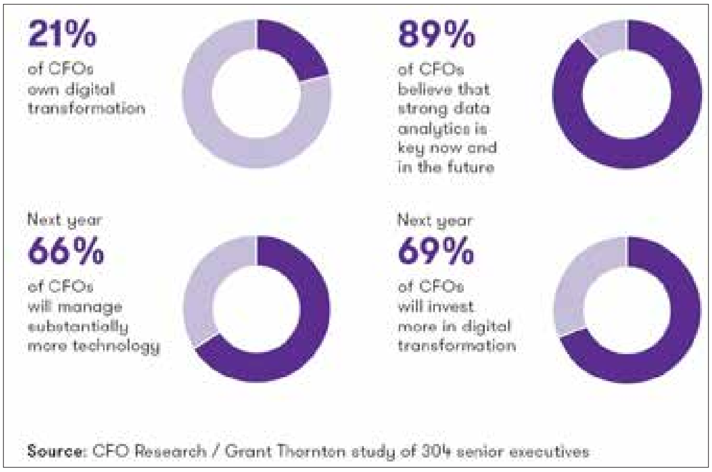
- ✓ Where do we want to see ourselves 5 or may be 10 years down the line?
- ✓ What line of business should we be in?
- ✓ Which geographies should we be present or operate?
- ✓ Which technology solutions should be invested in and deployed to improve efficiency and productivity leading to profitability?

The Accenture report states that ***81% of the CFOs see identifying and targeting areas of new value across the business as one of their main responsibilities*** while 77% believe driving business-wide operational transformation also comes under their purview!

For CFOs, this is an incredible time to engage in ***forward-thinking and creative innovation*** that empowers an organisational dynamic benefiting every line of business, every stakeholder, and most of all, every customer! Without doubt, technology is definitely on top of mind for CFOs.

According to a reliable ***CFO Survey 2018***, more than two-thirds (69%) of CFOs are increasing investments in digital transformation to keep their competitive edge in the marketplace. It further states that current and future CFOs will have to be technology-savvy and attuned to using data analytics to their enterprise's advantage. Some insights:

- ✓ **Technology investments**: Along with improving operational performance and reducing costs, focus on improving customer experience, competitive differentiation and product innovation.
- ✓ **Automation**: Process automation will shift focus from the day-to-day operational efficiency (AP/AR financial reporting and control, treasury and working capital management), to strategy, analysis and growth prediction in the future.
- ✓ **New technologies**: Advanced analytics and optical character recognition (OCR) lead the way.



Harbinger of Change

Digital transformation often starts with the ability to capture, integrate, easily access, and analyse high-quality data. Fortunately, over the last decade the costs of data storage, cloud infrastructure, and processing power have come down drastically. That's good news because predictive analytics, artificial intelligence, and other digital tools use lots of data.

But, as harbingers of change, how should organisations or CFOs go about bringing digital transformation?

To start off with, it's important to understand that going digital doesn't mean adding only some technology or automation layers to existing systems.

Most finance processes are designed around ***compliance, control and efficiency***, usually in that order, and therein lies the challenge. Digital on the other hand requires the customer perspective of ***convenience, simplicity and insight***.

Therefore, the digital transformation process requires ***radical and creative thinking on doing business that has customer experience at the centre.***

Secondly, the transformation requires a multifaceted and holistic approach that involves three core elements, ***people, processes and technology architecture (including process automation).***

From F&A perspective**, customer centricity and insight generation** are the key focus areas.

Process automation will play a critical role in achieving these objectives by leveraging on emerging technologies:

- ✓ Front-end and back-end automation
- ✓ Processing using platforms and robotics
- ✓ Domain customization
- ✓ SMAC (Social, Mobile, Analytics and Cloud-based services)

This transition essentially involves the fundamental redesigning of F&A processes and systems. It places the internal business customer at the centre, enabling the delivery of real-time, contextual and relevant business specific insights.

It is extremely important to get the digital transition right. *George Westerman, Principal Research Scientist with the MIT Sloan Initiative on the Digital Economy* puts it in perspective, "When digital transformation is done right, it's like a caterpillar turning into a butterfly, but when done wrong, all you have is a really fast caterpillar."

It is extremely important to get the digital transition right. George Westerman, Principal Research Scientist with the MIT Sloan Initiative on the Digital Economy puts it in perspective, "When digital transformation is done right, it's like a caterpillar turning into a butterfly, but when done wrong, all you have is a really fast caterpillar."

Digitalization, while enabling ***flexibility and transparency***, also brings in the ***value of frugality***, which is ***"do more with less"*** capability by supporting business growth.

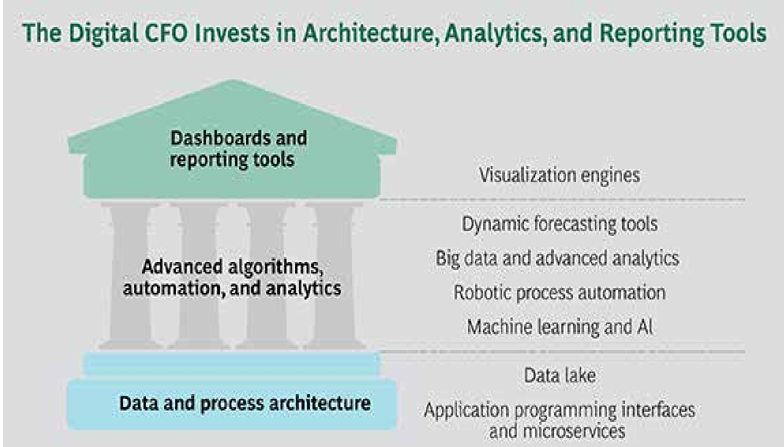
Most importantly the perception about F&A function, as difficult to work with due to earlier constraints, will fundamentally undergo a positive change, much to the benefit of the organisation.

***Consider a case in point from customer experience perspective*:**

In today's age where people are so used to doing things and getting updates on smart phones without handling paper, engaging with the F&A department that is still paper-based would be difficult.

This is today's irrefutable reality and the digital transformation should accommodate it to make the life easier for the customer.

When redesigning the processes, CFOs would do well to talk to business customers and end users of F&A services for the experience expected from the department. This exercise in all probability will result in a different view of how F&A process should be designed, which is integrated with other systems of the organisation.



Source: BCG analysis.

Integrated systems enable seamless information flow leading to a more positive customer experience. For CFOs, such experience delivers the business benefit of increased compliance and less likelihood of users circumventing processes.

That brings us to the second key aspect of insight generation. By now it is clear that the scope of data analysed by F&A is expanding. It is now moving towards analysing real time tracking of revenue and expenses and integrating financial operations into business, including monitoring competition and market trends.

Another key element in the digital journey is effective collaboration with the IT function. It is essential to ensure integration of front-end and back-end systems or else the financial dashboards will lack real-time access to critical data.

From the CFO's perspective, working with the business to build a partnership with the CIO is imperative. Both need to be joining and locking hands for growth and gaining competitive advantage.

Digital CFO or Hybrid CFO:

As the F&A function undergoes digital transformation, CFOs in their redefined role would provide ***'Strategy-as-a-Service'*** through recommendations based on deep insights from various data.

CFOs across the globe have been doing *'What If analysis'* and *Scenario planning* of data by choosing various inputs to arrive at possible positive outcomes. In a digital set up, CFO would carry out tasks using ***Robotic Process Automation, Business Intelligence and Predictive Analysis*** tools to better interpret data for key business decisions that drive value, improve efficiency and enable strategy beyond the finance function.

How do digital tools benefit CFO?

Business Advice:

- Digital tools such as ***Predictive Analytics, Artificial Intelligence (AI) and Advanced Algorithms*** can deliver powerful new insights into how the business can improve its financial performance. The greatest impact that digital investments will have is most probably in the role of CFO as proactive advisor to the business.

Planning and Forecasting:

- Provide the flexibility, agility, and responsiveness. Digital tools also improve the accuracy of plans and forecasts by eliminating human bias and analytical error. According to a BCG report, using predictive analytics and algorithms, some analysts have boosted accuracy by more than 20% and cut forecast volatility by nearly 50%.

Accounting and Compliance:

- Minimise compliance errors and enhance transparency while saving time. Compliance requirements are becoming increasingly stringent. CFOs who can design data tools to make the auditor's job easier add significant value.

***Decision Making*:**

- With access to better, more timely data, finance teams can analyze patterns and trends, gain new insights, and respond more quickly to changes in the marketplace. AI, predictive analytics, machine learning, and advanced algorithms can reveal unexpected drivers behind business performance.

Reduces Cost and Rework:

- Digital tools are more efficient and less error-prone than humans. Robotic Process Automation (RPA) can reduce the manual work associated with routine rules-based tasks and sharply reduce error rates and rework.

Lower Risk, Higher Returns:

- Machine learning and AI algorithms can help CFOs unlock greater financial value from these activities.

Challenges for the CFO

For any transformation, digital in particular, one of the biggest impediments is the organisation's culture. Not many people are wired to work in a digital set up. F&A function needs to take a lead role in creating a culture of collaboration across functions, by breaking barriers or delayering decision-making and simplifying control structures.

Another critical challenge for the CFO is getting the talent with right digital skills and retaining them. Today's finance executives require a wide range of capabilities, from data visualisation to flexible thinking. Most CFOs recognise that finance skills will continue to move away from core finance to advanced digital, statistics, operational and collaborative skills.

To acquire the necessary capabilities, CFOs will need to follow a combination of strategies, including up-skilling their F&A staff through structured training programs, stepping up external recruitment and facilitating internal transitions from the frontend business and strategy functions.

Value Creation: The Way Forward

Digital technologies, for all their inherent strengths and value they bring in, cannot work without a comprehensive strategy that is aligned to the organisation's business goals. Making use of the benefits of the digital tools, CFOs need to transform the finance function into a *value creator for the organisation*.

In a nutshell, for the new age CFO it's all about gaining a strategic advantage over competition.

As Jeff Bezos of Amazon rightly puts it, "In today's era of volatility, there is no other way but to re-invent. ***The only sustainable advantage you can have over others is agility, that's it***. Because nothing else is sustainable, everything else you create, somebody else will replicate." ■

Luck is a matter of preparation meeting opportunity. *- Oprah Winfrey*

TReDS - Exploring Potential of a Big Push to MSMEs and Role of Chartered Accountants

"Stay self-funded as long as possible." – Garrett Camp, founder Expa, Uber and StumbleUpon

Micro, Small, and Medium Enterprises (MSMEs) are the backbone of the Indian economy. Employment intensity of MSME is estimated to be four times greater when compared with other large enterprises. Despite the important role played by them in country's overall economic growth, MSME continue to face constraints in obtaining adequate finance, particularly in terms of their ability to convert their trade receivables into liquid funds. Committee on Financial Sector Reforms (FSR) recommended setting up of Electronic Bill Factoring Exchanges. RBI has given license to three entities to launch Trade Receivables Discounting System (TReDS). TReDS is an electronic platform that allows auctioning of trade receivable. It has ability to convert trade receivables into liquid funds and allows MSMEs to post their receivables on the system and get them financed. The linking of the Trade Electronic Receivables Discounting System (TReDS) to the GST Network (GSTN) is expected to increase the usability of the platform. Financiers' apprehension of fraudulent invoices will get radically mitigated. Professionals like Chartered Accountants can play an important role of bringing the MSMEs in the System (TReDS). Read on...

CA. Rohit Patoria

(The author is a member of the ICAI. He can be reached at rohitpatoria@gmail.com)

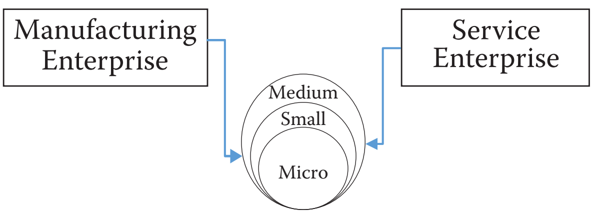
Micro, Small, and Medium Enterprises (MSMEs) are the backbone of the Indian economy.

MSMEs contribute (both manufacturing and Service sector) to more than one third of India's GDP and play prominent role in creating employment opportunities. MSMEs act as a panacea for numerous economic woes such as poverty, regional imbalances, unemployment, and income inequalities. MSMEs play a vital role in ensuring the goals such as balancing regional development, and equality of income, economic. One of the important contributions of MSMEs in India is balancing the economic development.

Employment intensity of MSME is estimated to be four times greater when compared with other large enterprises.

MSME meaning Micro Small and Medium Enterprises has been defined under MSME Development Act 2006. With introduction of the MSME Act in the year 2006, the service sector that was not yet included in this sector was included.

MSME Development Act further simplified into different enterprises viz. micro. Small and medium depending upon the Turnover.



Despite the important role played by them in country's overall economic growth, the MSMEs continue to face constraints in obtaining adequate finance, particularly in terms of their ability to convert their trade receivables into liquid funds.

Typical Challenges Encountered by MSME

- Resistant to growth resulting in the reduced productivity.
- Basic concept of staying small and comfortable and tend to avoid any regulatory and taxation related problems.
- Growing enterprises have a different set of problems like (lack of) finance, infrastructure and logistics, entrepreneur skills, etc.

Whilst the majority of big companies that buy from SMEs get the benefit of an interest-free repayment timeline for almost 120 days, whereas SMEs get only 60 days prior to pay back their interest-loaded loans.

While lack of adequate financing is one of the very critical issue for MSMEs, this article focuses on management of Trade Receivables.

Financial Sector Reforms (FSR) Committee Recommendations

In 2008, in its report "100 Small Steps", a Committee on Financial Sector Reforms (FSR), headed by Dr. Raghuram Rajan, recommended setting up of Electronic Bill Factoring Exchanges, whereby MSME bills against large companies could be accepted electronically and auctioned, to ensure prompt realisation of trade receivables at competitive rates.

For setting up of an institutional mechanism for financing trade receivables, RBI had published a concept paper on "Micro, Small & Medium Enterprises (MSME) Factoring-Trade Receivables Exchange" in March 2014.

To facilitate setting up of Electronic Bill Factoring Exchanges, RBI had issued guidelines related to Trade Receivable e-Discounting System (TReDS) on December 3, 2014.

The Reserve Bank of India (RBI) has given license to three entities to launch Trade Receivables Discounting System (TReDS) — a digital platform where small businesses (MSMEs) can get access to capital by auctioning their trade receivables and they are governed by the Payment And Settlement Systems Act.

RXIL was the first one to go live.

The concept is still at a very nascent stage and all the three players are trying to empanel more corporates and financiers in order to succeed.

Let us understand Trade Receivables Discounting System (TReDS).

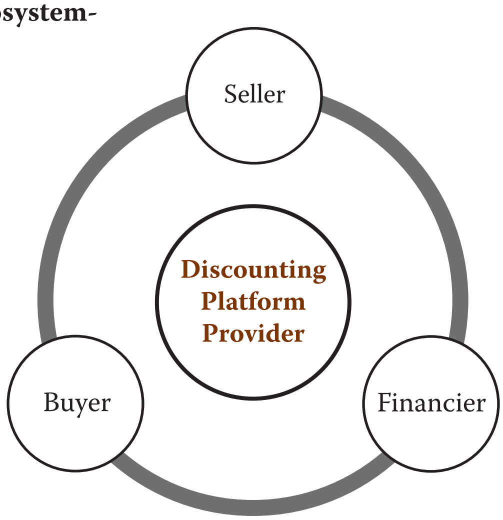
❖ **What is <u>TReDS?</u>**

It is an electronic platform that allows auctioning of trade receivable. The process is also commonly known as 'bills discounting', a financier (typically a bank)

TReDS is an electronic platform that allows auctioning of trade receivable. The process is also commonly known as 'bills discounting', a financier (typically a bank) buying a bill (trade receivable) from a seller of goods before it's due or before the buyer credits the value of the bill. In other words, a seller gets credit against a bill which is due to him at a later date. The discount is the interest paid to the financier.

buying a bill (trade receivable) from a seller of goods before it's due or before the buyer credits the value of the bill. In other words, a seller gets credit against a bill which is due to him at a later date. The discount is the interest paid to the financier.

Thus there are four stakeholders in the ecosystem-



As per RBI TReDS guidelines, only MSMEs can participate as sellers, while banks, non-banking financial companies and factoring companies are permitted as financiers.

❖ How Does the System Work?

A seller has to upload the invoice on the platform. It then goes to the buyer for acceptance. Once the buyer accepts, the invoice becomes a factoring unit. The factoring unit then goes to auction. The financiers then enter their discounting (finance) rate.

The seller or buyer, whoever is bearing the interest (financing) cost, gets to accept the final bid.

❖ Other Relevant Aspects of Trade Receivables Discounting System (TReDS)

The scheme for setting up and operating the institutional mechanism for facilitating the financing of trade receivables of MSMEs from corporate buyers through multiple financiers will be known as Trade Receivables Discounting System (TReDS).

The TReDS will facilitate the discounting of both invoices as well as bills of exchange. Further, as the underlying entities are the same (MSMEs and corporate buyers) the TReDS could deal with both receivables factoring as well as reverse factoring so that higher transaction volumes come into the system and facilitate in better pricing.

The transactions processed under TReDS will be "without recourse" to the MSMEs.

❖ Regulatory Framework for TReDS

The TReDS would be governed by the regulatory framework put in place by the Reserve Bank of India under the Payment and settlement Systems Act 2007.

Eligibility Criteria to Set Up and Operate the TReDS

(a) Financial Criteria

- Net worth of Rs100 crore at all times.
- Promoter's minimum initial contribution
  - 40 % locked in for a period of 5 years
  - 30% within a period of 10 years, and
  - 26% within 12 years from the date of commencement of business of TReDS
- Entities other than the promoters will not be permitted to have shareholding in excess of 10 per cent of the voting equity capital of the TReDS.

(b) Due diligence of promoters

- financial soundness and track record of at least 5 years in running their businesses

(c) Technological capability

- Sound technological basis to support its operations.
- Ability to provide electronic platform,
- Dissemination of Information about bills/ invoices, discounting and quotes on real time basis, robust MIS system,
- Business Continuity Plan (BCP) including a disaster recovery site,
- Online surveillance capability which monitors positions, prices and volumes in real time so as to check system manipulation

Teething Issues Faced by the Platforms

- All the transactions undertaken on the TReDS have to be registered with the Central Registry of Securitization and Asset Reconstruction and Security Interest of India. The registration charge (up to ₹ 750) discourages small-ticket sellers from using the platform.
- KYC (know your customer) related regulations
- Currently, only banks and certain NBFCs are allowed to be financiers. More players should be allowed as financiers. Experts say

even other participants like high net worth individuals should be allowed to act as a financier to expand the market.

Trade Receivables Discounting System is a welcome step by the RBI to regulate the trade receivables between MSMEs, large corporations and financiers. This is beneficial not just for these individual players, but for the entire economy of the nation. This step is deemed to augment the trade account receivable management of the micro small & medium enterprises.

Benefits of TReDS:

- Ability to convert trade receivables into liquid funds
- Allows MSMEs to post their receivables on the system and get them financed
- Puts greater discipline on corporates to pay their dues on time
- Corporates enjoy savings on procurement cost through improved negotiation of financing term for its vendors
- Corporates save on the financing cost by extending their credit period and augmenting their payment cycle
- Financiers, on the other hand have an opportunity to build PSL asset portfolio

Big Push: Linking TReDS to GST Network

The linking of the Trade Electronic Receivables Discounting System (TReDS) to the GST Network (GSTN) is expected to increase the usability of the platform, remove the problem of fake bills, and give a huge fillip to a market that has the potential to reach ₹ 20,000 crore.

The linking of the Trade Electronic Receivables Discounting System (TReDS) to the GST Network (GSTN) is expected to increase the usability of the platform, remove the problem of fake bills, and give a huge fillip to a market that has the potential to reach ₹ 20,000 crore.

With access to information on cash-flows of MSMEs, banks will also be able to offer cheaper interest rates to small businesses that have so far stayed away from formal sources of financing. Financiers' apprehension of fraudulent invoices will get radically mitigated, if trade platforms are linked to GSTN, the probability of fake bills will come down drastically.

These invoices will be authenticated from GSTN and will be a goldmine of information to banks on MSMEs regarding their credit discipline.

Finance Minister in his Budget speech said that public sector banks and corporates will be onboarded to TReDS and linked to GST, which is expected to result in mass formalisation of the MSME sector and give banks access to cash flow information leading to prompt credit decision-making. Online loan sanctioning facility for MSMEs will be revamped for prompt decision making by the banks.

MSMEs are very important for our economic growth. Chartered Accountants can play a very significant role by inducing financial discipline and streamlining the accounting & billing system. These are couple of critical areas among many others for bringing up the MSMEs. They can introduce the MSMEs to the TReDS by creating awareness and highlighting benefits of the system.

Concluding Remarks

MSMEs are very important for our economic growth. Chartered Accountants can play a very significant role by inducing financial discipline and streamlining the accounting & billing system. These are couple of critical areas among many others for bringing up the MSMEs.

Bill discounting via TReDS is an excellent tool to take the MSMEs out of the clutches of financial misery. With GST network it is possible to scale up the TReDS to a new height.

Professionals like Chartered Accountants can play an important role of bringing the MSMEs in the System (TReDS). They can introduce the MSMEs to the TReDS by creating awareness and highlighting benefits of the system.

The true measure of any society can be found in how it treats its most vulnerable members.

- Mahatma Gandhi

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Many of life's failures are people who did not realize how close they were to success when they gave up. -Thomas Edison

Importance of Succession Plans in Driving Sustainability-A Step towards Credible Governance

The recent spars in the Board Rooms of some leading organisations of Corporate India is a pointer to the absence of a robust succession plan in the senior most echelons of these Corporate. This vacuum in leadership talent impacts sustainable performance irrespective of size of entity or characteristics of business, whether family-owned, start-ups or established entities. The Companies Act 2013 has attempted to address this matter by defining the concept of Key Managerial Personnel (KMP) in safeguarding the brand image and meeting the expectations of stakeholders. Read on to know more…

Succession Planning Back in Spotlight

The *Times of India* in its article dated 25th October 2016, reflected on the subject of nurturing future leaders, back up plans and challenges in building an environment of a cultural fit and a collaborative approach being important for every organisation. The article further reflected on "*The issues that stand out are the strength and independence of the board, the pressures brought to bear on chief executives in a complex and uncertain world, and the now established trend of the returning CEO. The cultural fit between the leader and his organisation and the lack of* succession planning *are also in the spotlight. CEO tenures have shortened across the world. While*

CA. R. Srivatsan

(The author is a member of the Institute. He can be reached at vatsan.rayam@gmail.com)

pressure on performance at top levels is a given, the article underscores the dangers for large organizations which neglect succession planning and the mismatch between leaders and their teams. In addition to performance, collaboration and culture fit are equally important".

Surrogate Leadership Vs. Trust Deficit

Is there a 'trust deficit' or 'scarcity' of trustworthy leaders' amongst the young breed of professionals or is it a matter of transition where the first-generation entrepreneurs totally rely on the Key Managerial Personnel (KMP) to administer the organisation. There are many questions and factors that plague this void in identifying the 'right successor' or 'maintaining continued trust' and 'avoiding conflicts'. Or is it the age of 'surrogate' leaderships that has dawned 'Corporate India' where the key investor or promoter has the reins and governance is stage managed and 'Companies' being eternally managed through remote controls. Any decision that is taken in the normal routine has the risk of being brought under scanner to be questioned at a later stage. Is it a situation of Key Managerial Personnel (KMP) being made a scapegoat eventually or is it a frightening scenario of an imminent 'paralysis' in governance?

Corporate Leadership Transitions

There are innumerable examples wherein companies with inadequate or inappropriate succession plans are exposed to vulnerabilities of closure, despite having the best of systems, processes, governance mechanisms and sustained value creation over decades of existence. Perhaps the biggest challenge is in ensuring smooth transitions in nurturing and appointment of Key Managerial Personnel (KMP), Chief Operations Officers, Chief Executive Officers, in executive positions. In view of the recent regulatory development and ensuring effective governance, this succession plan may need to be extended to posts of directors and chairpersons of the board/operational committees.

> There are innumerable examples wherein companies with inadequate or inappropriate succession plans got exposed to vulnerabilities of closure, despite having the best of systems, processes, governance mechanisms and sustained value creation over decades of existence.

The recent developments in large corporate houses re-emphasise the need to include policies and framework on appointment of directors and a robust rotation policy, not being left to whims and fancies of few trusted individuals on behalf of the majority shareholders. Even where the Senior Managerial personnel are appointed as Directors or Corporate nominees, there must be a voluntary cooling period and avoidance of dual official positions within the organisation to remotely avoid conflicting business decisions. For example, a Company Secretary or a Chief Audit Executive or a KMP should preferably not be a director in any group company or vice versa. The trend seems to suggest that such conflict in roles as employee and as director could emerge as a major concern or dilemma leading potential litigations in questioning the independence in business decisions that impact the functioning of corporate entities in India.

Experience & Expertise minus Business Ethics = Risk Exposures

Historically, any corporate entity with decades of operation and family dominated business faces the challenges of ageing 'functionaries' predominantly nearing the age of superannuation. The trust and confidence of being an old timer being at a helm of affairs in such entities provide an eternal comfort to the stakeholders as well as a situation of indispensability of such functionaries. Boards of such companies are coerced to offer extensions in service and therefore engage them in contractual employment for an extended period due to paucity of trusted professionals/experienced administrators matching these trusted old-timers. Having reached a senior position and longstanding proximity to the board members, these are 'giveaway perquisites in kind' by corporate Houses for the lifetime contributions. This is the joint responsibility of the owners/promoters and the KMP to identify and nurture young talent.

Standardisation of Severance Pay for Top Executives

Whilst the Corporates are moving towards standardisation of severance pay for top executives, traditional companies are focussing on alternative methods. This includes extending the service period of superannuated executives. The next generation of top executives are likely to be more mobile in pursuing ambitions and would be ever ready to switch jobs as opportunities arise. To quote from the TNN report dated 27th October 2017, "leading IT Company has standardised its severance pay for top executives. For senior vice- presidents (SVPs) and executive vice-presidents (EVPs), it will be four months of their fixed salary. Severance pay had become a major bone of contention within the company over the past two years when seemingly arbitrary amounts were paid to former CFO and former general counsel. The CFO was granted ₹17 crore, while the latter, who was in the company for just two years, received $868,250 (about ₹ 5.9 crore when he quit in January). The standardisation plugs the scope of individual negotiations. The CFO's pay-out allegedly went way beyond what his contract specified. The General Counsel's employment contract is said to have specified a severance pay of seven to eight months of fixed salary". These are pointers to future developments in Corporate India and frequent changes seems to be the new normal.

There is a paradoxical view on whether there is in reality a deficit of experts and professionals in the age of 35 to 60 years, as justified by the Boards in India for granting extensions and special privileges to corporate employees beyond the superannuation age of 58 or 60? Does this aspiration amongst those nearing retirement age result in certain unethical practices:

- by not working on a succession plan and evolving a successor much in advance of the retirement age
- Avoidance of 360° performance evaluation process, a norm in professionally managed corporate entities.
- By not ensuring an Independent propriety audit in such appointment and extensions, due to their loyal disposition.

Thus, there is a dilemma in succession plans faced by Corporate Entities in India on whether:

a) offering extensions to trusted officials beyond superannuation for an extended period is justifiable for a smooth transition and assistance to successors

b) appointing external professionals is a viable option to ensure independence in nurturing organisations and sustained growth.

c) nurturing talent and leaders in a situation of high attrition, in retaining young talent

d) Continuous monitoring of performance of Top Executives

The way the game of cricket has evolved, perhaps the transitions point out to various business formats in differentiating between the requirement for a 5 days test match, 1 day match and 20:20 matches. The players need to consistently perform and for any failure, there is always a back-up captain or player in the waiting. Corporate could perhaps draw an analogy in tuning the business as has happened in the game of cricket in all its varied dimensions.

The Paradox in Succession Plans

In recent years, the trend across industry indicates that employees reaching superannuation despite their loyal dispositions carry the stigma of having worked around the system that is grossly unjustified. The dilemma is to address the expectation gap in the mind of stakeholders in defining the rationale in Board Room discussions and remuneration packages offered to deserving roles in the organisation. The Companies Act, 2013 perhaps drives home the point towards greater transparency in the system in the manner in which the 'remuneration committees' and 'risk committees' operate and report the proceedings. The same is complemented by regulators such as SEBI, in bringing the right perspective in Board discussions and ensuring an 'arm's length' approach in justifying the decisions to the shareholders.

There is a perception that majority (influencing) stakeholders influence the working of compensation packages and remuneration offered to 'Top Serving Executives'. That the 'exit packages' are being scrutinised under the lens and often challenged with reference to delivering performance. In contrast, there is another challenge in 'refilling' the leadership positions, especially those have reached superannuation and are confidante of the management. Finding a suitable successor who matches with the organisation ethos & pathos brings in another set of challenges. The contrasting views and paradoxes in decisions, also pose a challenge on what constitutes adequacy on disclosure norms to regulators and in annual reports or even in the Directors Responsibility Statement.

Background Check specialists (duly supported by independent practicing Chartered Accountants/ Company Secretaries/Investor Analysts & Due diligence professionals) play an important role in studying the antecedents in deciphering the appropriateness of these decisions:

The Companies Act, 2013 drives home the point towards greater transparency in the system in the manner in which the 'remuneration committees' and 'risk committees' operate and report the proceedings. The same is complemented by regulators such as SEBI, in bringing the right perspective in Board discussions and ensuring an 'arm's length' approach in justifying the decisions to the shareholders.

(i) in appointment of 'Top Executive' positions,

(ii) in identifying a successor or

(iii) in conducting propriety audits for 'top executive' exits/extensions.

These aid in decision making for the Board in the rationale behind the appointment, remunerations and planning for extensions to deserving 'Top Executives'. The due diligence exercise offers a ready reckoner aiding the Board decisions and could be even extended for appointment of Directors/ independent Directors. The antecedents of these executives enable a rationale decision making and building an environment of 'confidence building' as part of the maintaining good investor relations.

Unlike Government Services, where there is a provision to discontinue or attach the pension income for any impropriety that is discovered or for any contingency, there is no such provision in the private sector and these are 'ab initio' form part of 'performance pay component'. Experience suggests that a wise counsel would prevail in 'earmarking part of the emoluments as contingency fund' or 'a clause' in the contractual arrangements for recourse to such 'authority' in case of post facto developments, for any form of impropriety. As the regulations do authorise for reopening of matters over an 8 to 15 years period retrospectively, especially the RBI regulations and those that relate to money laundering regulations. The Insolvency & bankruptcy code would be another factor that would bring to the fore the increasing responsibility and accountability on the 'Key Managerial Personnel' in terms of delivering performance. A balancing act is necessary to strengthen the line of defence for the corporate functionaries during their service and at the same time safeguard the interest of the stakeholders. May be an adequate 'professional indemnity cover' is desirable for the 'Top Executives'?

Remedial Measure in Driving Succession plans:

No person is eternal or indispensable in any professionally managed organisation and the cryptic view is that there is no dearth of 'talented professionals' across the globe and in India. There are about 2.8 lakh Chartered Accountants (and equal number of engineers and other specialists in industry). Yet there is a dearth of suitable leaders in identifying a suitable successor as organisation have a set of value system.

Clear advance planning would help in identifying a successor and provide a graceful exit to leaders those have served the organisation diligently. A rotation of roles and handover of charge to a successor 1 or 2 years prior to retirement is normally followed in professional management organisation and provides an incubation period for the new leader to understand and adjust to the work eco-system.

Custodians of Stakeholder Trust

Another factor that is largely underplayed is that the banks and financial institutions are in a position of trust and are a custodian of funds for the stakeholders and when these are deployed with Corporate Houses as a conglomerate or syndication of loan, there is an element of trust deposed amongst these institutions. While a nominee director is represented in the Board as a result of these funding arrangements, any Corporate misadventure does get reflected through such representatives to the consortium banks. In these circumstances, the law is reasonable in providing comfort to Private operators and, therefore, there is an element of moderation in implementing the regulations:

a) Differential treatment is given to public enterprise and those in private sector

b) The whistle-blower policy as applicable to a public servant is not extended to officials operating in private sector (where the funding is done by government, banks and financial institutions those deal with public money).

c) The RTI act is not be applied or extended to private sector and even to private company that use bank funds.

Watchful Glare of Regulators

Conflicting regulations and regulators pose a significant 'regulatory risk' in corporate sustainability. The 'activists' posing as those espousing the cause of 'professional social responsibility' are like hawks

Another factor that is largely underplayed is **that the banks and financial institutions are in a** position of trust and are a custodian of funds for the stakeholders and when these are deployed with Corporate Houses as a conglomerate or syndication of loan, there is an element of trust deposed amongst these institutions.

waiting to take a plunge into the mayhem of 'mis-governance' with the slightest of tremors that shake the top echelons of the corporate functionaries. The stringent regulatory norms and evolving role of regulators, though dormant in the normal functioning of corporates, rise like a dragon when faced with a conflict amongst the differential vested interest of stakeholders in their role as promoters, major and minority shareholders, debtors, lenders, creditors and even disgruntled employees who at times turn out to be the whistle-blowers.

The provisions of section 199 of the Companies Act 2013 may be put to use for proper risk allocations.

Section 199- Recovery of Managerial Remuneration in Certain Cases

This is a new provision introduced in the Companies Act 2013. It provides for recovery of remuneration including stock options received by the specified managerial personnel, where the benefits given to them are found to be in excess of what is reflected in the restated financial statements.

Compensation for Loss of Office of Managing OR Whole-time Director or Manager (Section 202)

There is a balancing act in enacting the legislations in protecting the interest of the corporate functionaries including Directors for loss of office or premature retirement under certain conditions.

The regulator seemingly would work towards greater empowerment of corporate entities, in being intrusive and questions matters relating to breach of trust, wrongdoing, criminal misfeasance that may not come under the direct purview of regulations, in safeguarding stakeholders' interest. For the purpose there is an element of liberal voluntary discretion given to Corporate Functionaries in reporting these incidents of wrongdoing under the Companies Act, 2013 and on other governance related matters.

In conducting inquiries and investigations, the regulator also grapples with bridging the conflict between the criminal law procedures that focuses on the offence and not where there is any personal gain or loss to the perpetrator or on the Company? Hence a broader view would need to be drawn in prosecution matters in differentiation between criminal negligence, breach of trust and pecuniary gains (as governed by Civil law). These arguments may be endless and there is no eternal solution to gauge the real 'power centre' in matters relating to effective governance.

Notwithstanding the above contrasting views, a mature corporate entity would need to wake up to the ground reality of ensuring robust succession policy framework in countering the criticism of greed, opportunism and define the rationale in granting extensions to superannuated officials and those on dual official positions, thereby instilling an element of confidence in the stakeholders/Regulators.

A loyal caretaker (officials remaining in top executive positions for a considerable period of time) are to continue to play the role of 'Bheeshma pitamah' till such time, the reins are handed over to an able leader or administrator.

To conclude, there is a saying 'a stitch in time saves nine'. The timing rather than timeline has gained importance as the new norm. Corporate governance and business transformations have taken a new curve with the recent happenings in corporate world where 'the trust' has to be reinforced as between the stakeholders, the risk practitioners, the KMPs, Board and upholding the sanctity of independent Directors. The same is feasible only through an open honest communication amongst these constituents backed by transparent administration of Corporate Affairs and sound internal counselling measures. The 'fear of policing' would need to be dispensed with and a measured approach in avoiding conflicting roles would be a necessity. Decisions taken as part of fiduciary responsibility would need to be defendable under all circumstances and this would need to be duly balanced with requisite authority, responsibility and accountability. Where to draw the 'Lakshman-Rekha' is a matter of organisation ethos and pathos, inscribed in its value system. ■

There is a saying 'a stitch in time saves nine'. The timing rather than timeline has gained importance as the new norm. Corporate governance and business transformations have taken a new curve with the recent happenings in corporate world where 'the trust' has to be reinforced as between the stakeholders, the risk practitioners, the KMPs, Board and upholding the sanctity of independent Directors.

Never confuse a single defeat with a final defeat. - F. Scott Fitzgerald

GST Audit Certification

GST law mandates an audit to be conducted by a Chartered Accountant and to provide a 'true and correct' statement of particulars in Form GSTR 9C for each registered person by Dec 31, 2018. As to whether this is yet another 'audit' of the financials was one concern, while the nature of assurance expected of an auditor was another. Authors of this article have identified some key aspects in the law and the forms notified that seem to allay these concerns. Besides that, the ask of the Government is made clear in the various tables in Form GSTR 9, Form GSTR 9A and Form GSTR 9C – there is no information that is beyond their reach and knowledge anymore, whether it relates to sale of those five petro products or alcoholic liquor or sale in an overseas project office-liaison office or turnover from high sea sale. Report everything, albeit under exempt turnover category or a new 'no supply' category that's found a place in the forms. Read on to know more…

A Form prescribed under a rule, in furtherance of the purposes of the section, supplies the precise extent and meaning that ought to be ascribed to words in the section that are capable of meaning something more or something else. That's the guidance of Hon'ble SC in *CIT v. Ajanta* Electricals (1995) 4 SCC 182. And section 35(5) of the CGST Act may continue to use liberal expressions like *'Every registered person.... shall "get his accounts audited".....and submit a copy of the audited account....'*; whether registered person had to 'get' another audit done of the financials or simply 'submit' the audit already carried out, is quite clear now. Without having to look into the audit of financials, the auditor's work is cut out in Forms that have been notified right when yet another audit under Income-tax Act was underway. Here's


CA. Jatin Christopher and CA. S Venkataramani

(The Authors are members of the ICAI. They can be reached at jatin.christopher@gmail.com or venkataramani.S001@gmail.com).

a look at 'the ask' of the Government through this exercise of Annual Return and Reconciliation Statement.

GSTR 'new' Forms

Annual Return

Every person with a GSTIN needs to prepare Annual Returns, even if no transactions are carried out during 9-month financial year 2017-18. No such return is required by holders of registration as ISD, TDS-TCS, casual and non-resident taxable persons.

Annual Return is a 'summation' of data reported for the year (or GST period) 2017-18. Interesting to see that, Form GSTR 9 refers to data filed 'during' the year. Considering that returns for 2017-18 were permitted to be filed 'belatedly', returns filed 'during' alludes to returns 'for' 2017-18.

Annual Return admits that GSTR 1 and GSTR 3B are in harmony with each other. That is, no turnover reported in GSTR 1 has been omitted in GSTR 3B while paying tax. And no turnover that is taxed in GSTR 3B has gone unreported in GSTR 1. That's to explain concerns whether data from GSTR 1 or 3B should flow into GSTR 9.

Annual Return is not the place to rectify errors in the data reported in GSTR 1 / 3B. It's the experience with VAT that seems to fuel this expectation that GSTR 9 will be that fix-it-all chance. But consider if everyone were to start rectifying in GSTR 9, GSTR 1/3B would be otiose.

Someone said Garbage-in-Garbage-out, to borrow analogy from computer software industry, is the key to GSTR 9. And it doesn't seem all that far from the truth when we see that a 'system generated' GSTR 9 would be available for preparing Annual Returns.

There' another place for rectification, that's GSTR 9C. But then, what about registered persons who are not required to file GSTR 9C. There cannot be a different requirement for such persons, GIGO and administration will address errors that went unresolved even after due date for GSTR 1 was extended to October 31, 2018.

But that is no reason to permit registered persons to rectify, to some extent, in GSTR 9 and some more in GTSR 9C. Data hygiene is about continuity of link from one form to next.

GSTR 9A

Annual Return for taxable persons who have opted for composition of tax is required in GSTR 9A which contains a truncated information flowing from GSTR 1.

Credit related information does not appear in GSTR 9A as it pertains to composition taxable persons who are not eligible for input tax credit.

GSTR 9B

With the introduction of TCS from 1 October, 2018 these transactions will need reporting for 2018-19 and not now.

Reconciliation Statement

Everyone whose 'aggregate turnover' for the entire 12 months of 2017-18 exceeded ₹ 2 crore is required to submit GSTR 9C. And yes, 'turnover' is used in section 35 but is not defined; 'financial year' is used in section 44 but is not stated whether 12 months or 9 months.

So, authors suggest that everyone whose 'aggregate turnover' for 12 months of 2017-18 exceeded ₹ 2 crore, to submit GSTR 9C. And the rest can wait and agitate as this is only a suggestion. One-GSTIN-one-GSTR 9/9A-9C, no-GSTIN-no-GSTR 9/9A-9C.

There are several situations where ₹2 cr can be reached in April-June and ₹0 in July-March. It's for this reason that professional judgement is invited. Any additional suggestion would only be a view rather than information from the law.

About GSTR 9C, it's a reconciliation and as a reconciliation, it requires two data points with some differences the need to be explained. Financial statements of the registered person are 'derived' from that of the Entity. And reconciled with GSTR 9. And with GIGO, so that all reconciliations will appear in one place, here.

Deriving financial statements has been discussed in detail in the Technical Guide (draft) issued by ICAI. Of course, it would be a 12-month data that will be reduced to 9-months by an exclusion in 5G.

Reconciliation is a not an effort to 'make it tally' but explain 'why' after admitting it 'doesn't'. So, please don't be anxious if it doesn't tally because there are inherent differences in the way revenue is recognized in books and way turnover is arrived at in GST. In fact, there's reason to worry if they tally.

There will be reconciliation differences and that needs to be explained, even though no tax is due on such difference.

Authorship

GSTR 9-9A

Registered Person retains authorship to Annual Returns. Auditor may have advised but authorship does not shift. Unless registered person claims expertise in GST law, admittedly there's a reliance on the work of experts in identifying, recording and reporting transactions in the returns filed 'for' the year. Such advice may be as to:

- Supply 'categorization' as goods or services
- Determination of 'supply' itself
- Identifying 'time' of supply
- Admitting 'place' of supply
- Documenting 'value' of supply
- Declaring it to be 'sole' consideration
- Claiming 'credit' as permitted
- Restricting claim to 'extent' eligible
- Maintaining record of all the above

Unless these and some more are disclosed, one might assume GST expertise resides in-house!

GSTR 9C

Reconciliation with financial statements, whether audited by the same or different auditor, is left entirely to authorship of auditor. The word authorship is used so as to understand in the context of audit.

Authorship is not limited to the 'numerals' reported but everything, numerals, supply (classification and valuation), tax payable, et al except data furnished to auditor in GSTR 9.

Data exchange is like a 'relay', where one user prepares data and hands over to the next user who works upon the data handed and prepares incremental data set only to hand it over to the next user.

A garment cannot but carry the characteristics of the cloth from which it was cut. GSTR 9C will also carry effects of estimation and assumptions made in preparing financial statements as well as own (or guided) understanding of GST law in preparing GSTR 9.

Annual Return and Reconciliation Statement must be prepared (and read) mindful of the extent of expertise available with its authors.

Audit or Certificate

Nature of Exercise

GSTR 9C requires certain 'particulars' furnished '.....are true and correct subject to.....' Auditor's opinion is where 'subject to' begins and qualifies data declared to be 'true and correct'.

If there are extensive qualifications, it may belie the truth-and-correctness of the 'particulars' furnished. So, the engagement would be extensive to derive *prima facie* comfort about its truth-and-correctness and then call-out the areas where one or other aspect is wanting.

Assurance

Regardless of the words used to express the level of assurance, whether true-and-correct or true-and-fair, the nature of the exercise itself determines the degree of assurance possible. Extracts from SA 200 state it best:

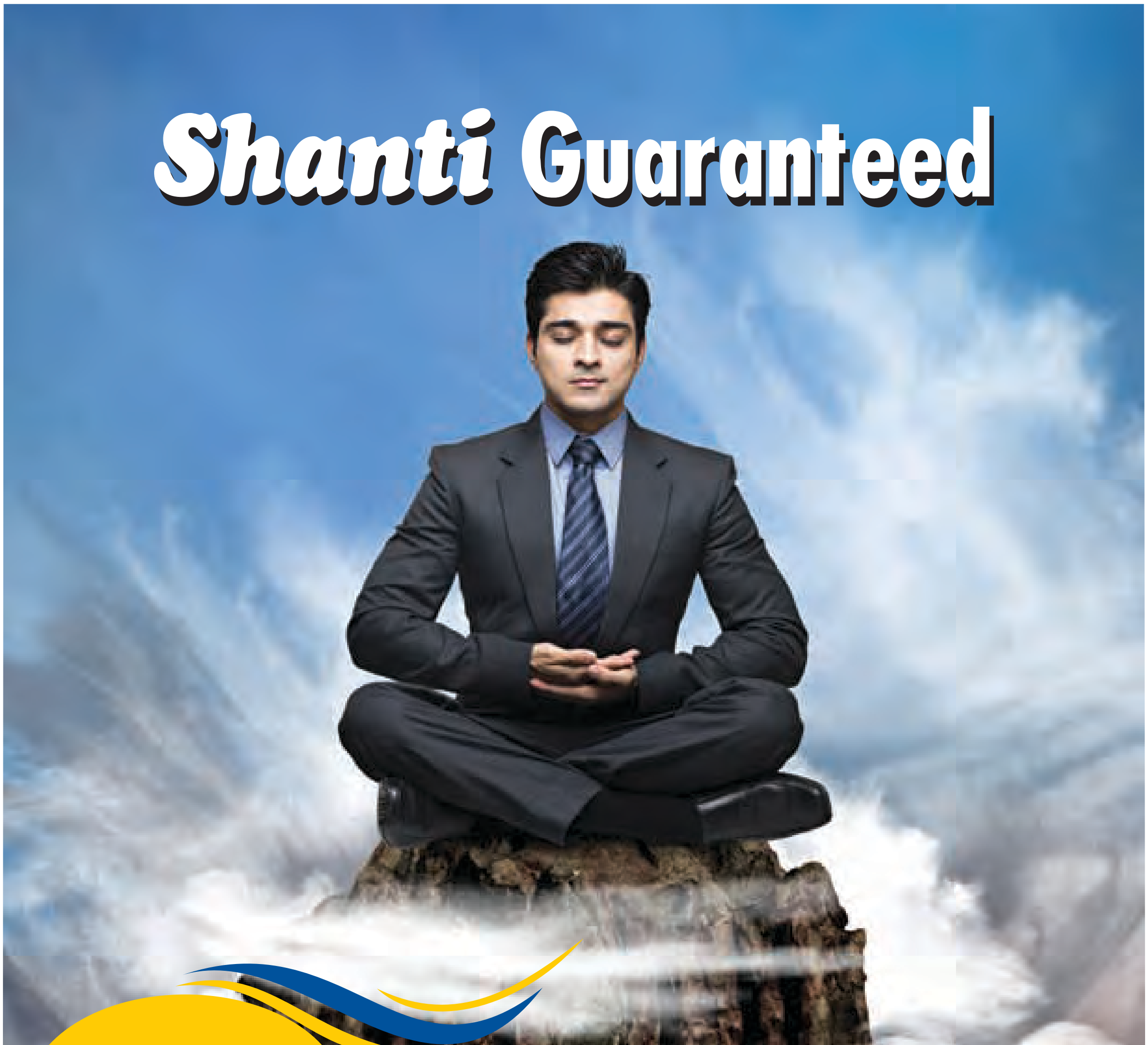
- *"Reasonable assurance is a high level of assurance"*
- *"...reasonable assurance is not an absolute level of assurance, because there are inherent limitations of an audit which result in most of the audit evidence on which the auditor draws conclusions and bases the auditor's opinion being persuasive rather than conclusive"*
- *".....Judgements about materiality are made in the light of the surrounding circumstances, and are affected by the auditor's perception of the financial information needs of users...."*

So, call it what you want but it seems to be 'reasonable assurance', no more, no less.

Approach

As regards the approach to the work by an auditor, it is expected that his training as a Chartered Accountant, knowledge of standards published by ICAI, methods applied in validating data to reach an opinion and experience in exercising professional judgement must be brought to bear. And cannot be stated better than relying on more extracts from SA 200:

- *"The Standards on Auditing (SA) establishes the*



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Zindagi ke saath bhi, Zindagi ke baad bhi.

independent auditor's overall responsibilities when conducting an audit of financial statements in accordance with SAs."

- *"SAs are written in the context of an audit of financial statements by an auditor. They are to be adapted as necessary in the circumstances when applied to audit of other historical financial information"*
- *"....An audit conducted in accordance with SAs and relevant ethical requirements enables the auditor to form that opinion."*

Although the exercise is an 'audit', the extent of reporting is a 'certificate' and this seems to be certification by carrying out an audit – audit certificate.

Maintenance of books

Maintained or Prepared

Responsibility to 'maintain' books and records are that of the registered person. Maintenance indicates regularity and timely. With the pervasiveness of information technology, each registered person does not 'maintain' books and records pertaining to its operations. In fact, all information is available but with the Entity. Only such information as it relates to the Registered Person are furnished after it is 'extracted, compiled and specially prepared'.

There lies the expectation-compliance gap. And this ought not to be frowned upon as that's the doing of increased use of IT but not unreliable by any standard. However, a clear disclosure of this fact, would hold Registered Person-Auditor in good stead so that the 'user' is mindful of the nature of the compliance.

GAAP Effect

Of the various concepts and conventions in book-keeping, 'money measurement' needs special mention in the context of GST. Books of accounts do not permit recording of transactions that are not reflected by a financial measure. Money measurement means a transaction that is undertaken in monetary terms are only permitted to be recorded.

GST is not fettered by such things and travels far beyond to impose tax on 'barter and exchange' which do not enjoy a financial measure. And then there are transactions in GST that are at 'notional value' where the transacted value is not acceptable in certain situations and remedial measurement is provided in the rules.

So, GST contains transactions that need to be identified and reported even when GAAP does not even permit recording them in the books.

UQC applied

Goods imported in 'square meters' and supplied domestically in 'square feet' and scores of other differences on account of unit-of-measurement, or unit quantity code (UQC). Do records maintained (regularly and timely) reflect quantitative information in either or both? Worse still, if it's in only one of them, is a conversion factor used to reflect information in the other and what about restatement differences? There will be differences that are not indicative of any wrong doing. Disclosure continues to save the day.

AS-ICDS-Ind AS divergence

Then there's the aspect of relevant standards applied for accounting. Ind AS varies in many respects with Accounting Standards (ICAI) that continues to be applicable if the requirement for conversion, either by threshold or timeline, are not applicable to the enterprise.

Divergence in information carried in financials are bound to cause concern to a user unless the auditor makes suitable disclosure. For example, Ind AS 116 requires Lessee to capitalize assets in its books at the NPV of MLP (net present value of minimum lease payments). "Auditor to explain!"

ICDS (Income Computation and Disclosure Standards) is also not free from variance with AS. For example, ICDS II does not call for exclusion of 'recoverable taxes' paid on purchase of goods whereas AS2 does. Interestingly, ICDS V excludes such taxes in line with AS10. "Auditor to please explain again!

And there more which cannot but be accepted by users if it weren't for the auditor to come forward with clear disclosure of the extent of variance and reasons for the same.

Reporting in GSTR 9-9A

Garbage in-Garbage out (GIGO)

It's an IT-terminology that is unmistakably clear in stating what the output is all about. Annual Return will carry data reported in GSTR 1/3B. No

new tax liability will be admitted and reported in GSTR 9-9A. No new credit will be discovered and claimed in GSTR 9.

It's the 15-month period (Jul 2017 to Sept 2018) over which data has been permitted to be reported 'for' 2017-18, that requires a consolidation in GSTR 9-9A. Some experts hold the view that Annual Return can contain 'new' information because it's not a pre-filled form and that view may be proved right, but the authors feel reluctant to accept such view for reasons stated later in this article.

Rectifications – where?

Rectification whenever error is discovered. Rectification by anyone who discovered the error (Registered Person or Auditor). Whether rectification was carried out or not would require yet another reconciliation. So, it seems that all data lying all over the 15 months that data was reported be complied in one place and all rectification reported after verification by auditor.

GSTR 9-9A is not the last word on tax compliance. Registered Persons above the threshold permitted to get their compliances verified by the auditor. And those below the threshold liable to verification by authorities. Seems simple, plausible and workable but time will tell if this is the Government's view too.

Reconciliation in GSTR 9C

Turnover 'derived'

Financial statements provide the 'start' to this reconciliation. And 'turnover' for 2017-18 is to be 'derived' from audited annual financial statements of the Entity.

This is a clear indication that the Government admits that the audited financial statements will be that of the Entity and not of the Registered Person. And for this reason, it's to be derived.

To derive, no new method is to be applied except the information pertaining to Registered Person that are 'extracted, compiled and specially prepared' from the that of the Entity.

Of course, information so derived will have its own estimation and assumptions that would beg to be disclosed so as to ensure completeness when information of all other registered persons is added up.

Adjustment signs "+ / -"

Reconciliation does not mean any one of the information is incorrect. Reconciliation means that one is explainable 'subject to adjustments' to reach the other.

Attention must be paid to the 'sign' assigned to each adjustment. For example, '+' sign against 5B requires 'increase' in turnover of registered person (as stated in financial statements) by amount already reported as turnover in the previous year (unbilled revenue) in respect of which GST-invoice is issued only now and included in 5Q. This reconciles 5A with 5Q.

But, 5E requires 'increase' in turnover by amount of credit notes issued after the financial year that is (somehow) reflected in annual returns. If credit note is not reflected in financial statements (issued after financial year), turnover in 5A will be higher than in 5W. By increasing 5A with the amount such credit note, the gap will only widen.

And then, 5J requires 'decrease' in turnover (as stated in financial statements) by amount of credit notes accounted in financials but not permissible in GST. If credit note so issued has already been accounted, turnover in 5A is already lower than in GSTR 1 (hence GSTR 9). Now, by decreasing turnover in financials, it will further widen the gap between 5A and 5Q.

So, care must be taken to ensure the correct 'adjustment' effect is given, that is, plus or minus, depending on the effect it is to have in bringing turnover in financials to reconcile with turnover in returns. Blindly relying on the 'sign' is not advised, especially, when an expert is assigned this task.

And when no specific row is prescribed, 5O is the one where 'all other' adjustments need to be made. Reference may be had to the Technical Guide (draft) issued by ICAI to support members as they undertake this reconciliation.

Not permissible under section 34

5J makes mention of 'credit note not permissible under GST'. Much has been said about permissibility of 'financial credit note' that is without GST-effect. And that the same will not attract the ire of credit reversal as non-payment to supplier to this extent. Whether recipient will be denied input tax credit or not, the supplier who issued credit note 'not in accordance with section 34' is brought into focus here.

From the earlier discussion about 5E and 5J, it appears that the sign is to be 'reversed' or if the sign is maintained, then a 'negative' value must be applied in these places. On this assumption, authors would submit a view that where such financial credit notes are issued, that is, credit note without GST, the same is liable to increase the turnover and be liable to be tax as an unreconciled difference.

Surely, this view will evoke strong reactions, but it is submitted that member's look out for any clarification that may be issued in this regard that puts this anxiety of the authors to rest.

Working Papers

This reconciliation is not possible without detailed working papers explaining the 'source' of data and its interpretation/treatment to arrive at the 'end' data reflected in GSTR 9C. Something like a bridge to be constructed between the source and the end. This bridge document or worksheet will come in handy when the data reported is called in for a review.

Management Representation

Any exercise of 'audit' involves review of the information (books and records or explanations) furnished by the Registered Person. To this end, the working papers would also need to contain detailed representation on matters affecting compliance that are reviewed.

Broad representations may not suffice. For example, time of supply is well understood along with the requirement to issue invoices timely. But, whether date of invoice coincides with time of supply as per law, is a question that cannot, but be explained by a representation. Hence, care must be taken to go into detailed aspects that registered person has followed that the auditor is to rely upon. The Technical Guide (draft) issued by ICAI discusses these aspects extensively, though not exhaustively, which may be referred.

Responsibility of Auditor

Investigation by Auditor

Auditors have known for long that they are not bloodhounds to sniff out clever devices that are deliberately blended into regular transactions that has not real substance except to produce an economic advantage that would otherwise not be available.

But that does not permit auditors to be blind to transactions that are admittedly missing an accounting entry. There's an earlier discussion about limitations from GAAP-based accounting. Now, transactions that are (rightly) missing in the accounts must be specifically examined by the auditor. Transactions lacking consideration (5D) or transactions requiring notional valuation (5M or 5N) will need to be examined and reported. Omitting these on the basis of the books not reflecting such transactions would not be advisable.

However, transactions that don't appear as a reconciliation difference, that is, where either a taxable supply is omitted in the books as well as GSTR 1/3B or impermissible credits are included in the books as well as in GSTR 3B, these are bound to go unnoticed, even by the auditor.

Unless the techniques of auditing applied by the auditor enables discovery of such 'omissions or inclusions', the auditor can hardly be faulted. A word of caution, insight into the business of each auditee and experience of the auditor can tide over possibility of raising questions about the auditor's work in the event of any subsequent discovery by revenue authorities.

Extent of Responsibility

Although it's only a reconciliation, auditor's responsibility extends from validating numerals against each line-item but also their categorization into each of those lines. For example, is the turnover exempt or nil-rated or non-GST or no-supply (table 7). In fact, there are expressions here that are unknown in the law. And only the auditor is to furnish the value by identifying their meaning based on the instructions or insight.

The total taxable turnover (7E) will need to be unfolded into various rates with values in table 9. Here, the auditor becomes responsible not just to report facts as recorded but report his concurrence with those facts.

Understanding HSN is inescapable to discharge

this responsibility. Of course, it is not to launch into an investigation, but audit is no less an inquiry into the reliability of information certified and reported.

This being the first year of GST implementation, exclusion of transactions initiated prior to 1 July, 2017 cannot be based on reason but based on admission made in transition declaration filed along with turnovers reported in the erstwhile returns. Transactions taxable under earlier laws are saved to some extent and are taxed by legal fiction to some extent.

Auditor may well find that overlapping transactions seem to have slipped through and attract GST. Caution is to be exercised while excluding pre-GST transactions, not based on reason, but based on their treatment permitted by law.

Auditor's Report in Part B

Modules

Part-B of GSTR 9C makes room for two different situations. That is, where the same auditor has carried out the audit of the financial statements as well as carrying out the GST audit. And where different auditors are involved in each of these audit exercises.

While this is not new to auditors as ICAI has published SAs dealing with each aspect of such collaborative or interdependent work by members. It is important to consider that auditors may need to identify which module each engagement falls under.

The eventual responsibility of the audited under GST law is identical, whichever module applies in each case.

"Subject to"

This is an area where auditors are experienced in. And for this reason, it seems the form permits auditors opportunity to 'fill in' or 'annex' their observations or qualifications.

As to whether 'observation' is correct or 'qualification' is correct or there's yet another expression – attention invited to – are not fettered by the format. Auditor must use expressions that best described their opinion in each instance.

This is no place to pursue brevity. Information in sufficient detail to help users obtain a clear picture of each situation would be welcomed. Auditors are expected to bring to bear their knowledge and experience here to make clear the situation.

Difference of Opinion

Differences of opinion with auditee are not uncommon and there are ways to address these. Where differences are resolved by agreement, then the liability admitted and duly reported. If differences are unresolved, then reliance may be placed on expert opinion and suitably disclosed.

Disclosure helps not only revenue authorities but also registered persons regarding the interpretation followed. There are experts but there's no finality to views (yet).

Conclusion

GST audit seems to be a 'certification by way of audit' and no one's missing yet another audit of the financials. Everyone holding a registration is required to file Annual Returns for each registration. And everyone crossing the threshold is required get their auditor to certify a Reconciliation Statement. Whether there's any tax due or not, no financial information of a registered person appears to lie beyond the knowledge of revenue authorities. And GST audit certification seems to be that exercise that allows minimally invasive view of all that's gone on in 2017-18. And the Government's ask is clear in these forms, that if experts were to take a look at the information that's reported 'for' 2017-18 and explain it with audited financials, then that's one step closer to doing business with ease! ■

Never ruin an apology with an excuse. - *Benjamin Franklin*

GST and Full Fledged Money Changers

Goods and Services Tax (GST), the re-model of Indirect Tax structure of India that was being thoughtfully processed for almost 14 years, turned into a reality on 1st July, 2017. This historic day is equally important to our fraternity as it is the day when our prestigious Institute was established. On this day, at midnight last year, our Honourable President and Prime Minister pressed the button for this reform and a new era of Indirect Tax, Economies and One Nation, One Tax, One Market was born. With the Government and our fraternity working round the clock to ease the implementation of this biggest indirect tax reform in our country, we are already well past the stage of understanding the basics of GST. In this article, the authors put forward their views on implications of GST on the Full Fledged Money Changer (FFMCs) Sector, including different school of thoughts on the opinion regarding calculation of "Aggregate Turnover", which is the first step for FFMCs at the time of determining their GST liability. Read on...

Introduction to FFMCs

In this era of globalisation, no nation can survive in isolation, and therefore, flow of foreign currency in and out of India is a part and parcel of normal trade. India, through its Foreign Exchange Management Act, 1999 (FEMA), administers the foreign exchange transactions of India and the Reserve Bank of India (RBI) acts as the nodal authority. RBI, under Section 10 of FEMA, grants licenses to organisations for dealing in foreign currency notes, coins and travellers cheques. These license-holders are generally known as 'authorised money changers'. They fall under two categories – Full Fledged Money Changers, persons authorised to undertake both purchase and sale transactions and Restricted Money Changers, persons authorised only for making purchases, subject to the condition that all such collects are surrendered by them to an authorised dealer in foreign exchange/ full fledged money changer.

CA. Ravi Tanna and CA. Drashti Sejpal

(The authors are members of the ICAI. They can be reached at cat-annaravi@gmail.com or drashti.sejpal@yahoo.in)

This article focuses on full fledged money changers.

Can Their Transactions be Termed as a 'Supply of Goods' or a 'Supply of Services'?

FFMCs deal in foreign currency, which is 'money' as per Section 2(75) of CGST Act, 2017. The definition is reproduced hereunder for ease of reference:

"(75) "money" means the Indian legal tender or any foreign currency, cheque, promissory note, bill of exchange, letter of credit, draft, pay order, traveller cheque, money order, postal or electronic remittance or any other instrument recognised by the Reserve Bank of India when used as a consideration to settle an obligation or exchange with

Indian legal tender of another denomination but shall not include any currency that is held for numismatic value;"

Now, one must look at the definition of goods and services to determine the nature of the transaction. The term 'Goods' is defined in Section 2(52) of CGST Act as under:

"(52) "goods" means every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply;" (emphasis supplied)

Therefore, it is quite evident that purchase and sale of currency will be considered as goods.

The term 'Services' is defined in Section 2(102) of CGST Act, 2017 as under:

"(102) "services" means anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination to another form, currency or denomination for which a separate consideration is charged;" (emphasis supplied)

Therefore, while money is excluded from the definition of service, the inclusion of activity of conversion of money from one currency to another for which separate consideration is charged squarely covers the business of FFMCs. Therefore, transaction of buying and selling of foreign currencies undertaken by FFMCs is a service.

Now, since FFMCs are engaged in the activity of providing service to another person for a consideration in the course or furtherance of its business, it is a 'supply' as per Section 7 of CGST Act, 2017, chargeable to tax.

It is pertinent to note that Section 65B(33) of erstwhile Finance Act, 1994, did not include the words 'or any foreign currency' in its definition of money.

While money is excluded from the definition of service, the inclusion of activity of conversion of money from one currency to another for which separate consideration is charged squarely covers the business of FFMCs. Therefore, transaction of buying and selling of foreign currencies undertaken by FFMCs is a service.

Valuation under GST

While the value of the service can be determined based on the transaction value, which is readily available to FFMC, it may be difficult for FFMCs to keep a detailed record of each transaction and therefore, on the recommendation of GST Council, the Central Government has under Rule 32 prescribed a method of valuation of such services.

Therefore, FFMCs have the following three options for

Since FFMCs are engaged in the activity of providing service to another person for a consideration in the course or furtherance of its business, it is a 'supply' as per Section 7 of CGST Act, 2017, chargeable to tax

valuation of their supplies:

1) Transaction Value i.e. price actually paid or payable for supply of services
2) For a currency when exchanged from, or to, Indian Rupees, the value shall be equal to the difference in the buying rate or the selling rate, as the case may be, and the Reserve Bank of India reference rate for that currency at that time, multiplied by the total units of currency.

   If Reserve Bank reference rate for a currency is not available, the value shall be 1% of the gross amount of Indian Rupees provided or received by the person changing the money.

   In case where neither of the currencies exchanged is Indian Rupees, the value shall be equal to 1% of lesser of the two amounts the person changing the money would have received by converting any of the two currencies into Indian Rupee on that day at the reference rate provided by the Reserve Bank of India.
3) Deemed value of:
   a. 1% of the gross amount of currency exchanged for an amount up to ₹ 1 lakhs subject to a minimum amount of ₹ 250
   b. ₹ 1000 plus 0.50% of the gross amount of currency exchanged for an amount exceeding ₹ 1 lakhs and up to ₹ 10 lakhs
   c. ₹ 5500 and 0.10% of the gross amount of currency exchanged for an amount exceeding ₹ 10 lakhs, subject to a maximum amount of ₹ 60,000.

It is pertinent to note that these options are to be exercised once at the commencement of the financial year and are to be followed during the whole year.

The relevant portion of CGST Act, 2017 and CGST Rules are reproduced hereunder for ease of reference:

"Section 15 - Value of taxable supply

(1) The value of a supply of goods or services or both shall be the transaction value, which is the price actually paid or payable for the said supply of goods or services or both where the supplier and the recipient of the supply are not related and the price is the sole consideration for the supply.

(5) Notwithstanding anything contained in sub-section (1) or sub-section (4), the value of such

supplies as may be notified by the Government on the recommendations of the Council shall be determined in such manner as may be prescribed.

Rule 32. Determination of value in respect of certain supplies. -

(1) Notwithstanding anything contained in the provisions of this Chapter, the value in respect of supplies specified below shall, at the option of the supplier, be determined in the manner provided hereinafter.

(2) The value of supply of services in relation to the purchase or sale of foreign currency, including money changing, shall be determined by the supplier of services in the following manner, namely:-

(a) for a currency, when exchanged from, or to, Indian Rupees, the value shall be equal to the difference in the buying rate or the selling rate, as the case may be, and the Reserve Bank of India reference rate for that currency at that time, multiplied by the total units of currency:

Provided that in case where the Reserve Bank of India reference rate for a currency is not available, the value shall be one per cent. of the gross amount of Indian Rupees provided or received by the person changing the money:

Provided further that in case where neither of the currencies exchanged is Indian Rupees, the value shall be equal to one per cent. of the lesser of the two amounts the person changing the money would have received by converting any of the two currencies into Indian Rupee on that day at the reference rate provided by the Reserve Bank of India.

Provided also that a person supplying the services may exercise the option to ascertain the value in terms of clause (b) for a financial year and such option shall not be withdrawn during the remaining part of that financial year.

(b) at the option of the supplier of services, the value in relation to the supply of foreign currency, including money changing, shall be deemed to be -

(i) one per cent. of the gross amount of currency exchanged for an amount up to one lakh rupees, subject to a minimum amount of two hundred and fifty rupees;

(ii) one thousand rupees and half of a per cent. of the gross amount of currency exchanged for an amount exceeding one lakh rupees and up to ten lakh rupees; and

(iii) five thousand and five hundred rupees and one tenth of a per cent. of the gross amount of currency exchanged for an amount exceeding ten lakh rupees, subject to a maximum amount of sixty thousand rupees"

Liability to Register

Under the CGST Act, Section 22(1) decides the liability to register under GST. As per Section 22(1), a person is liable to register in a State from where he makes a taxable supply, if his aggregate turnover exceeds Rs. 20 lakhs in that financial year. Therefore, one has to look at the definition of 'aggregate turnover' to determine the liability to register.

As per Section 2(6) of the CGST Act, *"aggregate turnover means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable on reverse charge basis), exempt supplies, exports of goods or services or both and inter-State supplies of persons having the same Permanent Account Number, to be computed on all India basis but excludes Central Tax, State Tax, Union territory tax, integrated tax and cess;"* (emphasis supplied)

Based on the above provisions of the GST Law, there prevail two schools of thoughts regarding the calculation of 'aggregate turnover' for such FFMCs, which are explained hereunder:

The definition of Section 2(6) of CGST Act, 2017, uses the term 'value of taxable supplies' and value of a supply is the value determined under Section 15 of CGST Act, which is as explained in earlier paragraph. Further, to substantiate this argument, one must look at the substance over form of the supplies made by FFMCs. There are akin to a collection agent and the value of purchase or sale of foreign currency, excluding their commission, is deposited with the RBI and they merely act as license holders dealing in such transactions. Even in the erstwhile Service Tax regime, the calculation of turnover was done on the 'value' as per the Valuation Rules and has yet not been challenged by the Department.	Aggregate turnover looks at the value of supply but the term 'value' cannot be equated to transaction value as per Section 15 or notional value calculation prescribed in the Rules.

On the second page of the Guidance Note issued by ICAI, it has made a clear disclaimer as under: *"The views expressed in this book are those of author(s). The Institute of Chartered Accountants of India <u>may not necessarily subscribe</u> to the views expressed by the author(s)."* (emphasis supplied) Therefore, it cannot be said that the paragraphs re-produced here should be considered to be the views of ICAI.	One must look at the calculation of turnover, as understood by FFMCs in normal accounting sense. To that effect, the Institute of Chartered Accountants of India had issued a Guidance Note titled 'Full Fledged Money Changer (FFMC) – A Practitioners' Perspective' in February 2013, wherein on Page 21 and 22, the Institute has put forward its views as under: *"A question may arise as to whether the sales by a money changer forms part of the turnover?* *The Money Changer purchases the foreign currency at the price quoted for purchase of foreign currency and/or sale of foreign currency at rice quoted for sale of foreign currency. The difference between the two represents the gross profit / Goss Income of the money changer. The sale price or purchase price (i.e. quoted selling rate x foreign currency sold / quoted purchase rate x foreign currency purchased) are mentioned in the certificate of encashment documents given to the seller/purchaser of foreign currency and the profit is not shown separately.* *It will also be necessary to find out, whether the property in the goods or all significant risks, rewards of ownership of goods gets transferred?*
One might argue that the second school of thought should not be followed as the said transaction is not 'goods' is any case and for the GST law, for recording or valuing a transaction, there is no necessity for risks and rewards or title to be passed from one person to another. Further, merely imposing conditions on the money changers and power to revoke the license does not mean that FFMCs are not 'agents'. In fact, all agency agreements have clauses that require the agent to follow certain conditions enumerated by the Principal and in case of failure to abide by the terms, provides for power to cancel the arrangement. FFMCs are acting on behalf of RBI and dealing with foreign currencies.	*In my view, Money Changers are licensed by the Reserve Bank of India in terms of Section 10 of FEMA Act, 1999 for the purpose of understanding activities covered under the said section and their activity of dealing in foreign currency is subject to the conditions imposed by RBI. RBI may revoke the license if failed to comply with any of the condition.* *Thus, it is clear that the money changers are dealing in foreign currency as licenses of RBI but not as agents. And the property in the goods or all significant risk and rewards of ownership of goods continue to belong to the FFMCs, therefore the relevant sale price shall form part of the sales/turnover of the money changer and not the total amount of the difference between the buying rate and selling rate to consider the prescribed limits under Section 44AB of the Income Tax Act. It will be subject to the Tax audit."*

Having placed both the school of thoughts before our fellow mates, in our opinion, the second school of thought should be considered, while determining the value of supply. However, in such cases, FFMCs may be burdened with increased compliances. On the other hand, if the first school of thought is followed, the Department may disagree and litigations along with penal consequences may ensue.

In our considered opinion, to avoid any disputes with the Department, it is advisable to take a voluntary registration and comply with the requirements of the GST Laws. While compliance burden of the FFMCs may increase, the benefits of ITC are available and in all, it is a conservative stand.

Compliances under GST

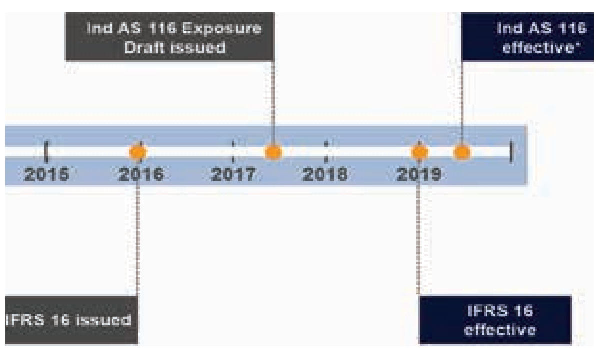
All other general provisions of filing of Returns, payment of taxes, availment of Input Tax Credit, etc. apply to FFMCs as they apply to any other registered taxable person.■

The New Lease Accounting Standard – Overview of Implicit Implications

A form of contract with centuries of history is set to take center stage with the introduction of a new lease accounting standard that to an observer represents an accounting change. However, this article provides an overarching view of the broader set of implications of the new lease accounting standard and the potential opportunities it presents. Read on…

The Evolution and Significance of Lease Accounting

Over a decade ago the former IASB chairman Sir David Tweedie had expressed his ambition to fly at least once in his lifetime on an aircraft that was actually on the airline's balance sheet. Soon his ambition will be realized once the new lease accounting standard, IFRS 16, becomes effective across most countries from 1st January 2019. In the Indian context too, the local accounting standard (Ind AS 116) which is largely converged with IFRS 16[1], is expected to be effective from annual periods beginning on or after 1st April 2019, replacing the in-force Ind AS 17.



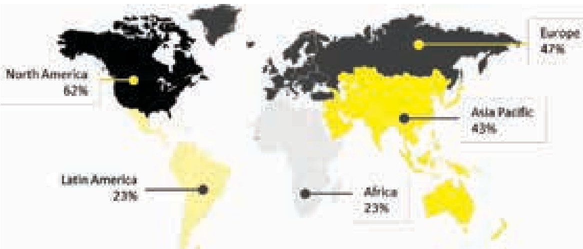
Timeline of the new lease accounting standards[2]

CA. Yashesh Parajia

(The author is a member of the Institute. He can be reached at dyasheshp@gmail.com)

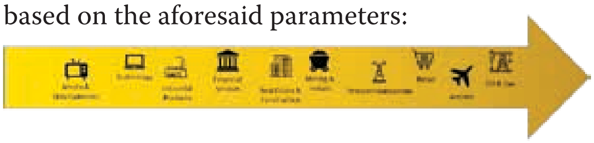
[1] Collectively referred as the new lease accounting standard, [2] Ind AS 116 effective date is expected to be for periods on or after 1st April 2019 and is pending notification

At a global scale, the new lease accounting standard is conservatively estimated to have an impact on USD 2.86 trillion of off-balance sheet leases[1]. As per the study on the effects conducted by IASB, each country and industry has different exposures to off-balance sheet leases.



Percentage of listed companies who disclose off balance sheet leases

Further, the impact on each industry is *inter-alia* based primarily upon the complexities, the volumes, and the value of lease agreements. The below heat-map illustrates the increasing impact on certain key industries on a relative scale based on the aforesaid parameters:



Increasing impact of the new lease accounting standard across key industries

Under the erstwhile accounting standard for leases, many lease-type arrangements were not recognized on the balance sheet. Further, the disclosures in relation to the 'off-balance sheet' leases have not been considered sufficient enough to meet user requirements and this has resulted in a lack of comparability between leasing and non-leasing entities. Often users resort to workarounds in analyzing the financial statements to gauge the impact of leases entered into by an entity. However, these workarounds have their own set of assumptions and challenges. In order to overcome the shortcomings of the current accounting standard on leases, the new lease accounting standard was conceptualised and will soon be effective.

Under the new lease accounting standard, a lease is a contract, or part of a contract, which provides for a right of use ('ROU') for an asset for a specified period of time and in exchange for a consideration. This recognition in turn affects the composition of the Profit & Loss statements and the Cash Flow Statements. Further, the recognition of a lease agreement, in accordance with the requirements of the new standard, provides for three main steps of - initial detection, subsequent measurement and impact on income statement. The new standard also introduces a significant increase in the disclosure requirements.

Considering that the new lease accounting standard represents a significant shift compared to the current standard and its high-value impact, entities would have to thoroughly envisage the implications on account of the new lease accounting standard. While it clearly provides for the accounting and disclosure requirements, there are other key implicit implications outlined in the ensuing paragraphs that entities would have to consider. Furthermore, given that there is only limited time remaining before the new lease accounting standard takes effect, all its implications would have to be considered and addressed with swift execution.

The Broader Implications

The wide-ranging implications of the new lease accounting standard can broadly be categorised into five segments. While each segment would have to be analysed in-depth based on each entity's respective facts and circumstances, the key aspects in relation to each segment has been outlined.

➢ **Accounting and Finance:**

To better understand the accounting aspects of the new lease accounting standard it would be beneficial to examine the prescribed treatment for a lessor and a lessee. For all lessees, a single balance sheet accounting model applies that leads to an

[3] Source: IASB study of over a sample of 14,000 listed companies

asset and liability gross-up, with select exemptions based on value and term of the lease contract. As a consequence, the lease expenses are presented in the income statement as depreciation costs and interest costs. Further, in terms of disclosures, there are both quantitative and qualitative requirements. While the standard cites the quantitative disclosures across the financial statements, it provides only guiding principles for the qualitative disclosures.

For lessors, the accounting is substantially unchanged and would continue to require an assessment of contracts into operating and financial leases. The changes primarily relate to new and additional disclosure requirements in comparison to the erstwhile standard.

In addition to the aforesaid change in accounting and disclosure requirements, certain key financial metrics would be impacted as a consequence that can be summarised below which may have a domino effect on financial arrangements such as debt-related covenants:

Impact on key financial metrics

➢ Technology and Data

The new lease accounting standard provides the opportunity to revisit the existing system architecture as well as system of records and determine sufficiency to manage the increase in requirements and areas of improvement. Efficiencies across functions such as finance, procurement and operations can be enhanced with the use of enabling technology and tools. For instance, cross-functional integrated technologies boosted by analytical capabilities in a retail environment can analyse space utilisation at its warehouses and provide insights to better manage lease procurement and inventory.

The increase in disclosure and reporting requirement also triggers a substantial increase in data capture, such as parameters that previously may not have been considered from an end to end perspective, as well as in data processing. This challenge can be aggravated based on the quality and source of the existing data and the transition method adopted. Based on an entities scenario, the rationalizing their chart of accounts may also be considered in the process. This new set of data requirements would also need to be integrated with the entity's existing data standards and governance protocols.

➢ Procurement, Legal, and Tax

In light of the impact on the financial metrics and new insights that can be generated from the data, lease contracts are likely to be impacted and may take the form of a change in payment terms, structure of the contracts, duration of contracts, pricing mechanisms, additional information or even request for negotiations. Further, entities would have to revisit the parameters considered in arriving at a lease or buy decision that may impact existing lease arrangements.

Additionally, while lessors are not as significantly impacted by the new lease accounting standard, it would be advantageous to take cognizance of the impact on their customers to reach better a consensus during lease negotiations.

Recognising the impact of the new accounting standards, tax authorities in countries such as UK, Singapore and India have issued guidance/ invited suggestions on the treatment of leases and the change in the manner of calculating amounts (e.g. deferred tax assets/ liabilities) to arrive at the tax figures for the period. Entities would have to consider this aspect to ensure they are tax compliant and at the same time optimize their lease arrangements.

➢ Process and Change Management

Given the high degree of change brought about by the new lease accounting standard, there would be a redesign/ development of processes associated with lease arrangements that span across functional areas. As a consequence of this redesign/ development, the relevant control mechanisms from a process and technology standpoint are required to be integrated by the entities. For instance, creation of approval hierarchies and ownership structures based on the present value of their contracts or the reconciliations to be performed between interfacing systems.

Further, entities would also have to manage the change to its processes, functions, policies, technology, and data. As an initial step, identification and education of the anticipated changes and its causes to employees, capital markets and other stakeholders would help build the right foundation to drive the required changes in due course. Thereafter, appropriate change management champions and teams can be created and trained for the implementation of the changes across the entity. Additionally, entities would also need to consider any implications on/from in-flight projects and determine the degree of acceptable overlap, as applicable.

➢ **Incentives and Management Information**

Entities that have rewards and incentives linked to financial metrics would have to revisit the policies and computational mechanisms in light of the impact of the new lease accounting standard to ensure equitable compensation to its employees and key personnel. This change also offers the opportunity to entities to evaluate the relevant drivers for personnel roles for determining suitable rewards and incentive structures. Similarly, management information would also require a recalibration to set appropriate baselines and refreshed key performance indicators given the foreseeable impact of the new lease accounting standard on the financial statement.

The Transformative Journey Ahead

The new lease accounting standard has a much wider transformative potential than the apparent change in accounting of lease contracts. As outlined, there are a five key segments to consider, each having its own level of detail based on an entity's scenario, to truly determine the holistic implications of the new lease accounting standard. Further, given the pervading nature of this change, it is imperative to consider the aspects coherently to capitalise on the opportunities presented to improve efficiency and scalability whilst not limiting the agenda to fulfilling a compliance requirement.

In the above context, setting the objectives of the lease transformation program is critical. While undertaking the transformation journey, there are likely to be potential challenges in the form of change resistance, technological landscape, and contract data volumes and complexity exacerbated by a fast approaching effective date. However, with a well-designed and comprehensive lease transformation program, entities can overcome the challenges and achieve the objectives. ■

The best way to find yourself is to lose yourself in the service of others. - *Mahatma Gandhi*

Stakeholder Outreach Programme on the Discussion Paper on *'Financial Instruments with Characteristics of Equity'*

In India, as of today, majority of Public Interest Entities (PIEs) present their financial statements under Ind AS Framework. Banks and Insurance Entities will be moving to Ind AS Framework soon i.e. from 1st April, 2019 and 1st April, 2020, respectively. Hence, regular monitoring and alignment with international moves is very crucial to remain converged with IFRS Standards at all times.

IASB periodically performs fundamental review of certain IFRS Standards to ensure that those Standards continue to remain relevant, particularly in Indian context and, faithfully and appropriately reflect the economic substance of the transactions and events. As a part of this exercise, the IASB undertakes extensive consultations with its stakeholders across the globe. Needless to say, India, a fifth largest economy with GDP of US$ 2.8 trillion and vibrant capital and financial markets, has an obligation and an opportunity to play an active role in the global standard-setting activities.

One of the significant projects taken up by IASB recently is '*FICE-Financial Instruments with Characteristics of Equity*' to address the concerns about classification and presentation of critical transactions i.e. Financial Instruments as Equity or Debt, which are currently covered by IAS 32, *Financial Instruments- Presentation* (Indian Accounting Standard is Ind AS 32). Distinction between equity and debt assumes high significance in the context of information about the financial position and financial performance of an entity.

This project is likely to bring paradigm shift in the approach to classify a financial instrument as either equity or financial liability. Some of the key impact areas covered in the Discussion Paper are as follows:

- ✓ Debt equity classification: New concepts and New Articulations
- ✓ Puttable Instruments and Foreign Currency Rights Issue Exceptions

- ✓ Foreign Currency Convertible Bonds
- ✓ Presentation and Disclosure:
  - Attribution of profits to potential future shareholders
  - Segregation of liabilities based on priority of claims on liquidation
- ✓ Laws and Economic Compulsion

Following are the significant impact areas in the Discussion Paper where feedback is required from the relevant stakeholders:

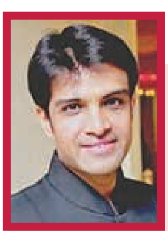
- ✓ Puttable Instruments and Foreign Currency Rights Issue Exceptions: Are they required?
- ✓ Foreign Currency Convertible Bonds: Whether Ind AS carve-out needs reconsideration.
- ✓ Laws and Economic Compulsions: Can they be ignored for the purpose of classification?
- ✓ Presentation and Disclosure requirements: Whether they meet the stakeholders' disclosure needs.

The ICAI had circulated this Discussion Paper among Indian Stakeholders in the month of August, 2018 and has hosted the same on its website for their comments. Further, in order to understand the stakeholders' concerns and get their inputs on the areas of concerns in the Discussion paper, the ICAI organised a Stakeholder Outreach programme on 27th November, 2018 at ICAI Bhawan, BKC, Mumbai. Another stakeholder outreach programme on this Discussion Paper is being scheduled in Delhi. Inputs received from the stakeholders would help ICAI in raising the Indian concerns with IASB.■

(Contributed by Accounting Standards Board of the ICAI. Comments can be sent to asb@icai.in)

Unfolding Buy Back: An Alternative to Otherwise Costly Mediums!

In this new era of New India where the Laws of the country are being moulded and stretched in a completely judicious and well thought out manner, Individuals and Corporate are diligently taking in their stride this revolutionary process, although with some pain usually associated with such a transformation. However, introduction of new/add on taxes like GST on the Indirect Tax front and TDS on rent by all, additional surcharge of 10% on income above Rs.50 lakhs of every individual etc. on Direct Tax front in the recent Budgets have been taken positively by all. One such insertion of new form of tax by Finance Act, 2016 is section 115BBDA that provides "Tax on Dividend" in the hands of recipient being Individual, HUF and Firm if such dividend exceeds Rs.10 lakhs. Further, the scope of this tax on dividend has been widened by the Honorable Finance Minister in his Budget 2017-18 by extending such tax to all resident assessees except domestic company and certain funds, trusts, institutions, etc. For years companies have preferred to pay dividend to their shareholders particularly promoters due to the fact that it rendered tax free income in the hands of recipients including promoters, and companies end up paying just 15% (plus surcharge and cess) dividend distribution tax. Hence, the profits of the companies were reaped by promoters by paying just 15% tax (plus surcharge and cess). Now this new section 115BBDA increases the impact of tax from 15% to 25% (plus surcharge and cess) (15% in the form of DDT and 10% if dividend in excess of Rs.10 lakhs). This article is based on such facts and reasons that makes the "Buyback Option" the most trending and cost effective tool for companies in the recent times to allow funds to flow to its shareholders. Read on…



CA. Jigar Shah

(The author is a member of the Institute. He can be reached at jigarshah5210@gmail.com)

Tax Impact of Buy back on Listed and Other Companies

Not ignoring the fact that in the listed companies (both in BSE and NSE), promoters hold up to 75% of the shareholding of the company; the tax impact would be hugely affecting the promoters of such companies. Promoters of these companies are majorly interested in withdrawing surplus cash available with the company by avoiding the tax impact.

Under the Income-tax Act, 1961, **section 115QA provides for taxing of buyback of shares from the shareholders by the companies (other than listed companies) at the rate of 20% (plus surcharge and cess) in the hands of the Company.** The aforesaid section 115QA was inserted with effect from 1st June, 2013. Hence, those companies listed on recognised stock exchanges are exempted from paying tax on buyback of shares. Further, long term capital gain to such shareholders of listed companies, who receive money under such buyback through stock exchange where security transaction tax is paid, is exempt under section 10(38) of the Income-tax Act, 1961. In a nut shell, if a company listed on recognised stock exchange buybacks its shares through stock exchange (STT paid), then neither the company nor the shareholders (primarily promoters of such company) are liable to pay any form of taxes under such buyback. Also, such amount received on buyback is excluded from the purview of definition of Dividend under section 2(22)(iv) of the Income-tax Act, 1961, if such buyback is done in accordance with section 68 of the Companies Act, 2013. Further, in today's stringent tax regime, buy back of shares is the best option for promoters holding majority of shares in the company, to withdraw ideal funds from their company without payment of tax which is now not the case with dividend distribution. Since with effect from 13th April, 2015 Security and Exchange Board of India vide its Circular No. CIR/CFD/POLICYCELL/1/2015 allows promoters to tender their shares in the buy back through the stock exchange mechanism where security transaction tax (STT) will be paid on such shares bought back. However, if the shares are held for a period less than twelve months, in which the promoters are hardly to fall under, then in such case there will be short term capital gain in the hands of the shareholder which will be taxed under section 111A of the Income-tax Act, 1961 at the rate of 15%. On the other hand, if such listed company prefers to pay dividend to its shareholders, majorly as promoters holding substantial shares wanting to withdraw profits from the company, than in such case, with effect from 1st April, 2017, if the shareholders being individual, HUF or a firm, resident in India, receives such dividend in excess of Rs.10 lakhs are liable to pay tax at the rate of 11.33% (including cess and surcharge on income up to Rs. 1 crore) on such total amount of dividend received. Such tax under section 115BBDA would be in addition to dividend distribution tax payable by such listed company at the rate of 17.30% (including cess and surcharge on income up to ₹ 1 crore) in current scenario. **Hence, there is double taxation on such part of dividend income and total tax borne would be 28.63% as against zero tax under buyback option.** Stretching the domain of the said section 115BBDA, with effect from 1st April, 2018, honorable Finance Minister in his budget for the year 2017-18 amended the above section 115BBDA, by including in its ambit all specified assessees except domestic company, fund, institution or trust. Hence, making buyback of shares more attractive tool for listed entities.

If an unlisted public company or a private company prefers to do buy back, then in such case the company will have to pay tax at the rate of 23.072% (including surcharge and cess) under section 115QA of the Income Tax Act, 1961, whereas capital gain arising to shareholders of such company would be exempt under section 10(34A) of the Income Tax Act, 1961. Hence, again buy back of shares is more tax efficient even for unlisted companies than dividend distribution as the same results in tax under section 115-O at the rate of 28.63%.

Whistle Blower Points

- As per the recent amendment under Section 10(38) of the Income-tax Act, 1961 where the third proviso was inserted after the second proviso to clause (*38*) of section 10 by the Finance Act, 2017, w.e.f. 1-4-2018, certain transactions related to sale of equity shares through stock exchange (STT Paid) shall be taxable if they are acquired on or after 1st October, 2004 without the payment of STT. Hence, an investor tendering his/her shares in the buy back offer has to have an insight in the list of transactions notified by the Central Board of Direct Taxes under Notification S.O. 1789 (E) dated 5th June, 2017 which renders the transfer of shares taxable even though STT is paid on its sale. Further, the said notification seems to make it a little confusing for anyone to have a clear understanding although it is a very good attempt by our government to curb money laundering activities in shell companies.

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- If the company (listed or not) has another company as its shareholder, then in such a case the shareholder company will end up paying Minimum Alternate Tax (MAT) on amount received on buy back under section 115JB of the Income Tax Act, 1961 at the rate of 20.38885% (including cess and surcharge with book profits up to ₹10 crore.
- Further, where unlisted company in which public are not substantially interested, opts to buy back its shares, such company cannot buy back at a price lower than it fair market value under section 56(2)(viia) of the Income-tax Act, 1961. Such fair market value to be calculated in terms of Rule 11UA of Income Tax Rules.

To conclude regarding the tax impact, we can say that buyback is very much a tax efficient way to distribute profits of the company as compared to other alternatives like dividend distribution mechanism in today's law changing scenario.

Financial Impact of Buy back on Companies Performance Ratios

Buyback of shares is not only tax efficient but it also entails some financial benefits by improving the company's financial ratios.

Buyback of shares leads to reduction in number of shares outstanding during the year which will have a favourable impact on the Earning Per Share (EPS) and Book Value (BV) of the company. This will also improve Return on Equity of the Company.

In case of listed company where the secondary market is sluggish and the market price of the shares is underperforming, resorting to buyback of shares helps the company to increase its market price of its shares thereby increasing its market capitalisation. Further, buyback of shares results in lower Price/Earnings ratio (P/E ratio) which the investors consider favourable while investing in shares of such companies, which again will lead to increase in market price of the company's shares.

Buyback is the most cost effective way for any company that desires to reduce its surplus unwanted share capital by resorting to section 68 of the Companies Act, 2013 thereby not requiring it to follow tedious, time consuming and costly procedure of Reduction of Share Capital under section 66 of the Companies Act, 2013 which involves getting approval from National Company Law Tribunal (NCLT).

How Small Shareholders/ Investors Can Benefit From Buyback Offers of Listed Companies?

Before unwinding the strategic benefits that a small investor can bag in through the buyback offer by a Listed Company, it is important to know the statutory definition of "Small Shareholders" as specified under Regulation 2(1)(la) of the SEBI (Buyback of Securities) Regulations, 1998. It states that, "*Small Shareholders means a shareholder of a listed company who holds shares or other specified securities whose market value, on the basis of closing price per share or other specified securities on the recognized stock exchange in which highest trading volume in respect of such security as on record date is not more than two lakhs rupees.*"

Buyback is the most cost effective way for any company that desires to reduce its surplus unwanted share capital by resorting to section 68 of the Companies Act, 2013 thereby not requiring it to follow tedious, time consuming and costly procedure of Reduction of Share Capital under section 66 of the Companies Act, 2013 which involves getting approval from National Company Law Tribunal (NCLT).

Hence, from the above definition it is clear that many retail investors having investment in shares up to market value of ₹ 2,00,000/- of the listed company making buyback offer, shall fall under the definition of "Small Investors".

Now the next question is, "What is the significance of the above definition?" As per Regulation 6 of SEBI (Buyback of Securities) Regulation, 1998 it is mandatory of the Company making buy back offer to reserve at least 15% of the total buy back offer of shares for small shareholders. Hence, company is obliged to buy back at least 15% of the total buy back offer of shares from small investors for whom there is a guaranteed returns in such an offer. Now let's understand this whole gainful mechanism in a practical scenario.

Company making buyback offer tends to make an offer at a price that is relatively higher than the current market price in the secondary market since their intentions are to bring up the current market price of the shares through such offer. Further, big net worth companies make huge buy back offers in lieu of dividend to shareholders. In such scenario one can estimate the assured average buy back of shares (acceptance ratio) from small shareholders through distribution schedule provided by the company in its latest annual report under "Corporate Governance" section. Since the buyback price is higher than the price as on the current date and the record date is set as a future date of public announcement made by the company, one can buy the shares from the secondary market at the lower price up to the market value of ₹ 2,00,000/- before the record date and can assure to get his/her shares buy backed by the company at the higher offer price, thus resulting in handsome gain in a short period of time. Let's understand this with an example. Hence, an investor shall keep following two important factors in mind in case of buy back before tendering his/her shares in the offer:

1. Buy Back Price
2. Acceptance Ratio

This can be further better understood with the help of an example given below.

Example:

X Limited, a company listed in a recognised stock exchange, makes a Buyback offer of 10 crore shares to its investors at a price of ₹ 1000/- on a record date, which is trading at a current market price of ₹ 833/-. Out of this 1.50 crore are reserved for small shareholders, i.e., 15% of 10 crore. Hence, the investors have an opportunity to cash in up to 20% profits if they buy the shares of X Limited at current market price. Also, buy back disclosures are considered as a material event under listing agreement by Security and Exchange Board of India and hence their disclosures are made by the listed company much before the announcement of the record date, allowing the investors to enter the market by purchasing the shares at lower price so as to tender them at higher buy back price offered by the company.

Now, let us have a look in the following example of the Distribution Schedule of shareholding pattern in case of X Limited as provided by the company in its latest Annual Report:

Distribution of shareholding as on March 31, 2017

No. of shares held	No. of cases	% to cases	No. of shares	% to equity
1	13,883	1.95	13,883	–
2-10	1,47,746	20.78	10,17,453	0.04
11-50	2,89,319	40.68	84,44,897	0.37
51-100	1,07,378	15.10	85,66,438	0.37
101-200	68,704	9.66	1,06,74,769	0.46
201-500	46,162	6.49	1,53,01,304	0.67
501-1,000	16,211	2.28	1,18,96,520	0.52
1,001-5,000	14,248	2.00	3,18,29,028	1.39
5,001-10,000	2,527	0.36	1,83,55,292	0.80
10,001 and above	4,951	0.70	2,19,08,45,080	95.38
Total	7,11,129	100.00	2,29,69,44,664	100.00

As we can see from the above, the number of shareholders holding up to 200 shares in the company is around 6.27 lakhs holding around 2.87 crore shares. Hence, at a buyback offer of ₹ 1,000/-, these shareholder shall become eligible to tender their shares and get the benefit of 15% reservation for buy back of shares that X Limited is required to reserve for small shareholder. However, depending on the market price these numbers can further go up, due to other investors entering to secure the benefit of buyback.

Now, the acceptance ratio in this buy back offer comes to around 52%, since if all the small shareholders tender their 2.87 crore of shares in the buyback offer, company is bound to buyback 1.50 crore shares reserved as required under Regulation 6 of SEBI (Buyback of Securities) Regulation, 1998. That is if a shareholder tenders his 200 shares in the buy back, his 104 shares shall be accepted by X Limited that will fetch him around 20% return on 104 shares tendered if the cost of buying such shares is ₹ 833/- per share.

However, for a small shareholder the cost of holding balance 96 shares can get higher since post buy back the current market price of the shares tend a fall. But since the investor has already received ₹ 1,04,000/- for tendering 104 shares in the buy back out of ₹ 1,66,600/- cost for buying 200 shares at the rate of ₹ 833/- per share, the average cost of 96 shares comes to ₹ 652/- per share, which might be much lower than the discounted current price post buyback. Hence, it may not be dreadful under such circumstances for the small shareholders if the acceptance ratio for buy back of shares by the company is not 100%.

Shortcomings of Buyback

Following are few drawbacks when company opts to buy back the shares:

1. Buy back involves a set procedure to be followed by both the company and the shareholders tendering the shares which makes it a little cumbersome particularly for the shareholders, who are otherwise not required to do any procedural activity in case of dividend declared by the company in which dividend gets credited directly in the bank account of the shareholder without any efforts.
2. In case of Buyback, company may not Buyback all the shares from the shareholder since the company may opt to buy back the shares proportionately.
3. In case of listed companies, buyback procedure is time consuming and requires approval from regulatory bodies like Security and Exchange Board of India (SEBI) while no such approval is required in case the company opts to give dividend. However, SEBI has lowered the duration of buyback from one year to three months which makes it more attractive since the chances of variations in the market price decreases.
4. Buy back of shares requires estimation of acceptance ratio on the basis of distribution schedule given by the company in its latest annual report. Hence, such estimations are not perfect and precise.
5. Buyback procedure requires involvement of Merchant Bankers which makes it an expensive affair for the company opting to buy back the shares.

Buy back involves a set procedure to be followed by both the company and the shareholders tendering the shares which makes it a little cumbersome particularly for the shareholders, who are otherwise not required to do any procedural activity in case of dividend declared by the company in which dividend gets credited directly in the bank account of the shareholder without any efforts.

Buy Back under Ind AS Regime

Applicability of Ind AS has been made mandatory for all listed companies with effect from accounting periods beginning on or after 1st April, 2017 by Ministry of Corporate Affairs through its notification dated 16th February, 2015. Further, unlisted companies with net worth of Rs 250 crore or more are also mandatorily required to follow IND AS.

Buy back or repurchase of shares by an entity is governed by Ind AS 32 on *Financial Instruments: Presentation*. Para 33 of the above Ind AS 32 states that, if an entity reacquires its own equity instruments, those instruments ('treasury shares') shall be deducted directly from the equity. No gain or loss shall be recognised in profit or loss on the purchase, sale, issue or cancellation of an entity's own equity instruments. Such treasury shares may be acquired and held by the entity or by other members of the consolidated group. Consideration paid or received shall be recognised directly in equity.

As is clear from the above, unlike Accounting Standards, Ind AS provides specific provision and accounting treatment in case of Treasure shares where an entity buys its own shares. It states that any expenses, gain or loss related to buy back shall be directly adjusted into equity unlike in a scenario where such expenses are routed through statement profit and loss account. In any case they are not

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related to usual operations of the business of the entity and hence do not require their mention in the statement of profit and loss account.

Further, as per para AG 36 of Ind AS 32, an entity's own equity instruments are not to be recognised as a financial asset regardless of the reason for which they are reacquired. Paragraph 33 requires an entity that reacquires its own equity instruments to deduct those equity instruments from equity. However, when an entity holds its own equity on behalf of others, e.g. a financial institution holding its own equity on behalf of a client, there is an agency relationship and as a result those holdings are not included in the entity's balance sheet.

Rising Trend of Buy Back of Shares

Through various information sources and data available in the public domain, repurchase or buy back of shares by the listed companies are bound to climb to a record high. Nearly over 40 companies have made the buy back of shares worth more than ₹ 48,000 crore in the financial year 2017-18.

Recently, the Finance Ministry has shortlisted some 12 Central Public Sector Enterprises (CPSE), including Coal India, NTPC, NALCO and NMDC, for a possible buyback of shares in the financial year 2017-18. The other companies which are in the list include NLC, BHEL, NHPC, NBCC, SJVN, KIOCL and Hindustan Aeronautics. These all are listed Companies in recognised stock exchange BSE and NSE. These CPSEs have been asked to buyback the shares following the capital restructuring guidelines set out by DIPAM on May 27, 2016. As per the guidelines, CPSEs having net worth of at least ₹ 2,000 crore and cash and bank balance of above ₹ 1,000 crore have to mandatorily go in for share buyback.

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Reference

1. *Income Tax Act, 1961*
2. *IND AS*
3. *SEBI (SAST) Regulations, 2011*
4. *SEBI (Buyback of Securities) Regulation, 1998*
5. *Times of India (News) (https://timesofindia.indiatimes.com/business/india-business/finmin-shortlists-11-cpses-for-share-buyback/articleshowprint/65721638.cms)* ■

The greatest pleasure in life is doing what people say you cannot do. *- Walter Bagehot*

Direct Tax Collections to Exceed Target This Fiscal: CBDT Chief Sushil Chandra

Direct tax collection has already crossed ₹ 5 lakh crore and will exceed the budgeted target of ₹ 11.5 crore set for the current fiscal, CBDT Chairman Sushil Chandra has said. He further said that so far the I-T department has issued refunds to 2.15 crore assessees amounting to ₹ 1.15 lakh crore and from now onwards the net collections will increase. "*We have already crossed the ₹ 5 lakh crore figure that is 44 per cent of the net direct tax collection target. This is despite the fact there is a surge in refund*," Chandra said. Speaking to reporters after inaugurating the pavillion of the Central Board of Direct Taxes (CBDT) at the India International Trade Fair (IITF) recently, Chandra said the number of people voluntarily filing tax returns has gone up substantially, and 6.85 crore income tax returns were filed last year. This year so far 6.02 crore ITRs have been filed with the Income Tax Department. The number of direct taxpayers was 3.8 crore when the Modi-led government took office in May 2014. The CBDT chief said that so far the net growth rate in direct tax collection is 14.5 per cent, while the gross collection grew 16.5 per cent.

(Source: https://www.livemint.com)

Reward for Income Tax Payers? See what CBDT Chairman Said

The CBDT, that frames policies for the Income Tax (I-T) Department, is "examining" a report that proposes to facilitate honest and consistent taxpayers in availing a variety of public services and tax-related works on priority, a top official has said. The Central Board of Direct Taxes (CBDT) had constituted a committee in this context, which has submitted its report and recommendations. "A proposal is under consideration as to how we can benefit our honest taxpayers. It has been communicated by the finance minister in his budget speech that honest taxpayers will definitely be getting advantages from the I-T Department. A committee had been set up and it has given a report. "*We are examining it*," CBDT Chairman Sushil Chandra has told reporters. PTI had reported last month that as part of this proposal, it was being mulled that honest taxpayers were empowered to get "priority service" while using public services at airports, railway stations and at highway toll plazas. Prime Minister Narendra Modi, during a conference with senior tax officers last year, had urged the department to enhance the taxpayer services and ensure that the honest taxpayers were given due importance. It was proposed that the taxpayers who were consistently paying their taxes or even just filing their returns might be hosted at civic receptions held by prominent government functionaries and honoured publicly, a senior official had said. A few years back, the board had started a process by which diligent taxpayers were sent "thank you" or appreciation notes through email under the name of the CBDT chairman. It was proposed to take this initiative forward, the official had said.

(Source: Press Trust of India and https://www.zeebiz.com)

Goods Can Be Impounded for Lapses under GST, Says Kerala High Court

Authorities impounded a car being sent by a dealer from Puducherry to Thiruvananthapuram for personal use of his customer without an e-way bill. It has to be generated if goods worth more than ₹ 50,000 are transported, but is not applicable on goods for personal consumption. The matter went to the Kerala high court. The court said the vehicle could be impounded for lapses under the GST laws. But, the litigant is free to press for his arguments that it was for personal use through adjudication. However, he will have to prove the car being transported stand exempted from the rigours of the GST regime. If the person wants, the adjudication can happen at the commissioner appeals level now. The court did not comment on whether such a vehicle was used for personal and household effects and accordingly, the e-way bill would not apply. It held that these questions would be decided by adjudicating authorities. The court made observations on larger and harsh outcomes originating from minor lapses. It stated the law, at times, can be harsh, and the courts, usually, needs to respect the legislative wisdom. Experts say the ruling has lessons for those buying vehicle in one state and getting it transported to the other.

(Source: https://www.business-standard.com)

CBDT Gets Three New Members

The Appointments Committee of the Cabinet named Neena Kumar, Akhilesh Ranjan and Prasana Kumar Dash as members of the Central Board of Direct Taxes. The government has appointed three new members to the Central Board of Direct Taxes (CBDT), which earlier had only two members apart from the chairman. The Appointments Committee of the Cabinet has named three 1982 batch revenue service officers as members of the apex direct tax policy making body, according to a note issued by the department of personnel. The appointments assume significance since the under-staffed direct tax authority is currently on a drive to add new taxpayers, achieve an over 14% growth in tax receipts in the current fiscal, improve services to its customers and recover dues from corporations.

Income Tax Dept May Seek First Right on Recovery of Dues under IBC

The income tax (I-T) department may soon request authorities in the finance ministry to intervene so that I-T dues get a higher priority over dues to unsecured creditors under the insolvency law. At present, the recovery of tax dues is possible only after payment to financial creditors under the Insolvency and Bankruptcy Code (IBC), which comes under the Ministry of Corporate Affairs. The tax department has prepared a proposal highlighting issues with the IBC with regard to tax dues. "*The entire process of resolution/liquidation under IBC is driven by committee of creditors, and there is no involvement of the I-T department even though we have a lot of stake*," said an I-T official. Citing the whole process of insolvency, the tax official said that under the IBC, the priority of claims has changed as compared to earlier provisions under the Board for Industrial and Financial Reconstruction (BIFR), the body governing insolvency and corporate bankruptcies earlier. "The IBC norms considered government dues as 'operational creditors' and their priority for re-payment comes even after unsecured financial creditors," said the proposal prepared by the department.

CBDT Proposes Clear-Cut Timelines under Transfer Pricing

The income-tax (I-T) department has proposed clear-cut timelines by which excess amount assessed by transfer pricing officials (TPOs) over what was declared by associated enterprises of multinational corporations (MNCs) has to be brought in India. These timelines relate to advance pricing agreements (APAs) and mutual agreement procedures (MAPs). In the Union Budget 2016-17, the government has come out with a concept of secondary adjustments. This basically means that if there is primary adjustment either made by the TPO or *suo motu* by the companies, which differs from what was declared by companies earlier, the excess amount over ₹10 million has to be brought back to India within a stipulated time. Otherwise, there would be secondary adjustment, which means this excess amount will be deemed as loan by Indian entity to the associated enterprise and a notional interest would be levied on it. Now, the Central Board of Direct Taxes had earlier said that the excess amount has to be returned within 90 days of filing of returns. But, then the question arose over what will happen in case of APAs and MAPs. Now, the department, through a draft notification, suggested that the amount should be returned within 90 days of signing of APAs and MAPs. ■

65% of Governments Globally Will Report on an Accrual Basis by 2023, Finds New Report

Within five years, 65% of governments will report on an accrual basis, according to a recent report by IFAC (the International Federation of Accountants) and CIPFA (the Chartered Institute of Public Finance and Accountancy). The report was drawn from the International Public Sector Financial Accountability Index, which captures current and future use of public financial reporting bases and frameworks by governments around the world. The 2018 Index Status Report, which captures information from 150 countries, finds that while 25% of governments currently report on an accrual basis, 65% of governments will report on accrual by the end of 2023. Asia, Africa, and Latin America and the Caribbean will lead the projected increase by the end of 2023.

By providing a comprehensive view of government finances, accrual reporting helps ensure that expenditure of public funds is transparent, public officials are held accountable, and future liabilities are recognised officially and planned for properly. "*Accruals-based accounting and auditable financial statements are essential if governments are to promote trust and transparency, identify and fight corruption, and above all deliver the outcomes their citizens expect and deserve*," said Rob Whiteman, Chief Executive of CIPFA. Public financial reporting frameworks are developed in various ways, with many using International Public Sector Accounting Standards (IPSAS). IPSAS provide high quality financial reporting guidance for governments and other public bodies around the world, in order to improve their consistency and transparency.

51% of governments that currently report on an accrual basis use IPSAS directly, indirectly or as a reference point. By the end of 2023, nearly three-quarters (73%) of governments that report on accrual will use IPSAS in one of these three ways. The report also outlines key actions for successful accrual reforms. According to the report, successful implementation of accrual reforms requires coordinated planning and sustained support. Additional recommendations include: frequent and clear communications, a change management program, and coordinated training and capacity building.

New Global Survey Reveals Digital Transformation, Talent Management as Key to Growth for Small Accounting Firms

Accountants working in small- and medium-sized practices (SMPs) are embracing technology to better serve clients and attract and retain top talent, according to 2018 IFAC Global SMP Survey results released recently. IFAC (International Federation of Accountants) received more than 6,000 responses from SMPs, representing 150 countries, about their performance in 2018 and marketplace factors most likely to affect them in the future. The survey found over a quarter of SMPs (28%) plan to allocate more than 10% of practice revenue over the next year to technology investment, reflecting its critical importance in practice management and operations. The most frequent responses to technological advances have been the development of in-house expertise in IT and the adoption and use of cloud options to better serve clients.

"*As the first-choice strategic adviser to their clients, firms are recognizing the importance of adopting technology to provide insights and expertise and strengthen their role as trusted business partners*," said IFAC CEO Fayez Choudhury.

Tech-enabled Service Offerings: As transactional activities become increasingly automated, firms are also leveraging technology to provide business insights from data analytics as a new service offering. A significant majority (86%) provide business advisory and consulting services, with a majority (51%) predicting a moderate or substantial fee revenue growth over the next 12 months in this service line.

Talent in the Digital Economy

Talent remains a top challenge for SMPs. The majority (54%) have difficulty attracting next generation talent, with 66% stating the number one reason is the lack of candidates with the right mix of skills. This highlights the importance of continuing education and the development of new competencies for the digital global economy. Additionally, firms are implementing talent management initiatives to both attract and retain staff. The most popular initiative is the introduction of flexible working hours or work days.

Survey Method: The 2018 IFAC Global SMP Survey received 6,258 responses, representing 150 countries. It was conducted March–May 2018 in 24 languages. The survey design and reporting were undertaken in collaboration with Sarah Webber and Donna L. Street, lead researchers from the University of Dayton (US). Designed to be completed by senior SMP professionals, whose clients are predominately small and medium-sized entities (SMEs), the survey takes a snapshot of key issues, and tracks important trends and developments, facing this critical sector.

IAASB Seeks Public Comment on Exposure Draft on Agreed-Upon Procedures

The International Auditing and Assurance Standards Board (IAASB) seeks public comment by March 15, 2019 on its Exposure Draft of proposed ISRS 4400 (Revised), *Agreed-Upon Procedures Engagements*.

The demand for Agreed-upon procedures (AUP) engagements continues to grow across jurisdictions. Changes in regulation, such as the increase in audit exemption thresholds in many jurisdictions, have also driven increased demand for AUP engagements. This is especially relevant for smaller entities, as the increased audit exemption thresholds prompt stakeholders to look for alternative services to an audit.

To ensure that the IAASB's standard on AUP engagements remain relevant in the current business environment, the IAASB proposes to enhance key concepts in the standard, including:

- The role of professional judgment in an AUP engagement.
- Disclosures relating to the practitioner's independence or lack thereof.
- Guidance on appropriate or inappropriate terminology to describe procedures and findings in AUP reports.
- The use of a practitioner's expert in an AUP engagement.
- Restrictions on the distribution and use of the AUP report.

In developing proposed ISRS 4400 (Revised), the IAASB has received significant stakeholder input, including feedback from its November 2016 Discussion Paper, *Exploring the Demand for Agreed-Upon Procedures Engagements and Other Services*, and targeted continuing stakeholder outreach.

Public Sector Experts Sought to Join International Public Sector Accounting Standards Board

At a critical moment of development and adoption of international public sector accounting standards, the Nominating Committee has issued its Call for Nominations to join the International Public Sector Accounting Standards Board (IPSASB) for a term beginning in January 2020. Volunteers are central to the effective functioning of the IPSASB, through active participation in meetings, task forces and outreach activities.

The Nominating Committee is looking for candidates with the following background:

Experience as public sector national standard setters;

Preparers of accrual-based financial statements at both national and sub-national levels, including ministries of finance and treasury departments, and international organisations, especially those reporting directly or indirectly in accordance with IPSAS; and

Users of general purpose financial reports, such as parliamentarians, budget offices, and credit-rating agencies.

Nominations can be submitted online from the date of the issue of this Call until February 15, 2019. Instructions on how to apply are available on the Nominating Committee's webpage at http://www.ifac.org/about-ifac/nominating-committee/nomination-instructions.

IFAC Seeks Volunteers for Board, Committee Positions

IFAC (International Federation of Accountants) seeks volunteers with a strong commitment to the public interest to contribute to the strength and vitality of accountancy globally and its future by serving on the IFAC board and committees. The *Call for Nominations for the IFAC Board and Committees in 2020* details openings and requirements for successful nominations for membership on the IFAC Board and three IFAC committees— Professional Accountancy Organisation Development, Professional Accountants in Business, and Small and Medium Practices Committees. The Nominating Committee encourages all IFAC members to review the *Call for Nominations*, including vacancy details and composition targets. Gender equality is especially important to the Nominating Committee to ensure balance; nominations of qualified female candidates are strongly encouraged. The companion guide offers strategic guidance in selecting candidates, including identifying the most qualified and diverse nominee for each available position to reflect the depth and breadth of the global accountancy profession. Nominations can be submitted online via the Nominations Database by February 15, 2019. Additional information on the Nominating Committee and its open, transparent selection process is available on the Nominating Committee web page at https://www.ifac.org/about-ifac/nominating-committee. ■

Training Programme on **Goods and Services Tax** for **Skill Development** of **Girl Students**

Organised by Career Counseling Group

ICAI- Partners in India's Growth

The Institute of Chartered Accountants of India (ICAI), through its Career Counseling Group aims to promote the Commerce Education with Special Focus on CA Course amongst Secondary, Senior/Higher Secondary, Graduate/Post-Graduate students as well as other stakeholders. The Vocational training programmes being organize are envisaged to be a step forward in the direction of employment oriented skill building of young talent in a niche and much sought after area. This shall also fulfil the need of trained manpower requirements of Small and Medium Sector.

GST Training module for Girl Students

4/5 Days Workshop on 'Goods and Services Tax'

- 70 Workshops
- 70 different locations
- 70 participants and more

Learned Speakers & Experts

Will share their expertise and knowledge on the subject.

20 Hours Training

Organized through 5 Regional Councils & 164 Branches.

A step forward

towards skilling our youth and building Young Talent

ICAI Joining ***India's movement*** *of* ***Women Empowerment*** *&* ***Beti Bachao, Beti Padhao***

ICAI - *Celebrating the past, Inspiring the Future*

ICAI celebrate Platinum Jubilee Year beginning July 1, 2018.

ICAI organises GST Training Programs across the country at various colleges specially for girl students.

The Institute of Chartered Accountants of India
(Set up by an Act of Parliament)
Career Counseling Group, ICAI Bhawan A-29, Sector 62, NOIDA (U.P.) Pin Code: 201309,
Tel. No.: 0120-3045910 • **E-mail:** sambit.mishra@icai.in • **Website:** www.icai.org, www.cccicai.in

ACCOUNTANT'S BROWSER

'PROFESSIONAL NEWS & VIEWS PUBLISHED ELSEWHERE'

Index of some useful articles taken from Periodicals received during October-November 2018 for the reference of Faculty/Students & Members of the Institute.

1. Accountancy

IND AS/IGAAP-Interpretation & Practical Application : IND AS vs. ICDS Differences by Dolphy D'souza. *The Bombay Chartered Accountant Journal,* October 2018, Vol.50-B/1, pp.79-82.

Insurance Accounting Redefined by Nicky Burridge. *A Plus,* Vol.14/06, 2018, pp.28-33.

2. Economics

Economic War by Rashmin Chandulal Sanghvi. *The Bombay Chartered Accountant Journal,* October 2018, Vol.50-B/1, pp.19-27.

Indian Agriculture : Redefining Strategies and Priorities by Raj Gupta and Mamta Mehra. *Economic & Political Weekly,* October, 13, 2018, Vol.53/41, pp.84-91.

Recent Developments in India's Mutual Fund Industry. *R.B.I. Bulletin,* October, Vol.72/10, pp.89-103.

3. Investment

Venture Capital - An Analysis in India by Mandar Karnik. *Chartered Secretary,* Vol.48/10, October 2018, pp.51-53.

4. Law

Companies Act : Companies (Amendment) Act, 2017 on Ease of Doing Business by Subhash Chandra Das. *The Management Accountant,* Vol.53/10, October 2018, pp.57-61.

Lifting of Corporate Veil of Government Companies by Hareesh Kumar Kolichala. *Chartered Secretary,* Vol.48/10, October 2018, pp.54-58.

5. Management Accounting

Developments in Global Management Accounting : Research Practice GAP and Directions for Future Research by Amarendra Kumar. *The Management Accountant,* Vol.53/10, October 2018, pp.16-20.

Global Management Accounting Research-India Vision by Ashok Agarwal. *The Management Accountant,* Vol.53/10, October 2018, pp.29-33.

Value Innovation : A New Dimension to Management Accounting by Udandrao Lakshmana Rao and Rettiganti Ramchandra Prasad. *The Management Accountant,* Vol.53/10, October 2018, pp.34-38.

6. Management

Demystifying Success and Happiness in Professional Life by Debopam Chell. *The Management Accountant,* Vol.53/10, October 2018, pp.78-82.

Corporate Social Responsibility by Mukund Chitale. *The Bombay Chartered Accountant Journal,* October 2018, Vol.50-B/1, pp.11-18.

Equity Investment Styles : Active Versus Passive by M R Raghu. *The Global Analyst,* Vol.7/10, October 2018, pp.25-26.

7. Taxation and Finance

Decoding the Consequences of POEM in India by Mayur B. Nayak and Tarun Kumar G. Singhal. *The Bombay Chartered Accountant Journal,* October 2018, Vol.50-B/1, pp.83-89.

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.

Legal Decisions[1]

Income Tax

LD/67/68

Assistant Commissioner of Income Tax

Vs.

M/s GMR Projects Pvt. Ltd

October 26, 2018

Sponsorship payment made by the assessee for sponsoring an IPL Team held to be not deductible under section 37

The assessee is a company part of GMR group engaged in the business of civil and highway construction in various parts of India. The assessee had incurred an expenditure of ₹ 3 crores for the purpose of sponsoring an IPL team. The assessee had become an associate sponsor. Assessing Officer disallowed the said expenditure under section 37 noting that the expenses incurred by the assessee were not entirely related to the business activity of the assessee. CIT (A) ruled in favour of the assessee, aggrieved by which, the revenue preferred an appeal before the Bangalore ITAT.

Assessee submitted that its logo was mentioned as an associate sponsor on the advertisement displayed in IPL and on the jersey of the players and therefore business benefits were derived from that advertisement. ITAT noted that the assessee was entitled to benefits and rights such as Logo positioning on the non-lead arm of the Delhi Daredevils team jersey, appearance of logo in all media and marketing communications, etc.

ITAT remarked that it was incumbent upon the assessee to prove that the expenditure incurred was wholly and exclusively for the purpose of business. As per ITAT, no document was placed on record to show the name of the assessee on the jerseys/ advertisement which was in its own name; and only the common logo of GMR group was alleged to have been displayed. Further, ITAT observed that the assessee was not directly getting any contract but was merely executing the contract for the group company only, and thus no marketing benefit as such was derived by the assessee.

ITAT thus held that there was no justification in allowing the said expenditure under section 37 and ruled in favour of the Revenue.

Separately, in relation to the issue of disallowance of interest expenditure on FD's, ITAT restored the matter back to the Assessing Officer to re-compute the final loss/income.

LD/67/69

Ambience Developers & Infrastructure Pvt. Ltd.

Vs.

Commissioner of Income Tax

October 25, 2018

Agreement between two entities conferring rights to enjoy lease income of retail spaces held to be sham and just to divert rental income under a revocable transfer; Rental income held to be taxable in transferor's hands under section 60.

There are two petitioners to this case; viz Ambience Developers and Infrastructure (ADI) and Ambience Hotels and Resorts (AHR). AHR was constructing a five- star hotel at its own premises. This construction also had led to the creation of certain retail premises. AHR needed funds for completing the hotel project, and therefore it entered into agreement with ADI whereby ADI gave an interest free deposit of ₹ 75 crores to AHR in return of the rental income to be enjoyed by it for the retail premises constructed by AHR. On the direction of CIT under section 263, the Assessing Officer assessed lease income from the rent of retail-shops and other spaces in the hotel in hands of AHR under section 22 since it was the owner of premises. Assessing Officer, however, did not reduce the said amount from ADI's income by assessing the same on protective basis while making a substantive addition in the hands of AHR.

ITAT held that rental income was correctly assessed in the hands of AHR by the Assessing Officer, however, it directed to delete the protective addition of the same made by the Assessing Officer in the hands of ADI. Aggrieved by order of ITAT, the assessees preferred appeals before the High Court.

Before the High Court, assessees submitted that the Act does not clothe the taxing authority with any jurisdiction to rewrite the terms of the agreement,

[1]Contributed by CA. Sahil Garud, CA. Mandar Telang, Indirect Taxes Committee, Disciplinary Directorate 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 judgement, write to eboard@icai.in.

which plainly in this case did not suggest that the parties were dealing with each other in any manner other than at arm's length. Assessees argued the concerned agreement was an entirely bona fide business transaction and plain and unambiguous in its terms which created certain rights and obligations which were acted upon and gave the assessee company an overriding title to the income derived from leasing of the shops.

High Court observed that CIT(A) and ITAT had relied on Section 60 to hold that income had been diverted under a revocable transfer or an arrangement and therefore, it would be chargeable in the hands of the transferor. The agreement conferred a right to receive rentals by ADI for which a consideration of ₹ 75 crores was paid, and that the agreement could be rescinded after 3 years, by giving back the deposit. Further, the agreement also stated that AHR's tenants were deemed to be that of ADI.

High Court noted that the judgements relied upon by the assessee before it were considered rightly by the CIT(A) as well as ITAT. High Court distinguished assessees' reliance on Supreme Court ruling in *Poddar Cement* as it did not involve interpretation of Section 60 which was in question in the instant case. High Court thus stated that the assessee was incorrect in stating that the Tribunal ignored or overlooked material facts or law.

High Court also noted that even after inclusion of rental income, ADI reported a loss for the year under consideration in its return whereas AHR declared profits; and therefore lower authorities had the view that the arrangement was made to avoid incidence of tax in AHR's hands.

High Court thus held that there was no infirmity in the impugned orders of the ITAT, and thus dismissed assessee's petitions.

LD/67/70

Director of International Taxation, Madras

Vs.

TVS Motors Co Ltd.

October 24, 2018

Payment made by the assessee to the Austrian company for a design to improve fuel efficiency held as fees for technical services and not royalty; the same is only taxable in Austria as per India-Austria DTAA

The assessee is a representative assessee of an Austrian company. It entered into a technical assistance agreement with an Austrian company for design of new 75CC, 3-valve cylinder head. The assessee contended that the fee paid to the Austrian company is only for the technical services and since the entire work was done in Austria and no part of the work was done in India, the entire income was taxable only in Austria in terms of provision of the DTAA with Austria. However, the Assessing Officer held that the amount received by the Austrian company from the assessee for design of 75CC 3-valve Cylinder head is royalty and thus is taxable in terms of Article 6 of DTAA with Austria.

The CIT(A) ruled in favour of the assessee. The appellate authorities noted that it was not a readymade patented technology supplied by the Austrian company to the assessee and it is a specific service performed by the Austrian company in respect of engine manufactured by the assessee to meet the specified specifications.

Before the High Court, Revenue contended that it was noted in the agreement that the know-how and patents and the ideas introduced into the project shall remain the exclusive property of the Austrian company and therefore, what has been given to the assessee was only a right to use. Thus as per Revenue, the payment was in the nature of royalty. High Court held that this clause was just to protect Austrian Company's rights, know-how, patents ideas and that an interpretation of revenue holding that the agreement was a licence for which the payment was made, was an improper interpretation.

High Court observed that the engine was already developed by the assessee and scope of the technical services agreement was only to design a new 3-valve cylinder head with a specified combustion system for considerable improvement of fuel efficiency, performance and meeting the Indian emission standards. Further, all products, design of the engines and vehicles are supplied by the assessee, on completion all the drawings are also delivered by the Austrian company to the assessee, the entire project was carried out in Austria and no part of the project was performed in India. Thus, the payment did not constitute royalty.

High Court noted that the Tribunal in assessee's own case for past assessment year had examined

The Institute of Chartered Accountants of India (ICAI)

ICAI Commerce Wizard-2018: A Talent Search Test

Organised By: **Career Counseling Group (CCG), ICAI**

For Details and Registration please visit the Exclusive Website for ICAI Commerce Wizard, 2018: ***icaicommercewizard .org***

The Commerce Talent Search Test called as Commerce Wizard -2018 is a diagnostic test that measures the concept understanding ability of a student. Unlike regular tests which try only to find out how much a child knows, this test measures how well a student has understood the concepts.

Eligibility: Students appearing in class IX/X/XI/XII & B.Com/BBA/BMS/Allied subjects examination

Online Registration

Registration Fees : ₹100/- upto 31st Dec., 2018
After Due Date : ₹150/- 1st Jan., 2019 to 5th Jan.

The Commerce Wizard will be conducted by means of in two levels i.e. LevelI (Online) & Level II (Online/Pen & Pencil test) in English language for Students studying in class IX/X/XI/XII & B.Com/BBA /BMS/Allied Subjects:

Class	No. of Questions	Duration	Subjects	Mode	Negative Marking	Max. Marks	Pattern
IX	100	1 Hr 15 Min	(I)Social Studies (Economics) (II) Mathematics (III) Business Awareness (IV) Aptitude	Online/Pen & Pencil	0.25	100	
X	100	1 Hr 15 Min	(I) Social Studies (Economics) (II) Mathematics (III) Business Awareness (IV) Aptitude	Online/Pen & Pencil	0.25	100	Objective - type (Multiple Choice) questions
XI	100	1 Hr 15 Min	(I) Business Studies (II) Accountancy (III) Economics (IV) Aptitude	Online/Pen & Pencil	0.25	100	
XII	100	1 Hr 15 Min	(I) Business Studies (II) Accountancy (III) Economics (IV) Aptitude	Online/Pen & Pencil	0.25	100	
B.Com/BBA /BMS/ Allied Subjects Examination	100	1 Hr 15 Min	(I) Business Studies (II) Accountancy (III) Economics/ Financial Studies (IV) Aptitude	Online/Pen & Pencil	0.25	100	

Date Timings for the aforesaid test :

Class/Levels of Exam and Date	Level-I (Online test) 6th January, 2019 (Sunday)	Level-II Test : Online or Pen Pencil Mode in the designated test centre 20th January, 2019 (Sunday)
Class IX & Class X	09:30 AM to 10.45 AM	1. 09:30 am. to 10.45 am. for Class IX & Class X
Class XI	11.45 AM to 1.00 PM	2. 11:45 am. to 1.00 pm. for Class XI
Class XII	2.00 PM to 3.15 PM	3. 2:00 pm. to 3:15 pm. for Class XII
Graduation-B.Com/BBA/BMS/Allied Subjects	4.15 PM to 5.30 PM	4. 4:15 pm. to 5:30 pm. for Class B.Com/BBA/BMS/Allied Subjects

Prizes for Participants

Level-I Test

- All participants In Level-1 test will receive a Participation Certificate.

Level-II Test

- 1st Rank holder will be awarded with Rs 1, 00,000/- for Class IX, Class X, Class XI , Class XII & B.Com/BBA/BMS/Allied Subjects Separately, if multiple winners are there, the prize amount will be shared by them. If more than 50 joint rank holders for the same, the awardee will at least awarded with the cash prize of Rs 2,000/-
- 2nd Rank will be awarded with Rs 50,000/-for Class IX, Class X, Class XI Class XII & B.Com/BBA/BMS/Allied Subjects separately, if multiple winners are there, the prize amount will be shared by them. If several joint rank holders for the same are there, the awardee will at least awarded with the cash prize of Rs 1,500/-
- Top 500 consolation prizes will be awarded worth Rs 500/- along with an appreciation certificate for Class IX, Class X, Class XI, Class XII & B.Com/ BBA/BMS/Allied Subjects separately
- Participation Certificate will be given to each participant appeared for the Level-II Test.

ICAI Scholarship scheme will also be provided for the wards of Military/Para Military/ Railways Personnel

For further details please visit at: https://www.icai.org/post.html?post_id=14927

Other Important Dates:

Award Ceremony: Award Ceremony will be held in January/February, 2019 at Delhi NCR.

ICAI/Test Management Committee reserves the right to change in any of the modalities cited above.

Convener
Career Counseling Group (CCG), ICAI

For any Query please contact :
Secretary, Career Counselling Group (CCG), The Institute of Chartered Accountants of India
ICAI Bhawan, A-29, Sector 62, Noida (U.P.) - 201309
Telephone (O): 0120-3876871, 886 Email: ccc.events@icai.in

the similar agreement and had held that the payment could only be termed as 'fees for technical services' and could not be considered in the nature of royalty. High Court observed that the terms and conditions of that agreement were similar to that of the impugned agreement of instant case.

High Court, therefore, upheld the order of the appellate authority and held that the payments made by the assessee to the Austrian company were fees for technical services and not royalty. High Court thus ruled in favour of the assessee.

LD/67/71

Unifac Management Services (India) Pvt. Ltd.

Vs.

Deputy Commissioner of Income Tax, Chennai

October 23, 2018

Deduction for employees contribution to provident fund (PF) denied, being deposited after respective due dates provided in PF law.

The assessee company claimed a deduction for an amount paid towards Employees Provident Fund (PF) and ESIC. The contributions were paid beyond the due date under respective enactments but prior to the due date of filing of return as per Section 139(1), and the assessee claimed the amounts as deductible under section 43B. The Assessing Officer disallowed the said deduction as it was paid beyond the respective due dates mentioned in the relevant enactments, aggrieved by which the assessee filed a writ petition before the Madras High Court.

Before High Court, assessee argued that the delayed payments of the contribution would only attract interest and penalty and cannot be termed as though no payment was made in order to deny the deduction in entirety. Revenue contended the assessee was not entitled to take shelter under section 43B, since the said section pertained to "employer's contribution" only and assessee's case was that regarding "employees contribution" which was dealt only by Section 36(1)(va).

High Court observed that the Revenue had rightly placed reliance on Circular No.22 of 2015 dated 17.12.2015 which specifically dealt with the employers contribution and the scope of Section 43B after amendment, excluding the extension of such scope to employees contribution. Further the expression 'due date' defined under the explanation to Section 36(1) (va) clearly stated that it was in reference to the relevant Act and not in reference to the due date for filing of return. High Court stated that a combined reading of Section 2(24)(x) and Section 36(1)(va) clearly indicated that both sections were in respect of employees contribution received by the assessee and not employer's contribution.

High Court held that in the absence of any amendment made to Section 36(1)(va), contributions viz., "employees" and "employers" cannot be brought under the same scope. High Court stated that a sum payable by the assessee as an employer by way of his contribution towards the beneficial fund cannot be treated as an income at his hand but only as an expenditure allowable for deduction. When such payment is made in accordance with Section 43B(b), then the same is entitled for deduction. Therefore, there is a clear distinction between the scope of Section 43B(b) and Section 36(1)(va). High Court stated that the accumulated contribution by the employee is available with the employer for that year and he is holding such an amount in the capacity of trust and not as a beneficiary. High Court held that benefit of deduction cannot be claimed since the belated payment is not a valid payment under IT Act.

High Court thus denied deduction of delayed payment of employees contribution and ruled in favour of revenue.

LD/67/72

M/s SPIC Jel Engineering Construction Co. Ltd.

Vs.

The Assistant Commissioner of Income Tax

October 09, 2018

Assessee's project in Abu Dhabi held to be within the scope of foreign project under section 80HHB as assembly or installation of any machinery or plant; benefit of Section 80HHB thus granted.

The assessee undertook a foreign project in Abu Dhabi and filed Form 10CCAH to claim deduction under section 80HHB in respect of said foreign project. Assessing Officer held that the project in Abu Dhabi was not a 'foreign project' within the meaning of Section 80HHB and thus denied the deduction. CIT(A) ruled in favour of the assessee. However, ITAT ruled against the assessee.

Aggrieved, the assessee filed an appeal before the Madras High Court.

Revenue contended that the assessee was a sub-contractor of Abu Dhabi's company and the work awarded was part of a general refinery shut down and purely in the nature of repair and maintenance work. It stated that assessee had not contributed for construction of any road, building, dam, bridge or other structure.

High Court stated that Section 80HHB granted incentive to the assessee for growth and development and therefore should be liberally construed in order to promote economic growth of the country. High Court observed that the term 'shut down' did not denote repairs and maintenance but was a technical term peculiar to assessee's industry. High Court observed that CIT(A) had gone through the agreement and the drawings and found that the nature of work carried on by the assessee, clearly came within the scope of foreign project under 'assembly or installation of any machinery or plant outside India' as per Section 80HHB(2)(b)(ii).

High Court relied on Supreme Court decision in *Continental Construction Limited [(1992) 195 ITR 81]* wherein it was held that Section 80HHB should not be interpreted in a narrow or pedantic fashion but should be understood to take within its fold all utilisation of technical knowledge or rendering of technical services necessary to bring about the construction, assembly and installation.

High Court held that the work done by the assessee fell within the meaning of expression 'foreign project' as defined under section 80HHB (2)(b) and thus directed the Revenue to grant deduction to the assessee.

High Court thus ruled in favour of the assessee.

LD/67/73

Surendra Kumar Jain
Vs.
The Principal Commissioner of Income Tax, Delhi
October 01, 2018

Time limit under section 153B is applicable only for original block assessments for the search proceedings and not for de-novo assessments consequent to remand by ITAT

Pursuant to search and seizure proceedings under section 132 of the Act, the assessment was completed for the block period on 28.03.2013 by the concerned Assessing Officer. The Commissioner of Income Tax (A) partly allowed the assessee's appeal on 14.08.2014. The matter was carried further to the Income Tax Appellate Tribunal (ITAT) which remitted the matter back to the Assessing Officer to complete the assessment de novo. Assessing Officer sought tax effect by re-computing the income under section 153A of the Act, in effect, following the ITAT's order of 18.02.2016. Relying upon that order, the assessment proceedings were taken up after remand by the Assessing Officer who completed them on 22.12.2017. As per the assessee, apart from Assessing Officer's order made after the ITAT's decision on February 18, 2016 there was evidence that the Revenue had clearly admitted that the order was served by hand to the CIT on 30.03.2016. Thus relying on the then existing provision under section 153(2A), assessee urged that the time available to the Assessing officer for working out the remand and completing the assessment was only up to December 31, 2016.

Aggrieved, the assessee filed a writ petition before the Delhi High Court.

High Court stated that limitation would begin from the point of time when the departmental representative has received the copy ITAT order; High Court noted that in instant case the CIT had received a copy of the ITAT order by 30.03.2016 and therefore the starting point of the limitation would therefore be March 31, 2016. High Court placed reliance on ruling in *Odeon Builders Pvt. Ltd [(2017) 393 ITR 27].*

High Court observed that under section 153 no order of assessment would be made either under section 143 or section 144 any time after expiry of twenty one months from the end of the assessment year in which the income was first assessable. However, Section 153(2) carved out an exception that in cases covered by reassessment, the period would be reduced to nine months from any financial year in which the notice for re-assessment is served.

Further, as per the High Court the special provision under section 153B of the Act in the opinion of the Court carves out a special period of limitation without which search/block assessments would not be completed. High Court noted that a specific period of limitation prescribed for completion of original block assessments for the search proceedings is within two years, applying this two years period to block assessment proceedings after remand of matter, was not a feasible interpretation. The general provision of two years was provided with one important objective regarding to catering to a situation where upon search, if new material is found, already completed assessments can be revisited.

High Court held that the only provision that prescribed a period of limitation in respect of remands at the relevant time in this case is Section 153(2A). High Court held that the period of limitation prescribed for completion of remand (nine months) constituted a special provision, which applies to every class of remand regardless whether they originate from assessments/re-assessments/revisions or search and seizure assessments. High Court thus held that the completion of block assessment proceedings by the impugned order dated 22.12.2017 was clearly beyond the period of limitation, which ended on 31.12.2016.

High Court thus quashed the block assessment order and its consequential orders and thus ruled in favour of the assessee.

Wealth Tax

LD/67/74

Devineni Avinash

Vs.

The Principal Commissioner of Income Tax

October 11, 2018

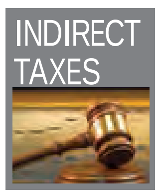
Execution of Development Agreement on vacant land does not make it stock-in-trade so as to exclude it from Wealth Tax levy.

The assessee had filed his return of wealth, for the AY 2009-10. Assessee had purchased urban land in July 2007 and a development agreement related thereto was entered into by assessee immediately. Assessing officer held that the same was to be considered while calculating wealth and wealth tax thereon. As per the assessee the immediate execution of development agreement showed assessee's intention to carry on business and therefore the said vacant land would not fall within the definition of an "asset" under the Wealth Tax Act. The Commissioner (Appeals) as well as ITAT ruled in favour of the Revenue, aggrieved by which the assessee filed an appeal before Andhra Pradesh and Telangana High Court.

High Court observed that the purchase of property by the assessee was an isolated transaction, and they had not carried on any business either before or thereafter. Only purchasing a property under profitable bargain with the desire to sell the property would not justify assessee's intention of starting a venture in the nature of business or trade.

Filing of return under Form No ITR-2 and not in Form No.ITR-4 was also an indication whereby the subject land was treated as an investment / capital asset, and not as stock-in-trade under the head 'current assets'. If assessee had intended to use the land for the purpose of carrying on business, it would have been shown the same as 'stock-in-trade' under the head 'current assets' and not as immovable property under the head 'fixed assets'. Merely because assessee entered into a Joint Development Agreement with a builder, the same would not itself amount to treatment of subject land as stock-in-trade.

High Court thus ruled in favour of the Revenue.



GST

LD/67/75

Apex Company Vantage India Pvt. Ltd.

Vs.

CCT

(CESTAT-HYD)

June 14, 2018

Tribunal held that refund claim of accumulated CENVAT credit, filed in terms of Rule 5 of CENVAT Credit Rules, 2004, needs to be debited in the books of accounts at the time of filing refund claim and violation of said condition would lead to rejection of refund claim.

Facts:

Appellant exporter filed refund claim of accumulated CENVAT Credit in terms of Rule 5 of CENVAT Credit Rules, 2004 (CCR, 2004). The entry for refund claim was recorded by the appellant in their books of account, not at the time of filing of refund claim but subsequently. Department rejected the refund claim on the ground that appellant had not debited the CENVAT credit amount from their books of accounts at the time of making the claim as stipulated under erstwhile notification which dealt with safeguards, conditions and limitations to which refund claim under Rule 5 of CCR, 2004 was subjected to. Even, the First Appellate Authority dismissed appeal filed by the appellant. Being aggrieved, the appellant filed present appeal before the Tribunal. They pleaded that they were under mistaken belief that the debit in their books of accounts had to be done after one year from the end of the quarter for which the refund claim has been filed. Further, though these details were mistakenly not entered in ST-3 returns, but they had subsequently filed revised returns rectifying the defects.

Held:

Hon'ble Tribunal found that the notification lays down that the amount claimed as refund of CENVAT amount should be debited before applying for the refund and the appellant had not done so. They have debited the amount, but much later and thereby they violated the condition 2(h) of the notification. Tribunal held that the Rule or the notification does not provide the flexibility to the officers or the Tribunal to relax condition 2(h) of the notification and thereby rejected present appeal by upholding impugned order.

Service Tax

LD/67/76

M/S Indian Institute of Technology

Vs.

Commissioner of Service Tax

(CESTAT-DEL)

July 06, 2018

Tribunal held that when assessee educational institution made payments to the overseas vendors towards online subscription of various educational resources, being in the capacity of representative of consortium of various educational institutions, no service tax liability would arise under reverse charge as such activity is meant for education and not in relation to any business or commerce.

'Training and placement charges' collected by educational institution from its students as part of fee structure are not liable to service tax under category of 'manpower supply services'.

Facts:

The appellant is an institute of national importance established by the Institutes of Technology Act, 1961, an Act of Parliament, for fostering excellence in education. The Ministry of Human Resources Development (for short 'MHRD') set up the 'Indian National Digital Library in Engineering Sciences and Technology Consortium' (INDEST) and the appellant, was designated as the Consortium Headquarters to coordinate its activities. The Consortium enrolls engineering and technological institutions as its members and subscribe to electronic resources for them at discounted rates of subscription and favourable terms and conditions. The Ministry provides funds required for subscription to electronic resources for various centrally-funded Government institutions. The benefit of consortia-based subscription to electronic resources is not confined to its core members but is also extended to all educational institutions under its open-ended proposition. With the aim of subscribing to various electronic educational resources at highly discounted rates for the benefit of its members, the consortium enters into subscription agreement with the resource owners. Department took a view that appellant is receiving Online Information and Database Access or Retrieval Services (OIDAR) from the overseas vendors and thus, liable to pay service tax under reverse charge mechanism. Further, service tax was demanded under category of manpower supply services in respect of 'training and placement charges' collected by appellant from its students.

Held:

Hon'ble Tribunal found that in terms of erstwhile Taxation of Services (Provided from outside India and Received in India) Rules, 2006, the recipient based services were taxable only when they are received by a recipient located in India for use in relation to business or commerce. It was categorically found that the OIDAR services were received by the appellant, not in relation to business or commerce, but were meant for use in education only. Further, Tribunal noted that said services were received by appellant as representative of all the educational institutions. Accordingly, Tribunal held that appellant is not liable to pay service tax under reverse charge for payments made to overseas vendors for various subscriptions taken by consortium.

As regards demand under manpower supply services, Tribunal noted that said training and placement charges were collected by appellant from its students as a part of their fee structure. Neither the appellant is a commercial concern nor did they provide services to any commercial concern. Further, Tribunal held that issue is squarely covered in the case of *Motilal Nehru National Institute of Technology vs. CE & ST, Allahabad – 2015 (40) S.T.R. 375 (Tri. – Del.)* Therefore, Tribunal set aside impugned demand under manpower supply services.

LD/67/77

SETH CONSTRUCTION

Vs.

CCGST MUMBAI (SOUTH)

(CESTAT-MUM)

August 02, 2018

Tribunal held that once the assessee engaged in providing taxable as well as exempted services, reverses the CENVAT credit attributable to exempted services, no proceedings can be initiated against the assessee for payment of 8%/10% reversal of value of exempted services under Rule 6(3) of CCR, 2004.

Facts:

Appellant, provider of works contract services, discharged service tax liability in some cases and availed benefit of exemption notification in other cases. Since the appellant provided both taxable as well as exempted service, department proceeded against it under Rule 6 of the CENVAT Credit Rules, 2004 for payment of amount of 8% / 10% of the value of exempted service. After issuance of show-cause notice, the appellant had reversed the CENVAT credit availed by it in respect of the exempted service provided it, by availing the exemption benefit under Notification dated 20.06.2012 and also paid the interest at the appropriate rate. Thereafter, the proposals made in the show-cause notice were dropped by the Adjudicating Authority. Being aggrieved, revenue preferred appeal before first appellate authority wherein the first appellate authority confirmed the CENVAT credit demand along with interest and appropriated the amount already reversed by the appellant towards such confirmed demand and also imposed penalty. Being aggrieved, appellant has filed present appeal. The issue before Tribunal for consideration was whether upon reversal of CENVAT credit on the exempted service along with interest, can the department proceed further for recovery of amount as contemplated under Rule 6 of CENVAT Credit Rules, 2004 and impose penalties on the appellant.

Held:

Hon'ble Tribunal held that the present dispute is no more *res integra* in light of its own decision in *Order No. A/85944-85946/2018 dated 02.04.2018* in the case of *Ahmednagar Zilla Prathamik Shikshak Sahakari Bank Ltd. & Ahmednagar Shahar Sahakari Bank Ltd. vs. Commissioner of Central Excise, Aurangabad - 2018 (4) TMI 1330-CESTAT Mumbai*. In the said decision, reliance was placed on *Nagar Urban Cooperative Bank Ltd. vs. Commissioner of Customs, Central Excise and Service Tax, Aurangabad-CESTAT-MUM* and it was held that the option available to the assessee to reverse proportionate CENVAT credit, once exercised by the assessee, the demand cannot be confirmed for recovery of the value of the exempted service provided by the assessee. Accordingly, it was held that since on the date of passing of the impugned orders, there were no outstanding liability recoverable from the appellants, the demand of amount in terms of Rule 6(3) of the rules cannot be sustained. Relying on the same, Tribunal allowed present appeal by setting aside order of first appellate authority.

LD/67/78

M/s SMP Constructions Pvt. Ltd.

Vs.

Commisssioner of Central Excise and Service Tax

(CESTAT-AHM)

August 01, 2018

Where assessee avails benefit of abatement notification in some contracts (wherein he has not availed CENVAT Credit), the benefit of abatement notification cannot be denied *merely because in some other contracts (where assessee discharged service tax liability on entire value of contract), the assessee has availed the CENVAT Credit. The abatement notification is not required to be applied in a uniform manner across all contracts undertaken by it.*

Facts:

Appellant is engaged in providing the service of "Commercial or industrial construction services". While taking benefit of abatement notification stipulating non-availment of CENVAT credit as pre-condition for claiming abatement, out of total contracts undertaken by appellant, in some contracts they paid service tax on the 100% of gross value without availing the abatement and availed CENVAT credit. In some of the contracts, they paid the duty on 33% of the gross value after abetment of 67% and did not avail the CENVAT credit. The case of the department is that since the appellant in respect of some of the contracts availed CENVAT credit and discharged the service tax on 100% gross value of the service, they cannot opt for abatement notification for remaining contracts and thereby, is liable to pay service tax on entire value of contract.

Held:

Hon'ble Tribunal noted that the Notification is not applicable in case where the CENVAT credit in respect of inputs or capital goods or input services used for providing such taxable service has been taken. Tribunal held that when the condition of the said Notification was complied with qua a particular contract, merely in some of the contract the appellant had availed the CENVAT credit, has no effect on the services where the benefit of abetment notification was availed. Tribunal noted that the issue is no more *res-integra* in light of the decision in *Bharat Heavy Electrical Ltd. Vs. CCE-2014 (34) STR 430 (T-Mumbai) 2012-TIOL-348-CESTAT-MUM* and *Afcons Infrastructure Ltd. Vs. CCE - 2016-TIOL-1818-CESTAT-MUM* wherein it was held that there is no stipulation in the notification that the option to avail/ non-avail CENVAT credit has to be exercised uniformly in respect of all the contracts executed by the assessee. It is for the assessee to choose which formulation he wants to follow in a given contracts.

LD/67/79

Shyam Mani, Umesh Nigam
Vs.
Commisssioner of CGST and Central Excise, Mumbai
(CESTAT-MUM)
June 20, 2018

Penalty under section 78A of Finance Act, 1994 i.e. penalty for offences by Directors etc., cannot be imposed in cases where period under dispute is before 10.05.2013.

Facts:

The short issue for consideration before the Tribunal in present appeal was whether penalty under section 78A of Finance Act, 1994, providing for imposition of penalty for the offences by the Directors, etc., can be imposed in cases where period under dispute is prior to enactment of said Section 78A w.e.f. 10.05.2013?

Held:

Hon'ble Tribunal held that in present appeal, during the disputed period, Section 78A was not incorporated in the statute and the same was inserted by Finance Act, 2013 with effect from 10th May 2013, thus, the provisions of Section 78A cannot be invoked for imposition of penalty on the employees for the offence committed by the company. It was noted that similar view was taken in *Dato Seri Shahril Shamsuddin vs. Commissioner of Service Tax, Mumbai - II -2016-TIOL-559-CESTAT-MUM* and the penalty on the employees of the company under section 78A, was set aside.

Excise

LD/67/80

Mangalam Alloys Limited
Vs.
The Commissioner of Central Excise, Ahmedabad
September 05, 2018

Input Credit denial by CESTAT on the ground of no actual movement of goods, which the assessee failed to satisfactorily rebut, upheld by the High Court.

The assessee is a manufacturer of goods and availed credit on inputs received from two suppliers namely two of the suppliers of such inputs, namely, M/s. Goodluck Empire, Bhavnagar and M/s. Jenil Empire, Bhavnagar, about which the revenue noticed certain clandestine Transactions. CESTAT noted that Revenue had obtained a report from the RTO suggesting that the twelve invoices pertained to goods stated to have been transported by vehicles which were incapable of carrying the quantity of such inputs.

Regarding such discrepancies, CESTAT neither found any satisfactory explanation from suppliers' statements nor from assessee's side. Assessee merely stated that goods were ordered on FOR basis and therefore transportation of goods was responsibility of the supplier and not assessee. CESTAT affirmed revenue's contention that goods were not physically received by the assessee and CENVAT credit therefore could not be claimed.

High Court noted that when the RTO report strongly suggested that the vehicles in which the goods were stated to have been transported were incapable of doing so, the burden would be on the assessee to dislodge these primary findings particularly when the report of the RTO was not challenged. Assessee's stand that it had ordered goods on FOR value and therefore was not obliged to explain the manner of transportation was too simplistic in background of facts on record.

High Court rejected assessee's contentions that CESTAT's conclusions were based on drawing presumptions or adverse inference. High Court thus upheld the order of CESTAT and thus ruled in favour of the Revenue.

Transfer Pricing

LD/67/81

Cairn India Limited

Vs.

The Assistant Commissioner of Income Tax, Gurgaon

October 24, 2018

Redeemable Preference shares issued to associated enterprise of assessee can't be categorised as loans.

An addition on account of arm's length price on notional interest regarding investment made through 0% Redeemable Preference Shares by the assessee in its subsidiary company based in Jersey was made by the Transfer Pricing Officer. Transfer Pricing Officer observed that the assessee raised a loan of ₹ 1, 345 crore from SBI for one of its projects and however on the same day, made an investment in the subsidiary by way of the Redeemable Preference Shares. The Transfer Pricing Officer characterised the same as an unsecured loan to the subsidiary. ITAT remitted the matter back to Transfer Pricing Officer noting that litigation on similar issue for immediately preceding year was pending in case of the same assessee. The Delhi High Court, however, held that ITAT was incorrect in doing such remission and that it should have proceeded to decide the issue on merits since it did not involve elaborate fact finding. High Court thus directed ITAT to hear the matter again.

ITAT noted Section 80 of Companies Act makes detailed provisions for the issue by a company of redeemable preference shares which *inter alia* provide that no such share shall be redeemed except out of profits of the company which would otherwise be available for dividend or out of the proceeds of a fresh issue of share capital made for the purpose of redemption. ITAT also relied on from the Delhi High Court ruling in the case of *Globe United Engineering and Foundry Co. Ltd [44 Comp. Cases 347]* wherein it was held that Preference Shares / Optionally Fully Convertible Debentures are not 'loans'.

ITAT observed that in AY 2012-13, preference shares were redeemed by the AE and redemption was accepted by the Revenue. Accordingly, ITAT concluded that re-characterisation of the transaction was erroneous and the resultant transfer pricing adjustment was unwarranted. Further with respect to addition of 'notional interest', ITAT stressed on importee of 'Real Income' theory and stated that real income meant profits arrived at on commercial principles subject to provisions of the Act.

ITAT thus held that re-characterisation of the impugned transaction as "Loans" was erroneous and no transfer pricing adjustment was warranted.

ITAT thus ruled in favour of the assessee.

LD/67/82

Ericsson Telephone Corporation India AB

Vs.

The Deputy Director of Income Tax, (International Taxation)

September 28, 2018

Arm's Length Price calculation based on Profit level indicator of 6 months of year before business of assessee was restructured, upheld by ITAT.

The assessee is an entity incorporated in Sweden with limited liability, which is a fully owned subsidiary of M/s Telefonaktiedolaget LM Ericsson AB, Sweden. It set up a branch office in India to carry out its business activity. In 1995-96, the assessee was awarded contracts by Indian telecom companies for installing GSM mobile telephone network. In 1996, the installation contracts with Indian companies were assigned to Ericsson Communications Pvt. Ltd which is a wholly owned subsidiary of the parent company (LM Ericsson AB). Thereafter, all the installation contracts concerning setting up of mobile telephone systems were carried out by Ericsson Communications Pvt. Ltd. (ECI), now known as Ericsson India Ltd. (EIL).

The assessee restructured its business and closed down the installation/assembly business and transferred it to M/s EIL, alongwith transfer of assets. The assessee used Transactional Net Margin Method (TNMM) as the most appropriate method and OP/TC as the Profit Level Indicator [PLI]. 51 comparables were used and the mean OP/TC of the comparables was determined at 8%. The assessee calculated its margin at 10% and termed its international transaction as at arm's length.

Transfer Pricing Officer held that the profit on sale of fixed assets should not be included while computing assessee's operating profit and thus recalculated assessee's margin, leading to addition of ₹ 1.27 crores to the international transaction. CIT(A) held that profit on sale of fixed asset cannot be considered as operational income and also held that financial results should be considered up to the sale of business for the purpose of benchmarking, i.e. Before CIT(A), assessee submitted that 6 months operation in installation and erection activity only should be compared and benchmarked. It was further contended that since the assessee sold the business in the middle of the FY, the assessee was incurring unutilised capacity in the form of fixed cost no longer recoverable through normal business activity. Therefore, it was pleaded that the excess costs towards unutilised capacity should be excluded from the total operating cost in order to bring the level of capacity utilisation of the comparable in line with that of the assessee. CIT(A) held that the calculation submitted by assessee in the installation and erection segment, whereby assessee showed that it earned an OP/TC for six months after excluding profit from sale of fixed assets of 14%, was consistent with policy of the group company. Further, consideration of mean OP/TC of the comparables determined at 8% was also upheld. CIT(A) noted that the international transaction carried out for 6 months before business of assessee was restructured resulted in a mark-up of 14% as against 8% of the comparables, and thus the same was correctly held to be at arm's length by the assessee. CIT(A) thus ruled in favour of assessee.

Aggrieved, Revenue filed an appeal before ITAT.

ITAT noted that the assessee was incurring unutilised capacity in the form of fixed costs which were no longer recoverable through normal business activity and thus there was no level playing field with the 51 comparables, in as much as, the comparables were not on the same platform with that of the assessee. ITAT opined that CIT(A) had given a very reasonable and justifiable finding in coming to the conclusion that the appellant has earned OP/TC of 14%. ITAT held findings of CIT(A) were not ill founded.

ITAT thus ruled in favour of the assessee. ■

Disciplinary Case

Summary of a disciplinary case, in the matter of:

CA. ABC, Mumbai

Facts of the case

1. A letter dated 15th October, 2007 was received from the Managing Director, M/s. DFG containing certain allegations against CA. LMN. Aforesaid letter of the M/s. DFG, subsequent Written Statement dated 14th January, 2009 of CA. LMN alongwith prima facie opinion formed by the Director (Discipline) under Rule 9(1) of the Chartered Accountants (Procedure of Investigation of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 were considered by the Board of Discipline and ordered for closure of said Information case. However, while passing order for closure of said case, the BOD directed the Directorate to initiate disciplinary case against the incoming auditor, CA. ABC (hereinafter referred to as the **"Respondent"**) for not obtaining 'No Objection Certificate' from CA. LMN before accepting the position as an Auditor of M/s. DFG for the financial year 2004-05.
2. Thus, as per the directions of BOD, matter arising out of the same has been treated as 'Information' within the meaning of Rule 7 of the Chartered Accountants (Procedure of Investigation of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 (hereinafter referred to as the "**Rules")** against CA. ABC.
3. As per the information letter dated 23rd March, 2010, read with Written Statement dated 14th January, 2009 of CA. LMN, the allegations, in brief, are as under:-
   - CA. LMN was the auditor of M/s. DFG from the financial year 1998-99 to 2003-04. His audit fees was pending for three financial years, i.e. ₹ 26,250/- for FY 2001-02, ₹ 27000/- for FY 2002-03 and ₹ 10,800/- for FY 2003-04.
   - The Respondent has audited the accounts of the Company for the FY 2004-05 without seeking NOC from previous auditor, i.e., CA. LMN

The matter was enquired into by the Board of Discipline and the Board inter-alia, gave its findings as under:

- The Board noted that the only allegation against the Respondent was that the Respondent did not seek "No Objection Certificate" from the previous auditor, i.e. CA. LMN. As regard the second allegation pertaining to non-payment of audit fees, the Board agreed with the opinion of the Director (Discipline) and accordingly, decided not to give any finding on the same. Since there was no document/submissions from the Respondent, the Board decided to examine the documents on record.
- The Board further noted that CA. LMN was the Statutory Auditor of M/s. DFG for the financial year upto the financial year 2003-04 and it is evident from Annual Report of the Company for the year 2003-04. Thereafter, the Respondent was appointed as auditor of the Company for the financial year

2004-05. The Respondent was asked vide Institute letters dated 23rd March, 2010, 21st May, 2010, 15th July, 2013 and letters dated 19th July, 2013 to submit documents in his defence to show that he has in fact communicated with the previous auditor. But the Respondent did not reply to any letter of the Institute and did not submit any documents in his support.

Thus, on perusal of the above and in absence of any document from the Respondent, the Board is of the view that no response from the Respondent's side shows that the Respondent was in agreement with allegation of CA. LMN that he did not seek NOC before accepting audit of Company for the financial year 2004-05. Accordingly, the Board opined that the aforestated act of the Respondent has brought disrepute to the profession. Thus, the Board held that the Respondent is guilty of professional misconduct falling within the meaning of Clause (8) of Part I of the First Schedule to the Chartered Accountants (Amendment) Act, 2006.

Upon the consideration of all the material on record, the Board is of the opinion that the misconduct and the indifferent attitude of Respondent by neither appearing before the Board nor submitting anything in his defence have brought disrepute to the profession. Thus, the Board is of the view that although the nature of misconduct does not qualify for the maximum sentence, however, ends of justice shall be met if a lighter punishment is awarded to the Respondent. Accordingly, the Board ordered to reprimand the Respondent. ■

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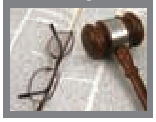
Circulars/Notifications

Given below are the important Circulars and Notifications issued by the CBDT, CBEC and FEMA 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**

DIRECT TAXES



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

I. NOTIFICATIONS

1. New Forms for filing an appeal and memorandum of cross-objection to the Appellate Tribunal notified - Notification No. 72 and 73/2018, dated 23-10-2018

Section 253 provides for filing of appeals to the Income Tax Appellate Tribunal (ITAT) in respect of the orders specified therein. Rule 47(1) *inter alia* provides that an appeal under section 253(1) or 253(2) to the ITAT shall be made in Form No. 36 (Form of Appeal to the Appellate Tribunal). Further, Rule 47(2) *inter alia* provides that a memorandum of cross-objections under section 253(4) to the Appellate Tribunal shall be made in Form No. 36A (Form of Memorandum of cross-objections to the Appellate Tribunal).

Rule 47(1)/(2) provide *inter alia* that where the appeal/memorandum of cross objection is made by the assessee, the form of appeal/ cross objection, the grounds of appeal/ cross objection and the form of verification appended thereto shall be signed by the person specified in Rule 45(2). Rule 45 had accordingly been substituted by Income Tax (Third Amendment), Rules, 2016, w.e.f 1.3.2016. As per new Rule 45(3) the form of appeal shall be verified by the person who is authorised to verify the return of income under section 140 of the Act, as applicable to the assessee. Consequential amendment is being carried out in Rule 47 vide this notification *(No. 72/2018, dated 23.10.2018).*

Also, the existing Form No. 36 and Form No. 36A have been substituted with the new Forms, so as to capture *inter alia* details about appellant, respondent, pending appeals, amount disputed in appeal or cross-objections.

CBDT has, vide Notification No. 73/2018, dated 23.10.2018 amended Rule 14 of the Income- tax (Dispute Resolution Panel) Rules, 2009 to substitute "Form No. 36B" with Form No. 36 (notified vide Notification 72/2018 dated 23.10.2018) to be used for filing an appeal to the Appellate Tribunal against the Assessment order passed in pursuance of the directions of Dispute Resolution Panel.

For detailed information regarding the changes made, the aforesaid notifications may be referred.

2. Notification of new Application Forms for certificates of deduction/ collection of tax at lower rates under section 197 and/or section 206C respectively of the Income-tax Act, 1961 - Notification No. 74/2018, dated 25-10-2018

I. Section 197 contains provisions enabling the Assessing Officer (AO) to give the assessee a certificate for deduction of income-tax at any lower rates or no deduction of income-tax, if he is satisfied, upon an application made by the assessee in this behalf, that the total income of the recipient justifies no deduction or deduction at lower rates.

Rules No. 28 (*dealing with Application for certificates for deduction of tax at lower rates),* Rule No. 28AA *(Certificate for deduction at lower rates or no deduction of tax from income other than dividends)* and Rule No. 28AB (*Certificate of no deduction of tax in case of certain entities)* have been amended through Income-tax (Eleventh Amendment) Rules, 2018 vide Notification No. 74/2018 dated 25.10.2018.

Rule 28 has been amended to provide that the application is required to be made in Form No. 13 (notified vide this notification) under digital signatures or through electronic verification code.

Amendments have also been made in Rule 28AA and Rule 28AB in order to rationalise the existing provisions. Apart from other amendments, it has now been provided that where the number of persons responsible for deducting the tax is likely to exceed one hundred and the details of such persons are not available at the time of making application with the person making such application, the certificate for deduction of tax at lower rate may be issued to the person who made an application for issue of such certificate, authorising him to receive income or sum after deduction of tax at lower rate.

II. Similarly, Section 206C contain provisions enabling the AO to give a certificate for collection at lower rate if he is satisfied and upon an application made by the assessee in this behalf. Rules No. 37G [*dealing with Application for certificate for collection of tax at lower rates under section 206C(9)*] and Rule No. 37H *[dealing with Certificate for collection of tax at lower rates from buyer under section 206C(9)]* have also been amended through Income-tax (Eleventh Amendment) Rules, 2018 vide Notification No. 74/2018 dated 25.10.2018.

Rule 37G has been amended to provide that the application under section 206C(9) is required to be made in Form No. 13 (notified vide this notification) under digital signatures or through electronic verification code.

Rule 37H has also been amended to rationalise the existing provisions. Apart from other amendments, the Rule now specifies the points to be considered by AO for determining the existing and estimated tax liability for the purpose of issuing certificate under this Rule.

For detailed information regarding the changes made, the aforesaid notification may be referred.

3. Jurisdictions notified for the purposes of Rule 114F(6) - passive non-financial entity - Notification No. 78/2018, dated 5-11-2018

Section 285BA *inter alia* requires prescribed reporting financial institutions to furnish Statement of Reportable Account. Rule 114G specifies that the Statement of Reportable Account required to be furnished under section 285BA(1)(k) has to be furnished by a reporting financial institution in respect of each account which has been identified, pursuant to due diligence procedure specified in Rule 114H, as a reportable account in Form No. 61B.

Further, Rule 114F provides for various definitions for the purposes of Rule 114G and 114H. Rule 114F(6) provides for the meaning of 'reportable account' as a financial account which has been identified, pursuant to the due diligence procedures provided in rule 114H, as held by,-

(a) a reportable person; or

(b) an entity, not based in United States of America, with one or more controlling persons that is a specified U.S. person; or

(c) a passive non-financial entity with one or more controlling persons that is a person described in sub-clause (b) of clause (8) of this rule.

Sub clause (ii) of Clause (D) of the Explanation to Rule 114F(6) provides the meaning of "passive non-financial entity" *inter alia* as an investment entity which is not located in any of the jurisdictions specified by the CBDT in this behalf.

CBDT has, vide notification No. 78/2018 dated 5.11.2018 notified 87 specified jurisdictions for the purposes of sub-clause (ii) of clause (D) of the Explanation to clause (6) of Rule 114F.

The complete text of the above Notifications can be downloaded from the link below:

http://www.incometaxindia.gov.in/Pages/communications/notifications.aspx

II. PRESS RELEASES / INSTRUCTIONS / OFFICE MEMORANDUM

1. Release of Direct Tax Statistics – Press Release, dated 22-10-2018

Continuing the practice of placing key statistics relating to direct tax collections and administration in public domain, the CBDT has further released time-series data as updated up to FY 2017-18 and income-distribution data for AY 2016-17 and AY 2017-18. The key highlights of these statistics are as under:

(i) There is a constant growth in direct tax-GDP ratio over last three years and the ratio of 5.98% in FY 2017-18 is the best DT-GDP ratio in last 10 years.

(ii) There is a growth of more than 80% in the number of returns filed in the last four financial years from 3.79 crore in FY 2013-14 (base year) to 6.85 crore in FY 2017-18.

(iii) The number of persons filing return of income has also increased by about 65% during this period from 3.31 crore in FY 2013-14 to 5.44 crore in FY 2017-18.

There has been continuous increase in the amount of income declared in the returns filed by all categories of taxpayers over the last three AYs. For AY 2014-15, corresponding to FY 2013-14 (base year), the return filers had declared gross total income of ₹ 26.92 lakh crore, which has increased by 67% to ₹ 44.88 lakh crore for AY 2017-18, showing higher level of compliance resulting from various legislative and administrative measures taken by the Government, including effective enforcement measures against tax evasion.

The total number of taxpayers (including corporates, firms, HUFs, etc.) showing income of above ₹ 1 crore has also registered sharp increase over the three-year horizon. While 88,649 taxpayers disclosed income above ₹ 1 crore in AY 2014-15, the figure was 1,40,139 for AY 2017-18 (growth of about 60%). Similarly, the number of individual taxpayers disclosing income above ₹ 1 crore increased during the period under reference from 48,416 to 81,344, which translates into a growth of 68%.

The average tax paid by corporate taxpayers has increased from ₹ 32.28 lakh in AY 2014-15 to ₹ 49.95 lakh in AY 2017-18 (growth of 55%). There is also an increase of 26% in the average tax paid by individual taxpayers from ₹ 46,377/- in AY 2014-15 to ₹ 58,576/- in AY 2017-18.

During the three-year period under reference, the number of salaried taxpayers has increased from 1.70 crore for AY 2014-15 to 2.33 crore for AY 2017-18 (up by 37%). The average income declared by the salaried taxpayers has gone up by 19% from ₹ 5.76 lakh to ₹ 6.84 lakh.

During the same period, there has also been a growth of 19% in the number of non-salaried individual taxpayers from 1.95 crore to 2.33 crore and the average non-salary income declared has increased by 27% from ₹ 4.11 lakh in AY 2014-15 to ₹ 5.23 lakh in AY 2017-18.

The availability of the time-series data and the income-distribution data of fairly long periods in the public domain will be found to be useful by the academicians, scholars, researchers, economists and the public at large in studying long-term trends of various indices of the effectiveness and efficiency of direct tax administration in India.

The new releases are available along with older publications at www.incometaxindia.gov.in.

2. *Indian Advance Pricing Agreement regime moves forward with signing of more UAPAs and BAPAs by CBDT - Press Release, dated 02-11-2018*

The CBDT has entered into 5 more Unilateral Advance Pricing Agreements (UAPAs) and 1 Bilateral APA during the month of October, 2018. Further, the CBDT had also entered into 3 UAPAs and 3 BAPAs in the months of August and September, 2018. With the signing of these Agreements, the total number of APAs entered into by the CBDT has gone up to 244, which includes 220 UAPAs and 24 BAPAs. It is noteworthy that one of the UAPAs signed in October is a renewal application and the same has been concluded in a time span of only 7 months.

The BAPAs entered into during the last three months were with the following treaty partners:-

- Australia – 2
- Switzerland – 2

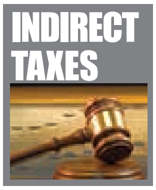
The BAPAs and UAPAs entered into during the last three months pertain to various sectors and sub-sectors of the economy like publishing, production of electronic goods, automobile ancillary manufacturing, banking, IT/ITeS, textiles, telecommunications, food & beverages, etc.

The international transactions covered in all these agreements, *inter alia*, include the following, -

- ❖ provision of software development services
- ❖ provision of back office (ITeS) support services
- ❖ export/import of raw materials, journals, etc
- ❖ payment of royalty
- ❖ advertising, marketing and sales promotion (AMP) expenses incurred
- ❖ provision of marketing support services
- ❖ distribution of finished goods
- ❖ corporate management and business support services
- ❖ payment of guarantee fee

The progress of the APA scheme strengthens the Government's resolve of fostering a non-adversarial tax regime. The Indian APA programme has been appreciated nationally and internationally for being able to address complex transfer pricing issues in a fair and transparent manner.

....



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

1. GST

Collection of Tax at source by Tea Board of India

Tea Board of India (electronic commerce operator) pays to the sellers (i.e. tea producers) for the supply of goods made by them and to the auctioneers for the supply of services made by them (i.e. brokerage) however there was no clarity regarding collection of tax that whether they should collect TCS from the seller of tea or from the auctioneers of tea or from both.

The Central Government vide *Circular no. 74/48/2018-GST dated 5th November, 2018* has clarified that TCS @ 1% shall be collected by Tea Board respectively from the:-

(i) Sellers (i.e. tea producers) on the net value of supply of goods i.e. tea; and

(ii) Actioners on the net value of supply of services (i.e. brokerage)

Comment: This circular is issued in the wake of the e-auction system being operated by Tea Board. Care should be taken about the inference that one may be ecommerce operator in case e-procurement (other than for own requirements) models being operated with collection-disbursement of payment by an intermediary.

[Circular no. 74/48/2018-GST dated 5th November, 2018]

Scope of principal and agent relationship under Schedule I of CGST Act, 2017 in the context of del-credere agent

There were various issues regarding the valuation of supplies from Principal to recipient where the payment for such supply is being discharged by the recipient through the loan provided by DCA or by the DCA himself. In order to clarify such issues the Central Government has issued *Circular no. 73/47/2018-GST dated 5th November, 2018* which provides as given in the adjacent table:

Sl. No.	Issue	Clarification
1	Whether a DCA falls under the ambit of agent under Para 3 of Schedule I of the CGST Act?	DCA will fall under the ambit of agent depends on the following possible scenarios: Invoice is issued by the Supplier either himself or through DCA — DCA does not fall under the ambit of agent. Invoice for supply of goods is issued by the DCA in his own name — DCA would fall under the ambit of agent
2	Whether the temporary short-term transaction based loan extended by the DCA to the recipient (buyer), for which interest is charged by the DCA, is to be included in the value of goods being supplied by the supplier (principal) where DCA is not an agent under Para 3 of Schedule I of the CGST Act?	It is clarified that in cases where the DCA is not an agent, the short-term transaction based loan being provided by DCA to the buyer is a supply of service by the DCA. (which is exempted by s no. 27 of notification No. 12/2017-Central Tax (Rate) dated 28th June, 2017) Therefore, the interest being charged by the DCA would not form part of the value of supply of goods supplied (to the buyer) by the supplier.
3	Where DCA is an agent under Para 3 of Schedule I of the CGST Act and makes	It is clarified that in cases where the DCA is an agent, the temporary short-term transaction based credit being provided by DCA to the buyer no longer retains its

	payment to the principal on behalf of the buyer and charges interest to the buyer for delayed payment along with the value of goods being supplied, whether the interest will form a part of the value of supply of goods also or not?	character of an independent supply and is subsumed in the supply of the goods by the DCA to the recipient. It is further clarified that the value of the interest charged for such credit would be required to be included in the value of supply of goods by DCA to the recipient as per clause (d) of sub-section (2) of section 15 of the CGST Act.

Del credere agent: It is an agent under section 182 of Indian Contract Act enjoying principal-agent relationship wherein the agent acts not only as a broker for the principal, but also as a guarantor of credit extended to the buyer.

[Circular no. 73/47/2018-GST dated 5th November, 2018]

GST Revenue collections for the month of October 2018 crosses Rupees 1-lakh crore

The total gross GST revenue collected in the month of October, 2018 is ₹ **100,710 crore** segregation of which is as follows:

IGST	**₹ 53,419 crore**
CGST	**₹ 16,464 crore**
SGST	**₹ 22,826 crore**
Compensation cess	**₹ 8,000 crore**

The Revenue collected in October, 2018 of ₹ **100,710** crore is higher by 6.64% as compared to September, 2018 collection of ₹ **94,442** crore.

The total number of GSTR 3B Returns filed for the month of September up to 31st October, 2018 is **67.45 lakh**.

[PIB Release ID :184539 dated 1st November, 2018]

Central Goods and Services Tax (Thirteenth Amendment) Rules, 2018

The Central Government *vide Notification No. 60 /2018 –CT dated 30th October, 2018* has notified following rules further to amend the Central Goods and Service Tax Rules, 2017.

1. **Insertion of Rule 83A-** Examination of Goods and Services Tax Practitioners: This rule provides the detailed procedure for examination of GST practitioners which are described as below:

S.No.	Particular	Description
1.	Examination	Conducted by the National Academy of Customs, Indirect Taxes and Narcotics (NACIN)
2.	Frequency of examination	Twice in a year
3.	Registration for the examination and payment of fee	Register online and pay fees as specified by NACIN
4.	Examination Centers	Across India at the designated centers
5.	Period for passing the examination and number of attempts allowed	• Exam within 2 years of enrolment • Any number of attempts
6.	Nature of examination	Computer Based Test consisting of Multi Choice Questions.
7.	Qualifying marks	50% of the total marks
8.	Guidelines for candidates	To be issued by NACIN
9.	Disqualification of person using unfair means or practice	Illustrative list given of "use of unfair means or practices"
10.	Declaration of result	Within 1 month of the conduct of examination
11.	Handling representations	Person not satisfied with his result may represent in writing, specifying the reasons therein to NACIN
12.	Power to relax	Board or State Tax Commissioner, may relax any of the provisions

2. **Insertion of Rule 142A- Procedure for recovery of dues under existing law**

Demand of tax, interest, penalty, fee or any other dues, recoverable consequent to proceedings launched under the existing law before, on or after the appointed day shall, unless recovered under that law, be recovered under the Act and may be uploaded in FORM GST DRC-07A electronically on the common portal and the demand of the order shall be posted in Part II of Electronic Liability Register in FORM GST PMT-01.

Where the above demand is rectified or modified or quashed in any proceedings, including in appeal, review or revision, or the recovery is made under the existing laws, a summary thereof shall be uploaded on the common portal in FORM GST DRC-08A and Part II of Electronic Liability Register in FORM GST PMT-01 shall be updated accordingly.

3. **Substitution in Form GST PMT-01:** Following changes are made in the new Form :
   i. A column has been inserted to provide the tax period starting and ending date to provide tax period wise details of other than return related liabilities.
   ii. Now amount debited/credited under existing law also need to be provided in the newly substituted form.
4. **Form GST DRC-07A** inserted to obtain summary of the orders creating demand under existing laws which requires various information like Act under which demand has been created, period for which demand has been created, name of the officer passing the order, period of stay (If demand is stayed) and Act wise details of demand created , paid and balance payable under existing law etc.
5. **Form DRC- 08 A** inserted for Amendment/ Modification of summary of the orders creating demand under existing laws which requires the amended details of data furnished in Form DRC GST-07A

[Notification No. 60/2018-Central Tax dated 30th October, 2018]

Final Return by the taxpayers whose registration has been cancelled on or before the 30th September, 2018

The Central Government vide *Notification No. 58/2018- Central Tax dated 26th October, 2018* notified *31st December, 2018 as the due date for furnishing of final return in Form GSTR-10* by the persons whose registration under the said Act has been cancelled by the proper officer on or before the 30th September, 2018.

Comment: In such cases, when final return is filed within the due date specified, Annual Return will not be required to be filed.

[Notification No. 58/2018- Central Tax dated 26th October, 2018]

Extension in the time limit for furnishing FORM GST ITC-04 for the period- July, 2017 to September, 2018

Central Government vide *Notification No. 59/2018- Central Tax dated 26th October, 2018* extended the time limit for furnishing the declaration in FORM GST ITC-04 in respect of goods/ capital goods dispatched to a job worker or received from a job worker or sent from one job worker to another, during the period from July, 2017 to September, 2018 till the 31st day of December, 2018.

[Notification No. 59/2018- Central Tax dated 26th October, 2018]

Clarification of the procedure in respect of return of time expired drugs or medicine

The Central Government vide *Circular No. 72/46/2018-GST dated 26th October, 2018* clarified the procedure to be followed in respect of return of time expired drugs or medicines under the GST laws. The drugs or medicines are sold by the manufacturer to the wholesaler and by the wholesaler to the retailer on the basis of an invoice/ bill of supply as case may be. They have a defined life term which is referred to as the date of expiry and on crossing the date of expiry, are returned back to the manufacturer through supply chain. Therefore, the retailer/ wholesaler can follow either of the below mentioned procedures for the return of the time expired goods:

A. Return of time expired goods to be treated as fresh supply

a) Person returning the time expired goods is a registered person
   - ❖ Return of goods to be treated as fresh supply
   - ❖ Value of the said goods as shown in the invoice on the basis of which the goods were supplied earlier may be taken as the value of such return supply
   - ❖ Recipient is eligible to avail Input Tax Credit on said return supply subject to Section 16 of the CGST Act.

b) Person returning the time expired goods is a composition taxpayer
   - ❖ Return the said goods by issuing a bill of supply and pay tax at the rate applicable
   - ❖ Recipient is not eligible to avail ITC of said return supply

c) Person returning the time expired goods is an unregistered person: Recipient may return the said goods by issuing any commercial document without charging any tax.

Where the time expired goods which have been returned by the retailer/wholesaler are destroyed by the manufacturer, he/she is required to reverse the ITC availed on the return supply in terms of Section 17(5)(h) of the CGST Act. However, ITC which is required to be reversed in such scenario is the ITC availed on the return supply and not the ITC that is attributable to the manufacture of such time expired goods.

Illustration: Supposedly, manufacturer has availed ITC of ₹ 10/- at the time of manufacture of medicines valued at ₹ 100/-. At the time of return of such medicine on the account of expiry, the ITC available to the manufacturer on the basis of fresh invoice issued by wholesaler is ₹ 15/-. So, when the time expired goods are destroyed by the manufacturer he would be required to reverse ITC of ₹ 15/- and not of ₹ 10/-.

B. Return of time expired goods by issuing Credit Note:

a) As per Section 34(1) of the CGST Act, the manufacturer or the wholesaler who has supplied the goods to the wholesaler or retailer, as the case may be, has the option to issue a credit note in relation to the time expired goods returned by the wholesaler or retailer, as the case may be.

b) If the credit note is issued within the time limit specified in Section 34(2) of the CGST Act, the tax liability may be adjusted by the supplier, provided the person returning the time expired goods has either not availed the ITC or if availed has reversed the ITC so availed against the goods being returned. However, if the time limit has expired, a credit note may still be issued but the tax liability cannot be adjusted by him in his hands.

c) Further, in case they are returned beyond the time period specified and a credit note is issued, there is no requirement to declare such credit note on the common portal by the supplier as tax liability cannot be adjusted in this case.

Illustration:

Case	Date of Supply of goods from manufacturer/ wholesaler to wholesaler/ retailer	Date of return of time expired goods from retailer / wholesaler to wholesaler / manufacturer	Treatment in terms of tax liability & credit note
Case 1	1st July, 2017	20th September, 2018	Credit note will be issued by the supplier (manufacturer / wholesaler) and the same to be uploaded by him on the common portal. Subsequently, tax liability can be adjusted by such supplier provided the recipient (wholesaler / retailer) has either not availed the ITC or if availed has reversed the ITC.
Case 2	1st July, 2017	20th October, 2018	Credit note will be issued by the supplier (manufacturer / wholesaler) but there is no requirement to upload the same on the common portal. Subsequently tax liability cannot be adjusted by such supplier.

Although, this circular discusses the return of expired goods, it may be applicable to goods returned on account of reasons other than the one detailed in the table on the previous page.

Comment: Very significant clarification in this circular as it is encouraged to be followed in other sectors also. Interesting to note that the examples do not consider a case where the 'return supply' is after October 20 (maximum time allowed under section 34 to issue credit note). As such, it appears from this circular that as returns are not by way of credit note, this might be a way to return goods even after the time allowed under section 34 by effecting an 'return supply' rather than credit note. It is also interesting that 'expired goods' are permitted to avail the same HSN as the 'original goods.' Much benefit remains to be availed by the interpretation furnished by this circular.

Circular No. 72/46/2018-GST dated 26th October, 2018

Clarifications of issues related to casual taxable person and recovery of excess ITC distributed by and ISD

S.No.	Issue	Clarification
1.	Whether the amount required to be deposited as advance tax while taking registration as a casual taxable person (CTP) should be 100% of the estimated gross tax liability or the estimated tax liability payable in cash should be calculated after deducting the due eligible ITC which might be available to CTP?	1. While applying for registration as a casual taxable person, the FORM GST REG-1 (S. No. 11) seeks information regarding the "estimated net tax liability" only and not the gross tax liability. 2. It is accordingly clarified that the amount of advance tax which a CTP is required to deposit while obtaining registration should be calculated after considering the due eligible ITC which might be available to such taxable person. *Remarks: The clarification will result in minimal blockage of funds and ease of doing business.*
2.	As per section 27 of the CGST Act, 2017, period of operation by causal taxable person is 90 days with provision for extension of same by the proper officer for a further period not exceeding 90 days. Various representations have been received for further extension of the said period beyond the period of 180 days, as mandated in law.	1. In case of long running exhibitions (for a period more than 180 days), the taxable person cannot be treated as a CTP and thus such person would be required to obtain registration as a normal taxable person. 2. While applying for normal registration the said person should upload a copy of the allotment letter granting him permission to use the premises for the exhibition and the allotment letter/consent letter shall be treated as the proper document as a proof for his place of business. 3. In such cases he would not be required to pay advance tax for the purpose of registration. 4. He can surrender such registration once the exhibition is over. Remarks: The clarification will help taxpayers to obtain normal registration even for a short span of time of business operation.

3.	Representations have been received regarding the manner of recovery of excess credit distributed by an Input Service Distributor in contravention of the provisions contained in Section 20 of the CGST Act.	1. Where the ISD distributes the credit in contravention of Section 20 of the CGST Act resulting in excess distribution of credit to one or more recipients of credit, the excess credit so distributed shall be recovered from such recipients along with interest and penalty if any. 2. The recipient unit(s) who have received excess credit from ISD may deposit the said excess amount voluntarily along with interest by using FORM GST DRC-03. 3. If the said recipient unit(s) does not come forward voluntarily, necessary proceedings may be initiated against the said unit(s) under the provisions of Section 73 or 74 of the CGST Act as the case may be. FORM GST DRC-07 can be used by the tax authorities in such cases. 4. ISD would also be liable to a general penalty under the provisions contained in Section 122(1) (ix) of the CGST Act. *Remarks: The clarification will enable fast recovery of the excess credit by an ISD.*

[Circular No. 71/45/2018-GST dated 26th October, 2018]

Clarification on certain issues related to refund

Central Government vide *Circular No. 70/44/2018-GST dated 26th October, 2018* clarified certain issues related to refund which are as follows:-

1. **Status of refund claim after issuance of deficiency memo and re-credit of electronic credit ledger:**

Circular No. 59/33/2018-GST dated the 4th Sept, 2018 earlier clarified that once a deficiency memo has been issued against a refund application, the amount of ITC debited under Rule 89(3) of the CGST Rules, 2017 is required to be recredited to the electronic credit ledger by using FORM GST RFD-01B and the taxpayer is expected to file a fresh application for refund.

Presently, the common portal does not allow a taxpayer to file a fresh application for refund once a deficiency memo issued against an earlier refund application for the same period. It is clarified that till the time such facility is developed, taxpayers would be required to submit the rectified refund application under the earlier Application Reference Number (ARN) only. Thus, it is reiterated that when a deficiency memo in FORM GST RFD-03 is issued to taxpayers, re-credit in the electronic credit ledger is not required to be carried out and the rectified refund application would be accepted by the jurisdictional tax authorities with the earlier ARN itself. It is further clarified that a suitable clarification would be issued separately for cases in which such re-credit has already been carried out.

1. **Allowing exporters who have received capital goods under EPCG to claim refund of IGST paid on exports:**

GST Council, in its 30th meeting proposed the amendment of Rule 89(4B) of the CGST Rules to allow exporters receiving capital goods under the EPCG Scheme the facility of claiming refund of the IGST paid on exports. Any exporter who himself/herself imported any inputs/capital goods in terms of notification nos. 78/2017-Customs and 79/2017-Customs both dated 13th October, 2017 shall be eligible to claim refund of the IGST paid on exports till the date of the issuance of the notification no. 54/2018 – Central Tax dated the 9th October, 2018.

Further, after the issuance of notification No. 54/2018 – Central Tax dated the 9th October, 2018, exporters who are importing goods in terms of notification nos. 78/2017- Customs and 79/2017-Customs both dated 13th October, 2017 would not be eligible for refund of IGST paid on exports as provided in the said sub-rule. However, exporters who are receiving capital goods under the EPCG scheme, either through import in terms of notification no. 79/2017-Customs dated 13th October, 2017 or through domestic procurement in terms of notification no. 48/2017-Central Tax, dated 18th October, 2017, shall continue to be eligible to claim refund of IGST paid on exports and would not be hit by the restrictions provided in the said sub-rule.

Comments: Please ensure that importers who have paid IGST on import of goods prior to 13th October, 2017, are not permitted to claim IGST paid on exports.

[Circular No. 70/44/2018-GST dated 26th October, 2018]

Processing of Applications for Cancellation of Registration submitted in FORM GST REG-16

Central Government vide *Circular No. 69/43/2018-GST dated 26th October, 2018* clarified various issues in relation to processing of the applications for cancellation of registration filed by taxpayers in FORM GST REG-16:-

- ❖ Rule 20 of the CGST Rules provides that the taxpayer applying for cancellation shall submit FORM GST REG-16 on the common portal within a period of 30 days of the occurrence of the event warranting the cancellation. However, it might be difficult in cases like piece meal transfer/disposal of business, to exactly pinpoint the day on which such an event occurs. In such cases, the 30-day deadline may be liberally interpreted and application for cancellation may not be rejected because of the possible violation of the deadline.
- ❖ Since the cancellation of registration has no effect on the liability of the taxpayer for any acts of commission/omission committed before or after the date of cancellation, the proper officer should accept all such applications within a period of 30 days from the date of filing the application, except in the following circumstances:-
  - a) The application in FORM GST REG-16 is incomplete
  - b) In case of transfer, merger or amalgamation of business, the amalgamated or merged entity has not got registered with the tax authority before submission of the application.

  In above 2 cases, the proper officer shall inform in writing about the nature of the discrepancy and give a time period of 7 working days, from the date of receipt of the said letter, to reply. If case of no reply within the specified period, the proper officer may reject the application after giving an opportunity to be heard, recording reasons for rejection in the dialog box that opens once the 'Reject' button is chosen.

  If reply to the query is received and the same is found satisfactory, the Proper Officer may approve the same and proceed to cancel the registration by issuing an order in FORM GST REG-19. If reply is found to be not satisfactory, the Proper Officer may reject the application, after giving the applicant an opportunity to be heard. The Proper Officer must also record his reasons for rejection of the application in the dialog box that opens when the 'Reject' button is chosen.
- ❖ The taxpayer seeking cancellation of registration shall pay, by way of debiting either the electronic credit or cash ledger, the input tax contained in the stock of inputs, semi-finished goods, finished goods and capital goods or the output tax payable on such goods, on the day immediately preceding the date of cancellation of registration, whichever is higher.

  However, it is clarified that this requirement to debit the electronic credit and/or cash ledger should not be a prerequisite for applying cancellation and can also be done at the time of submission of final return in FORM GSTR 10.

  In any case, once the taxpayer submits the application for cancellation of registration, he/she will not be able to utilise any remaining balances in his/her electronic credit/cash ledgers from the said date except for discharging liabilities under GST Act upto the date of filing of final return in FORM GSTR-10. Therefore, the requirement to reverse the balance in the electronic credit ledger is automatically met. In case it is later determined that the output tax liability of the taxpayer, as determined under sub-section (5) of Section 29 of the CGST Act, was greater than the amount of input tax credit available, then the difference shall be paid by him/her in cash.

- In case the final return is not filed within the stipulated date, then notice in FORM GSTR-3A has to be issued to the taxpayer. If the taxpayer still fails to file the final return within 15 days of the receipt, then an assessment order in FORM GST ASMT-13, shall have to be issued to determine the liability of the taxpayer. If the taxpayer files the final return within 30 days of the date of service of FORM GST ASMT-13, then the said order shall be deemed to have been withdrawn. However, the liability for payment of interest and late fee shall continue.
- Rule 68 of the CGST Rules requires issuance of notices to registered persons who fail to furnish returns under section 39. It is clarified that issuance of notice would not be required for registered persons who have not made any taxable supplies during the intervening period (i.e. from the date of registration to the date of application for cancellation of registration) and has furnished an undertaking to this effect.
- Section 29 of the CGST Act has been amended by the CGST (Amendment) Act, 2018 to provide for "Suspension" of registration. It is clarified that although the provisions of CGST (Amendment) Act, 2018 have not yet been brought into force, it will be prudent for the field formations not to issue notices for non-filing of return for taxpayers who have already filed an application for cancellation of registration. However, the requirement of filing a final return, remains unchanged.

[Circular No. 69/43/2018-GST dated 26th October, 2018]

Post audit authorities under Ministry of Defence exempted from TDS compliance

Central Government vide *Notification No. 57/2018 – Central Tax dated 23rd October, 2018* exempted the authorities under the Ministry of Defence from the applicability and compliance of Section 51, **with effect from 23rd October, 2018**. However, the authorities (total 30 authorities) as specified in the annexure to this Notification are mandatorily required to deduct tax from the payment made or credited to the supplier of taxable goods or services or both, where the total value of such supply, under a contract, exceeds ₹ 2.5 lakhs.

[Notification No. 57/2018 – Central Tax dated 23rd October, 2018]

Specify the categories of Casual Taxable Persons exempted from obtaining registration- Superseding Notification No. 32/2017- Central tax dated 15th September, 2017

Central Government vide *Notification No. 56/2018 – Central Tax dated 23rd October, 2018* superseded *Notification No. 32/2017- Central tax dated 15th September, 2017* and specified the following categories of casual taxable persons exempted from obtaining registration under the Central Goods and Services tax Act whereby:-

1. Persons making inter-State taxable supplies of handicraft goods as defined in the "Explanation" in *Notification No. 21/2018 -Central Tax (Rate), dated the 26th July, 2018.*
2. Persons making inter-State taxable supplies of certain notified products as per *Notification No. 32/2017- Central tax dated 15th September, 2017.*

Provided such person is availing benefit of *Notification No. 03/2018 – Integrated Tax, dated the 22nd October, 2018* (Similar notification has been issued under integrated tax).

Further provided that the aggregate value of such supplies, to be computed on all India basis, does not exceed the amount of aggregate turnover above which a supplier is liable to be registered in the State or Union territory. Such persons shall obtain a Permanent Account Number and generate an e-way bill in accordance with rule 138 of the CGST Rules, 2017.

[Notification No. 56/2018 – Central Tax dated 23rd October, 2018]

Change of email and mobile number of the authorised signatory by taxpayers with assistance from the jurisdictional tax officer under GST system

Complaints are being received from taxpayers that the intermediaries who were authorised by them to apply for registration on their behalf had used their own email and mobile number during the process. They are now not sharing the user credentials with the taxpayer on whose behalf they had done the registration in the first place and the taxpayer is at their mercy.

With a view to address this difficulty of the taxpayer, a functionality to update email and mobile number of the authorised signatory is available in the GST System. The email and mobile number can be updated by the concerned Jurisdictional tax authority of the taxpayer as per the following procedure:

Steps to be followed:-

- Taxpayer is required to approach the concerned jurisdictional Tax Officer to get the password for the GSTIN allotted to the business.
- <Jurisdiction can be checked through Search Taxpayer option available on https://www.gst.gov.in,>. Allotted jurisdiction is displayed in red text>
- Taxpayer would be required to provide valid documents to the tax officer as proof of his/her identity and to validate the business details related to his GSTIN.
- Tax officer will check if the said person is added as a Stakeholder or Authorised Signatory for that GSTIN in the system.
- Tax officer will upload necessary proof on the GST Portal in support to authenticate the activity.
- Tax officer will enter the new email address and mobile phone number provided by the Taxpayer.
- After upload of document, Tax officer will reset the password for the GSTIN in the system.

[PIB Release ID 179956 dated 14th June, 2018]

3. CUSTOMS

Electronic sealing – Deposit in and removal of goods from Customs bonded Warehouses, clarification

The Central Government vide *Circular No. 39/2018-Customs dated 23rd October, 2018* clarified that RFID seals shall be procured from the destination warehouse in case of warehouse to warehouse transfer also. The clarification has been made referring to the Circular 19/2018-*Customs dated 18th June, 2018* whereby the importer of goods is permitted to procure a RFID seal from the destination warehouse.

Moreover, Central Government vide *Circular No. 41/2018- Customs dated 30th October, 2018* extended the date of implementation of *Circular No. 19/2018-Customs dated 18th June, 2018* to 01st January, 2019 in order to enable establishment of infrastructure and procurement of seals by warehouse.

[Circular No. 39/2018- Customs dated 23rd October, 2018, Circular No. 41/2018- Customs dated 30th October, 2018]

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

MCA (www.mca.gov.in)

MCA notification No. GSR 1111(E) Dated 13th November 2018 – National Financial Reporting Authority Rules, 2018

MCA has notified the aforesaid Rules, whereby the National Financial Reporting Authority (NFRA) has been constituted. The NFRA would be responsible for maintaining details of particulars of auditors, recommending accounting standards and auditing standards, monitoring and enforcing compliance with accounting standards and auditing standards etc. For a complete text of this notification, please refer the link:

http://www.mca.gov.in/Ministry/pdf/NFRARules20 18 _13112018.pdf

MCA notification No. GSR 1108(E) Dated 13th November 2018 - Companies (Registered Valuers and Valuation) Fourth Amendment Rules, 2018

MCA has amended the Companies (Registered Valuers and Valuation) Rules, 2017 vide the above notification. Certain amendments include applicability of these Rules to valuation in respect of any property, stocks, shares, debentures, securities or goodwill or any other assets or net worth of a company or its liabilities under the provision of the Act or these rules. It is also clarified that conduct of valuation under any other law other than the Act or these rules by any person shall not be affected by virtue of coming into effect of these rules. It also provides for certain professional and technical qualifications for carrying out valuation of specified assets. For a complete text of this notification, please refer the link:

http://www.mca.gov.in/Ministry/pdf/CompaniesRegisteredValuers4AmdtRules_13112018.pdf

Gazette notification N0. 50 Dated 2nd November 2018 – The Companies Amendment Ordinance 2018.

The President of India has promulgated the aforesaid Ordinance to make amendments in the Companies Act 2013. The amendments primarily relate to penal and enforcement provisions of the Act. For complete text of this notification, please refer the link: http://www.mca.gov.in/Ministry/pdf/NotificationCompanies(Amendment)Ordinance_05112018.pdf

MCA notification No GSR(E) Dated 11th October 2018 - Amendment to Schedule III of Companies Act, 2013.

MCA has amended Schedule III to the Companies Act which prescribes the format of financial statements for companies. The amendments have been made in case of companies following IndAS as per the eligibility criteria as well as companies required to follow the accounting standards as per Companies Accounting Standards Rules 2006. Further, Division III has been inserted in the said Schedule to prescribe the format of financial Statements for a NBFC whose financial statements are drawn up in compliance of the Companies (Indian Accounting Standards) Rules, 2015. For complete text of this notification, please refer the link: http://www.mca.gov.in/Ministry/pdf/NotificationScheduleIII_12102018.pdf

MCA notification No. GSR 925(E) Dated 25th September 2018 – Companies (Registered Valuers and Valuation) Third Amendment Rules, 2018

MCA has amended the Valuation Rules, whereby the time limit for compulsorily having the qualification of Registered Valuers has been extended from 30th September 2018 to 31st January 2019. For a complete text of this notification, please refer the link:http://www.mca.gov.in/Ministry/pdf/CompaniesThirdAmendment_25092018.pdf

MCA notification No. GSR 903(E) Dated 20th September 2018 - Companies (Indian Accounting Standards) Second Amendment Rules, 2018

MCA has amended the Companies Indian Accounting standards Rules 2015 Vide the above notification. Certain amendments have been made in IndAS 20 relating to Government Grants. Related consequential amendments in other accounting standards have also been made. For a complete text of this notification, please refer the link: http://www.mca.gov.in/Ministry/pdf/CompaniesIASsecondAmendment_21092018.pdf SEBI (www.sebi.gov.in)

SEBI Notification No. SEBI/LAD-NRO/GN/2018/31 dated 11th September 2018 - Securities And Exchange Board of India (Issue of Capital And Disclosure Requirements) Regulations, 2018

SEBI has notified these regulations to be followed in case of IPOs or in case of further issue by any listed company including preferential issue, qualified institutions placement by a listed issuer, listing on the institutional trading platform through an issue or without an issue and bonus issue by a listed issuer. For a complete text of the notification please refer the link: https://www.sebi.gov.in/legal/regulations/sep-2018/securities-and-exchange-board-of-india-issue-of-capital-and-disclosure-requirements-regulations-2018-_40328.html.■

The Institute Of Chartered Accountants Of India

[Set up by an Act of Parliament]

6th November, 2018

Information System Audit – Assessment Test (ISA – AT), December 2018

Members are hereby informed that the next Information Systems Audit (ISA) Course Assessment Test which is open to the members of the Institute, will be held on **22nd December, 2018 (Saturday) from 9.00 AM to 1.00 PM (IST)** at the following cities provided that sufficient number of candidates offers themselves to appear there from.

Sl. No.	Name of the Cities	Sl. No.	Name of the Cities	Sl. No.	Name of the Cities
1	AGRA	21	HYDERABAD	41	NASIK
2	AHMEDABAD	22	INDORE	42	PATNA
3	ALIGARH	23	JAIPUR	43	PUNE
4	AMRITSAR	24	JALANDHAR	44	RAIPUR
5	BENGALURU	25	JALGAON	45	RAJKOT
6	BHATINDA	26	JAMNAGAR	46	RANCHI
7	BHILWARA	27	JODHPUR	47	ROHTAK
8	BHUBANESWAR	28	KANPUR	48	SALEM
9	CHANDIGARH	29	KARNAL	49	SANGLI
10	CHENNAI	30	KOLHAPUR	50	SRIGANGA NAGAR
11	COIMBATORE	31	KOLKATA	51	SURAT
12	DELHI / NEW DELHI	32	KOZHIKODE	52	UDAIPUR
13	DURG	33	LUCKNOW	53	VASAI
14	ERNAKULAM	34	LUDHIANA	54	VIJAYAWADA
15	FARIDABAD	35	MADURAI		
16	GHAZIABAD	36	MEERUT		
17	GUNTUR	37	MORADABAD		
18	GUWAHATI	38	MUMBAI		
19	GWALIOR	39	MUZAFFAR NAGAR		
20	HISAR	40	NAGPUR		

The Council reserves the right to withdraw any centre at any stage without assigning any reason. The above Test is open only to the Members of the Institute who are already registered with the Institute for the ISA course and fulfill the eligibility criterion laid down. The fee payable for the above Assessment Test is ₹ 2000/-.

An application for admission to the Assessment Test is required to be submitted online by visiting http://isaat.icaiexam.icai.org and the sum of ₹ 2100/- (₹ 2000/- as examination fees and ₹ 100/- towards the examination form) has to be paid online using Master / Visa / Maestro Credit or Debit Card on or from **20th November, 2018**. Alternatively, the format of application form can be downloaded from the website of the Institute viz. www.icai.org and the cost of the application form of ₹100/- can be added to the Assessment Test fee of ₹ 2000/- and the Demand Draft for ₹ 2100/- of any Scheduled Bank drawn in favour of "The Secretary, The Institute of Chartered Accountants of India", payable at New Delhi only has to be sent to the Joint Secretary (Exams), The Institute of Chartered Accountants of India, ICAI Bhawan, Indraprastha Marg, New Delhi – 110002 so as to reach him on or before **4th December, 2018**. The applications received after **4th December, 2018** will not be entertained under any circumstances.

Joint Secretary (Examinations)

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA (ICAI)

Campus Placement Programme

For Newly Qualified Chartered Accountants (NQCAs)

February-March, 2019

Maintaining strong and spontaneous relationship with the industry and other business houses remains the main focus of the Committee for Members in Industry & Business **(CMI&B)** of the Institute of Chartered Accountants of India (ICAI). An initiative to that effect remains the Campus Placement Programme (held twice a year) that provides a platform to both the NQCAs and the organisations looking to hire the best available talents to fulfil their human resource requirement. ICAI simply acts as a facilitator to bring the recruiter and NQCAs together.

Invitation to Organisations

Any corporation, irrespective of its size, standing in the market and boundary of its business, can take part in this placement programme being held at several centers across the country during February-March, 2019.

Campus Interview Schedule

No.	Centre	Dates
1.	Mumbai & New Delhi	5^{th}, 6^{th}, 7^{th}, 8^{th} & 9^{th} March, 2019
2.	Bangalore	6^{th}, 7^{th}, 8^{th} & 9^{th} March, 2019
3.	Chennai	7^{th}, 8^{th}, 9^{th} & 11^{th} March, 2019
4.	Kolkata	8^{th}, 9^{th}, 11^{th} & 12^{th} March, 2019
5.	Ahmedabad, Jaipur, Pune & Hyderabad	11^{th}, 12^{th} & 13^{th} March, 2019
6.	Durgapur & Ernakulam	28^{th} March, 2019
7.	Bhubaneswar, Chandigarh, Coimbatore, Indore, Kanpur & Thane	29^{th} & 30^{th} March, 2019

Invitation to Candidates

The above Campus is meant for the candidates who would be passing the CA Final examination held in November, 2018 and also for others who have qualified earlier and are fulfilling the criteria mentioned in the announcement.

Organisations intending to recruit NQCAs through campus scheme are requested to get in touch with the CMI&B Secretariat, ICAI Bhawan, Indraprastha Marg, New Delhi–110002, Tel. No. (011) 30110526/548/555/430 E-mail: campus@icai.in and to register log on to **https://cmib.icai.org/**.

Candidates may contact at cajob@icai.in or Tel. No. (011) 30110491/450 and to register log on to **https://cmib.icai.org/**.

Chairman
Committee for Members in Industry & Business
The Institute of Chartered Accountants of India

Organised By:

Committee for Members in Industry & Business (CMI&B)

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) 30110526/548/555/549 | **E-mail:** campus@icai.in

Invitation for Expression of interest (EOI) from software development companies for providing software relevant to the Practitioners and CA Firms of ICAI by December 31, 2018

The Committee for Capacity Building of Members in Practice (CCBMP) invites Expression of Interest from the various software vendors who are interested to provide the software relevant to the Practitioners and CA Firms of ICAI by 31 December, 2018. The intending parties are expected to have appropriate level of practical experience in the relevant area along with the knowledge of various aspects of the CA profession.

For details please visit: https://resource.cdn.icai.org/50616ccbmp40166.pdf

Invitation for Expression of Interest for authoring various modules of the Certificate Course on Preparation of Appeals, Drafting of Deed & Documents and Representation before Appellate Authorities and Statutory Bodies: Committee for Capacity Building of Members in Practice (CCBMP)

The Committee for Capacity Building of Members in Practice (CCBMP) proposes to bring out a background material on various modules of the Certificate Course on Preparation of Appeals, Drafting of Deed & Documents and Representation before Appellate Authorities and Statutory Bodies relevant for the Members in Practice of the Institute of Chartered Accountants of India (ICAI).

The CCBMP invites Expression of Interest from members of the Institute and other experts who are interested in developing / preparing basic drafts of the various modules of the said Background Material for the aforesaid certificate course relevant to the Members in Practice of ICAI. The intending authors of the various modules of the said certificate course are expected to have appropriate level practical experience in the relevant area along with the knowledge of various aspects of profession.

The said Background Material for the aforesaid certificate course has to be prepared as self-learning booklets in the form of handbooks with proper mix of theory and practical case studies.

For details, please visit https://resource.cdn.icai.org/51068ccbmp270718-342.pdf

Invitation for empanelment as Resource Persons for the Certificate Course on Preparation of Appeals, Drafting of Deed & Documents and Representation before Appellate Authorities and Statutory Bodies : Committee for Capacity Building of Members in Practice (CCBMP)

The Committee for Capacity Building of Members in Practice (CCBMP) of the Institute of Chartered Accountants of India proposes to organize a Certificate Course on Preparation of Appeals, Drafting of Deed & Documents and Representation before Appellate Authorities and Statutory Bodies during the year 2018-19.

The Objective of this certificate course is to developing the effective drafting skills of members and acquaints the members with the legal provision pertaining to appearances before various authorities. As Chartered Accountant has been recognised under various Acts to appear as an authorised representative before various tribunals/ quasi judicial bodies therefore it is essential for members to demeanour professional and proficient image in the corporate world as well as while appearing before the tribunals and other quasi judicial bodies. Every effort has been made to design the full fledged certificate course so that members may enhance necessary acumenship in drafting documents and appearances before Statutory bodies .

For details, please visit https://resource.cdn.icai.org/51090ccbmp70793.pdf

रजिस्ट्री सं० डी० एल० 33004/99 REGD. NO. D. L.-33004/99

भारत का राजपत्र
The Gazette of India

असाधारण
EXTRAORDINARY
भाग II—खण्ड 3—उप-खण्ड (i)
PART II—Section 3—Sub-section (i)
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सं. 775] नई दिल्ली, सोमवार, अक्तूबर 29, 2018/कार्तिक 7, 1940
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कारपोरेट कार्य मंत्रालय

अधिसूचना

नई दिल्ली, 29 अक्तूबर, 2018

सा.का.नि. 1072(अ).—केंद्रीय सरकार, चार्टर्ड अकाउंटेंट अधिनियम, 1949 (1949 का 38) की धारा 21 की उप-धारा (4) और धारा 21 ख की उप-धारा (2) और उप-धारा (4) के साथ पठित धारा 29क की उप-धारा(2) के खंड (ग) और खंड (घ) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, चार्टर्ड अकाउंटेंट (वृत्तिक और अन्य अवचार के अन्वेषण और मामलों के संचालन की प्रक्रिया) नियम, 2007 का और संशोधन करने के लिए निम्नलिखित नियम बनाती है, अर्थात् :-

1. (1) इन नियमों का संक्षिप्त नाम चार्टर्ड अकाउंटेंट (वृत्तिक और अन्य अवचार के अन्वेषण और मामलों के संचालन की प्रक्रिया) द्वितीय संशोधन नियम, 2018 है।

(2) ये राजपत्र में प्रकाशन की तारीख को प्रवृत्त होंगे।

2. चार्टर्ड अकाउंटेंट (वृत्तिक और अन्य अवचार के अन्वेषण और मामलों के संचालन की प्रक्रिया) नियम, 2007 में—

(i) नियम 14 में, —

(क) उप-नियम (6) में, स्पष्टीकरण को स्पष्टीकरण 1 के रुप में संख्यांकित किया जाएगा और स्पष्टीकरण 1 के पश्चात् जिसे संख्यांकित किया गया है, निम्नलिखित स्पष्टीकरण को अंत:स्थापित किया जाएगा, अर्थात्: —

"स्पष्टीकरण 2—इस नियम के प्रयोजन के लिए, उपसंजाति के अंतर्गत वीडियो-कान्फेरेंस, कार्य-रीति के माध्यम से उपसंजाति भी सम्मिलित है, जिसे समय-समय पर संस्थान द्वारा निश्चित की जाए।";

(ख) उप-नियम 7 में, "व्यक्तिगत रुप से" शब्दों के पश्चात् "या इन नियमों के अधीन तैयार की गई कार्य-रीतियों के निबंधनानुसार वीडियो कान्फ्रैसिंग के माध्यम से" शब्द अंत:स्थापित किए जाएंगे।

6370 GI/2018 (1)

(ii) नियम 18 के उपनियम (6) में, स्पष्टीकरण को उसके स्पष्टीकरण 1 के रूप में संख्यांकित किया जाएगा और इस प्रकार संख्यांकित स्पष्टीकरण 1 के पश्चात् निम्नलिखित स्पष्टीकरण को अंत:स्थापित किया जाएगा, अर्थात्:-

"स्पष्टीकरण 2— इस नियम के प्रयोजन के लिए, उपसंजाति के अंतर्गत वीडियो-कान्फेरेंस के माध्यम से उपसजाति भी है, ऐसी कार्यरीतियां जो समय-समय पर संस्थान द्वारा निश्चित की जाए"।

[फा. सं. 1/12/2007-आईजीसी/पीआई]

अनुराग अग्रवाल, संयुक्त सचिव

टिप्पण - मूल नियम भारत के राजपत्र में अधिसूचना सं. सा.का.नि. 112(अ) तारीख 27 फरवरी, 2007 द्वारा प्रकाशित किए थे और अंतिम बार अधिसूचना सं. सा.का.नि. 226(अ), तारीख 22 मार्च, 2011, सा.का.नि.141(अ), तारीख 4 मार्च, 2014 और सा.का.नि. 348(अ), तारीख 9 अप्रैल, 2018 द्वारा संशोधित किए गए थे।

MINISTRY OF CORPORATE AFFAIRS

NOTIFICATION

New Delhi, the 29th October, 2018

G.S.R. 1072(E).—In exercise of the powers conferred by clauses (c) and (d) of sub-section (2) of section 29A read with sub-section (4) of section 21 and sub-sections (2) and (4) of section 21B of the Chartered Accountants Act, 1949 (38 of 1949), the Central Government hereby makes the following rules further to amend the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, namely:—

1. (1) These rules may be called the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Second Amendment Rules, 2018.

   (2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, —

   (i) in rule 14,—

   (a) in sub-rule (6), the Explanation shall be numbered as Explanation 1 thereof and after Explanation 1 as so numbered, the following Explanation shall be inserted, namely:–

   "Explanation 2- For the purpose of this rule, the appearance also includes the appearance through video-conference, modalities for which may be as formulated by the Institute from time to time.";

   (b) in sub-rule (7) after the words "either in person'" the words "or through video conference in terms of the modalities formulated under these Rules "shall be inserted;

   (ii) in rule 18, in sub-rule (6), the Explanation shall be numbered as Explanation 1 thereof and after Explanation 1 as so numbered, the following Explanation shall be inserted, namely:–

   "Explanation 2- For the purpose of this rule, the appearance also includes the appearances through video–conference, modalities for which may be as formulated by the Institute from time to time".

[F. No. 1/12/2007-IGC/PI]
ANURAG AGARWAL, Jt. Secy.

Note:—The principal rules were published in the Gazette of India, *vide* notification number G.S.R. 112(E), dated the 27th February, 2007 and lastly amended *vide* notification numbers G.S.R. 226(E), dated the 22nd March, 2011, G.S.R. 141(E), dated the 4th March, 2014 and G.S.R. 348(E) , dated 9th April, 2018.

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Advanced Leadership Programme for Chartered Accountants

Pioneered by: Board of Studies

Organised by: Young Members Skill & Innovation Development Committee

Five Days Residential Programme at Indian Institute of Management, Ahmedabad

Dates : December 24 to 28, 2018

Venue : Indian Institute of Management, Sargam Marg, Vastrapur, Ahmedabad, Gujarat

Objectives:

1. Imbibe leadership skills such as communication, conflict resolution, team building and change management.
2. Understand and incorporate the emerging concepts, technology and business practices in achieving operational excellence.
3. Use management accounting and corporate finance tools to evaluate operational and strategic decisions for the company/practice.
4. Get good exposure on the case based practical approach to learning.
5. Opportunity to learn from a leading management Institute and complement the same with the knowledge imparted by ICAI.

Fees : ₹ 1,48,500 [Inclusive of tax]

Contact : YMSIDC; Phone:011-30110431/422; Email: ymec@icai.in

Register : Kindly visit www.icai.org for registration and programme brochure.

An Insurance Protection for Members in Practice and CA Firms of ICAI: An initiative of CCBMP of ICAI

The Committee for Capacity Building of Members in Practice (CCBMP) of ICAI has arranged insurance protection for members in practice/firms in the form of specially designed professional indemnity insurance at a reasonable premium i.e. up to 95% discount in market rate. The scheme has become effective for the Members in practice/ CA Firms of the ICAI.

Scope

The policy covers all sums which the insured professional becomes legally liable to pay as damages to third party in respect of any error and/or omission on his/her part committed whilst rendering professional service. Legal cost and expenses incurred in defense of the case, with the prior consent of the insurance company, are also payable, subject to the overall limit of indemnity selected.

The added key features of this policy with effect from Diwali day would be:

a) Cost for attending the court by CA-Maximum ₹ 5000\- per visit
b) Subrogation rates would be waived if the member has a contract with his customer on waiver of subrogation rates.
c) Coverage for slander/defamation not exceeding 10% of the sum insured.
d) Cyber liability extension for firms on payment of small additional premium.
e) Retroactive benefits basing on previous insurance renewed continuously for two years.
f) Worldwide cover excluding USA and Canada if the member wish to opt for subject to policy excess of ₹ 5 lakhs. The policy is issued as per Indian jurisdiction.

Only civil liability claims are covered. Any liability arising out of any criminal act or act committed in violation of any law or ordinance is not covered.

Eligibility:

Chartered Accountants, individual/jointly or Proprietorship Concern or a Partnership Firm / Partnership.

The applicants/firms should not have been subjected to disciplinary action by the Institute.

Members and CA firms desirous to avail the benefits of the aforesaid scheme may please visit http://icai.newindia.co.in and online solution for the same.

For grievance or any other queries please contact the New India Personnel at nia.830000@newindia.co.in, Telephone: 022-22150330 or Mr. Johns M. Paulose at his e-mail id: johns.paulose@newindia.co.in, Mobile: 9562251076 or Mr. C.S. Ayyapan, Mobile: 8104167516, Email Id; cs.ayyappan@newindia.co.in or Secretary, Committee for Capacity Building of Members in Practice (CCBMP), ICAI at ccbcaf.query@icai.in, telephone: 0120-3045994.

Committee for Capacity Building of Members in Practice (CCBMP), ICAI

Events

FORTHCOMING EVENTS[1]

S.No.	Title of the Seminar/ Conference	Date	Place	CPE Hours
Committee for Capacity Building of Members in Practice (CCBMP), ICAI **Programme/Committee Chairman**: Chairperson, CCBMP, ICAI				
1.	Certificate Course on Preparation of Appeals, Drafting of Deed & Documents and Representation before Appellate Authorities and Statutory Bodies	12th January, 2019	Balaji Sarovar Premiere, Solapur	12
Topics	For Course details, please visit: https://resource.cdn.icai.org/52485ccbmp42088.pdf			
Fees	**Delegate Fees :** ₹14160/- (12000+GST @18 % Extra) Online Payment Link : https://ccm.icai.org/?progid=2096			
Contact Person	**For Registration & Further Details:** Secretary, Committee for Capacity Building of Members in Practice (CCBMP), ICAI, Telephone: 0120-3045994, E-mail: sambit.mishra@icai.in			
2.	Certificate Course on Preparation of Appeals, Drafting of Deed & Documents and Representation before Appellate Authorities and Statutory Bodies	5th January, 2019	ICAI Bhawan, CA Site No. 2, Bank Employees Colony, Bogadi, Mysuru, Karnataka 570026	30
Topics	For Course details, please visit: https://resource.cdn.icai.org/52485ccbmp42088.pdf			
Fees	**Delegate Fees :** ₹14160/- (12000+GST @18 % Extra) Online Payment Link : http://ccm.icai.org/ccm.html?progid=2086			
Contact Person	**For Registration & Further Details:** Secretary, Committee for Capacity Building of Members in Practice (CCBMP), ICAI, Telephone: 0120-3045994, E-mail: sambit.mishra@icai.in			
3.	Certificate Course on Wealth Management and Financial Planning	12th January, 2019	Pimpri Chinchwad Branch of WIRC of ICAI	30
Topics	For Course details, please visit: https://resource.cdn.icai.org/35876ccbcaf25359-wmfp-details.pdf			
Fees	**Delegate Fees :** ₹**17700**/- (15000+GST @18 % Extra) for Members of ICAI ₹14160/- (12000+GST @18 % Extra) for Members of ICAI born after 1.1.1988 Online Payment Link for Members of ICAI : http://ccm.icai.org/ccm.html?progid=2050 Online Payment for young members of ICAI (For Members born after 1.1.1988) http://ccm.icai.org/ccm.html?progid=2051			
Contact Person	**For Registration & Further Details:** Secretary, Committee for Capacity Building of Members in Practice (CCBMP), ICAI, Telephone: 0120-3045994, E-mail: sambit.mishra@icai.in			
4.	Certificate Course on Wealth Management and Financial Planning	5th January, 2019	ICAI Tower, BKC, Bandra (East) Mumbai	30
Topics	For Course details, please visit: https://resource.cdn.icai.org/35876ccbcaf25359-wmfp-details.pdf			
Fees	**Delegate Fees :** ₹**17700**/- (15000+GST @18 % Extra) for Members of ICAI ₹14160/- (12000+GST @18 % Extra) for Members of ICAI born after 1.1.1988 Online Payment Link for Members of ICAI : http://ccm.icai.org/ccm.html?progid=1936 Online Payment for young members of ICAI (For Members born after 1.1.1988) http://ccm.icai.org/ccm.html?progid=1937			
Contact Person	**For Registration & Further Details:** Secretary, Committee for Capacity Building of Members in Practice (CCBMP), ICAI, Telephone: 0120-3045994, E-mail: sambit.mishra@icai.in			

[1]For more details about the forthcoming events please refer the detailed announcements hosted on the ICAI website www.icai.org

A Practice Management Software for members in practice and CA Firms of ICAI

The committee for capacity building of members in practice (CCBMP) of ICAI has arranged practice management software for members in practice / firms, in form of cloud software designed for managing the Professional Practice in an effective way. The scheme has become effective for the members in practice/ CA Firms of ICAI From 1/11/18.

Scope and functions

- Assignment management – Long duration
- Assignment Management – Short duration
- Work allocation and tracking
- Time sheet recording
- Variance and Profitability analysis
- Leave management
- Expense management
- Meeting management
- Mobile based GPRS based attendance management
- Mobile app and portal based system
- Customer Relationship Management (CRM)
- Invoicing
- Collection Management
- BI and Analytics tool

Members and CA firms desirous to avail the benefits of the aforesaid scheme may please visit https://simplifypractice.com & online solution for same.

For any other enquire please contact at support@simplifypractice.com toll free no 180030028489 or anuroop.khare@simplifypractice.com mobile 9607929605, 8390900611 or Secretary, Committee for capacity building of members in practice (CCBMP), ICAI at ccbcaf.query@icai.in, telephone : 0120-3045994.

Committee for Capacity Building of Members in Practice (CCBMP), ICAI

ICAI in Media : Glimpses of October and November 2018

CA Institute issues notices to statutory auditors of Amrapali Group

OUR BUREAU

New Delhi, October 26

The CA Institute has suo-motu issued notices to statutory auditors of the Amrapali Group companies for the period 2008-15 and for the subsequent years.

Notices have been issued to two separate audit firms, who were the statutory auditors during the above period, sources said.

The latest CA Institute action comes following several media reports highlighting the ongoing proceedings in the Supreme Court in the hearings of Amrapali Group companies.

Based on the interim reports of the forensic auditors appointed by the apex court, it has been noted that there has been huge diversion of funds of the home buyers investing in housing projects of the Group, said a CA Institute release.

THE HINDU BusinessLine

New Delhi, Oct 29, 2018

CA Institute urges Centre not to set up financial reporting authority

Says it is *ultra vires* of the ICAI Act

K R SRIVATS

New Delhi, October 28

The CA Institute has urged the government to reconsider its decision to set up the National Financial Reporting Authority (NFRA), stating that this new body was not constitutionally valid and was also *ultra vires* the provisions of the Chartered Accountants Act.

This is reflected in a recent letter by the CA Institute President, Naveen Gupta to the Corporate Affairs Minister, Arun Jaitley, said sources.

Companies Act, 2013

In the letter, the CA Institute has also urged the Government to "consider striking off the very section 132 of the Companies Act 2013," the sources added. Section 132 relates to the setting up of the NFRA, which is now seen as a regulator of the audit profession.

To support its demand for doing away with NFRA, the CA Institute has cited the legal opinion of Mukul Rohatgi, Senior Advocate and former Attorney General of

Mukul Rohatgi

India, along with the Delhi High Court's order dated October 3 (Northern India CA Federation case), which granted a stay on the initiation of the disciplinary action by the NFRA on ICAI members, said sources.

ICAI is a respondent in the northern India CA Federation case.

Rohatgi had in his legal opinion dated October 10, said that the constitution of NFRA was not constitutionally valid and it encroaches on the powers of the Institute of Chartered Accountants of India (ICAI) and the Chartered Accountants Act, 1949 does have precedence over the provisions of the Companies Act 2013.

> **In Rohatgi's legal opinion dated October 10, he said that it encroaches on the powers of the ICAI and CA Act**

Rohatgi's legal opinion

"I have no hesitation in concluding that the restriction sought to be placed by Section 132 of the Companies Act on the exercise of profession of chartered accountancy, is not permissible under Article 19(6).

The restriction would be illegal, arbitrary and would also be hit by Article 14 of the Constitution of India as well", said Rohatgi in his legal opinion.

Members of the CA Profession had expressed before the Delhi High Court that setting up of the NFRA had led to a situation where the appointing authority, auditee and regulator would all be the same— the government, and that this situation was not in the interest of the independence of audit profession.

THE TIMES OF INDIA

New Delhi, Oct 29, 2018

IL&FS, SFIO not responding: ICAI

TIMES NEWS NETWORK

New Delhi: The Institute of Chartered Accountants of India (ICAI), which had initiated investigations against auditors of IL&FS and some of its subsidiaries, has accused the crisis-hit company and the Serious Frauds Investigation Office (SFIO) of not responding to its questions.

Last week, IL&FS has replied to ICAI's October 10 letter saying, its board led by chairman Uday Kotak had been granted protection by the National Company Law Tribunal (NCLT) that superseded the earlier board and advised the audit regulator to withdraw its letter, sources said. A few days before that, SFIO had written to ICAI saying it was not the appropriate authority to share information.

> Some of the questions are irrelevant and do not seem to be directly related to investigations against CAs concerned
> — A GOVT OFFICIAL

Letters to Sebi and the Reserve Bank of India (RBI) have not elicited any response, an ICAI functionary said.

While IL&FS could not be reached for comment, government officials said that ICAI had asked unnecessary questions related to investigations of auditors and had gone beyond its remit just to show that the other agencies were not cooperating. "Next, they will ask CBI director to appear and share his findings. They seem to have asked several questions including the impact on the economy," said an official, requesting anonymity.

On October 10, ICAI had written to IL&FS informing that it had taken suo motu action to determine if the chartered accountants concerned had performed their services in line with the regulations. It had also enclosed a long questionnaire that included details of how the financial crisis took place, if there was diversion of funds, what was the modus operandi, what action was taken by the audit committee and the standard operating procedure for making investments.

"Some of the questions are useless and do not seem to be directly related to investigations against CAs concerned," said an official.

An ICAI functionary suggested that in several cases government agencies and companies often did not cooperate, resulting in investigations against auditors not getting completed. Last week, similar action was initiated against auditors of real estate firm, Amrapali, which has come under the Supreme Court scanner for alleged diversion of funds.

THE ECONOMIC TIMES

ICAI fast-tracks pending cases for enquiry

New Delhi, Oct 30, 2018

In order to decrease pendency, the Institute of Chartered Accountants of India (ICAI) has constituted one more bench of board of discipline to fast track all pending cases for enquiry, a senior official said. Chartered accountants' apex body noted that the long pending residual cases under old disciplinary mechanism (section 21D of the Chartered Accountants Act 1949) were concluded by fast tracking the hearings. "During the current year, one more bench of the board of discipline was constituted so as to fast track all pending cases for enquiry and dispose off cases at Prima facie stage," ICAI president Naveen Gupta told reporters Monday. Giving details, he noted that during 2014-15, a total of 185 cases were executed under disciplinary directorate of ICAI. In 2015-16, the number rose to 402, in 2016-17 (284) and in 2017-18 (875). During 2018-19 (till October 17), 365 cases were executed under disciplinary directorate of ICAI. Moreover, the council of ICAI gave its approval for having disciplinary hearings through video-conferencing (e-hearing) and the relevant amendments required to be made in the disciplinary rules have been sent to the Ministry of Corporate Affairs for its consideration and approval, he said.

Regarding the National Financial Reporting Authority (NFRA), Gupta said, a legal opinion from senior advocate Mukul Rohatgi suggested that NFRA is not constitutionally valid and it does encroach upon the powers of ICAI. "The government seems to not have considered the fact that if there is already a regulatory body, whose constitutionality is not doubted under act 19 (1) (6) of the constitution (the ICAI), there ought not to be another body (the NFRA) that seeks to regulate the same profession and whose constitutionality under Act 19 (6) is under doubt," Rohatgi said. Gupta, however, said: "We are co-operating with the government, we are participating in the process. We are not against reforms

दैनिक जागरण

World's Largest Read Daily

New Delhi, Oct 31, 2018

लंबित मामलों को जल्द निपटाने की कोशिश में जुटा आइसीएआइ

CA Institute sends notice to ILFS Fin Services auditor BSR

SFIO refuses to share IL&FS-related information with the Institute

KR SRIVATS

New Delhi, November 1

The CA Institute has sent a show cause notice to BSR & Associates LLP (BSR), one of the statutory auditors of ILFS Financial Services (IFIN), which is controlled by crisis-ridden Infrastructure Leasing and Financial Services (IL&FS).

In the eye of the storm

Global network KPMG conducts audit in India through BSR, an Indian audit firm. The show cause notice is a suo motu action of the CA Institute, based on media reports related to the recent developments at IL&FS, said sources in the professional body.

The notice is for audit work related to IFIN's financial year 2017-18. BSR is understood to have undertaken the joint audit with Deloitte Haskins & Sells for this year.

It may be recalled that the CA Institute had, on October 9, issued show cause notices to IL&FS' statutory auditors – Deloitte, Haskins & Sells, and SR Batliboi – for different financial years. Meanwhile, the Serious Fraud Investigation Office (SFIO) has turned down CA Institute's request to share IL&FS-related information available with the investigation agency.

The show cause notice is a suo motu action of the CA Institute, based on media reports related to the developments at IL&FS

Even the CA Institute's letter to Uday Kotak, Chairman of the new IL&FS board, seeking information on IL&FS Group auditors/directors, did not bear fruit.

IL&FS recently wrote to the CA Institute expressing the inability of Uday Kotak in sharing information about IL&FS with the CA Institute, sources said.

THE CHARTERED ACCOUNTANT JOURNAL AND ITS MANY DIGITAL VERSIONS

THE CHARTERED ACCOUNTANT JOURNAL

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

SET UP BY AN ACT OF PARLIAMENT

The journal of the Institute, *The Chartered Accountant*, started its journey with an eight-page Bulletin in January 1950 and this Bulletin transformed into a full-fledged journal in July 1952, which had a circulation of less than 5000 copies. The journal, which is being brought out monthly ever since July 1952 with a circulation of about 3,00,000 copies today, is available in many facets of digital version also.

- An eJournal is hosted online on ICAI website www.icai.org as a transformed new hi-tech user-friendly *e-magazine in eMagazine platform V6* based on the latest HTML5 technology format with a range of convenience features wherein users can browse as if turning page after page like in hard copy.
- However, for the added and alternative convenience of readers, particularly for separate content-wise downloads, the journal continues to be hosted in the PDF format and also in Indexed mode. The archives of digital journal are available on ICAI website from July 2002 onwards.
- Further, this eJournal is now also available on mobile, compatible on iOS (IPad/IPhone etc.) and Android devices. It can be accessed at http://www.icai.org/ under 'e-journal' tab. The eJournal is also available on ICAI Mobile App.
- As an add-on service, the highlights of every issue of journal in capsule form and the President Message in the journal are mass-emailed to all the members.
- In an important initiative to provide a single point reference window to the readers of *The Chartered Accountant* journal and leverage the technology to serve them better, a DVD of past issues of the journal is also available for readers and other stakeholders. While a DVD of 10 years of the journal (July 2002-June 2012) in PDF format has been brought out for readers at a nominal cost, a more recent HTMLised DVD containing 63 years of *The Chartered Accountant* journal (July 1952 to June 2015) has also been released. In this HTML-version DVD in a searchable mode, readers can global search the contents through key words relating to accounting, auditing, taxation, etc., besides searching by month, year, volume, category (like Circulars & Notifications, ICAI News, Legal Decisions, etc.), author, etc.

Role of CAs has been extraordinarily significant in upkeep of Economy: CA. Subhash C. Aggarwal

CA. Subhash C. Aggarwal is the co-founder and Chairman & Managing Director of SMC Group and has diverse experience in the financial services industry in India. With over 29 years of experience in securities market and financial services, he has been the key architect of SMC's growth. He has served as Chairman of India-EU Business Promotion Council and National Council on Capital Market, and Co-Chairman of National Council on Commodity Markets of Associated Chamber of Commerce and Industry (ASSOCHAM) in the past. With his vision and outstanding commitment, he has transformed SMC into a well-diversified financial service company in India, which offers one-stop investment solutions in trading and investments, offering advanced broking services across equity, derivative, currency and commodity asset classes, financial analytics, mortgage advisory, investment banking and executions in cash & future equities. Read on to know his candid views on various professional concerns…

What made you decide to pursue the CA course?

Thank you very much for selecting me to appear under this special feature of the ICAI Journal. Basically, I completed my graduation in Commerce from Chandigarh. There were not many options. Either one could do Law, Commerce, Company Secretary, ICWAI or CA after graduation, which were available to us at that time. So, I felt that I must join the CA course, since that would be the best course involving all-round knowledge. Also, during final year of my B.Com, we students used to discuss and often conclude that CA would be the best course to follow post-graduation as Chartered Accountants being conversant with the knowledge of business and commerce are fit to take up a job as well as to practice on their own. That is why I decided to pursue the CA course.

Why did you choose your present career, shifting from the core CA profession?

When I completed the CA course in 1980, I initially got into practice and continued the same for almost 10 years forming a partnership with my professional colleague who is still my partner in the present venture. In 1990, we decided to leave practice and join the field of share market and financial services. I am basically not from Delhi, but from a village in Haryana where we have learnt to first adopt, internalise, and then work on the challenges. After completing this course, we joined practice, despite the-then popular opinion that non-Delhite didn't succeed in practice. Probably the professionals from Delhi had more polish in their conduct. But despite being the outsiders, we showed courage and had a very successful practice in Delhi during those 10 years. We had about 25 staff. In fact, we availed ourselves of the professional quota in the membership of Delhi Stock Exchange and got the membership. But when we shifted to the share market and financial services, the reason was just to multiply our growth and nothing else. In practice, we felt that eventually our clients wanted to approach us in person. So, it was difficult to grow. Today, we have 4000 employees at about 2500 branches. We have offices in Dubai as well as in the United States of America. We are into financial services including the membership of National Stock Exchange, capital market, commodity, currency, and so on. We are also the members of insurance broking. We have NBFCs. We are investment bankers. We are wealth managers. We are into real estate consultation, depository participation and 3rd party distributions. So, basically, we grew along varied professional tangents and multiplied ourselves by delegating and keeping CFO of each vertical which in our thinking was not possible in CA profession. That is why we shifted and created opportunities for other professional colleagues. Besides employing the CA professionals, we have also employed many MBAs and many other professionals.

How does the CA education and training help you in your day-to-day dealings in your public/professional life?

CA profession starts teaching us from the day one. When you join article training, you deal with practical training. Your experience is not limited to any industry. If you are having a manufacturing client, you get knowledge of the manufacturing business. If you are dealing with a trading client, you get knowledge of that. So, you have varied experience. That is the main quality of the CA profession, besides its academic advantages. In the CA profession, you will find a mix of subjects including accounting, taxation, economics, maths, statistics, management accounting, contract act, company law, and various other acts. You get experience of all that could be part of businesses. You can join service. You can mind your own business and do your own practice. So, it is an all-round knowledge education. That is why I said there is learning from the very first day you join this CA profession.

What is your message to the young aspirants (i.e. students) of CA profession?

Accountancy is a tough course. It is considered tough, because you have to study a lot and work really hard. You have to be a master of many fields relating to accountancy. New aspirants can also become a master by doing this CA course. They will not be limited to service only, since a host of professional opportunities will open up. You can do your own start-up. You can join practice. You can start with a job. Chartered accountants can be a CFO or a CEO of an organisation. It is a good course and if you like this course and if you are willing to put in hard work, this is for you. Go for it.

World is constantly evolving. Economy is opening up. International boundaries are getting blurred. Do you think opportunities for CA professionals have increased? Will these keep increasing in future too?

Our Institute has tie-ups with many accountancy institutions across the world including those in Australia, US, UK, Canada and UAE. Then, the number of such tie-ups is going up. Indian CA profession is recognised in many countries across the globe, even in the absence of a formal tie-up. The capability of the Indian Chartered Accountants is recognised globally. Using the arrangements (e.g. MRA, MoU, etc.) that ICAI has with recognised accountancy bodies of other countries, members of the Indian CA profession can expand their professional domains globally acquiring the relevant qualifications, wherever required. There is no boundary today. People are coming from US, UK, etc., for employing the Indian Chartered Accountants offering their good compensations. So, there is a great opportunity and prospect today for the Indian Chartered Accountants globally. Not just outside India, even the Indian corporates including the IT companies prefer the CA professionals to other professionals.

As you know, ICAI brings an array of post-qualification courses for its members' empowerment. Can you suggest some emerging areas, where our members require education and training to remain contemporary and relevant?

ICAI has started many post-qualification courses for the Chartered Accountants and many of them are getting good response from the members. I think the Institute is doing alright in terms of empowering its membership. ICAI is also spreading awareness among its membership with regard to the contemporary technological advancement globally that could impact the membership. However, something in the field of artificial intelligence, big data, blockchain and cyber security may be taken up. Quite understandably, training in such emerging key areas will be of great help. I must say, the existing post-qualification courses are quite relevant.

How will you rate the ICAI performance as a regulator, a standard-setter, an educator and as a partner in nation-building?

I am fully confident that ICAI is doing complete justice to its job of regulating the CA professionals including the auditors. Our accounting standards are comparable to the world's best ones. In education too, ICAI is doing very good. It revises and updates its Curriculum on a constant basis. Indian CA professionals are technically quite competent and at par with their global counterparts. In comparison to other professional institutions such as ICSI and the Institute of Cost and Works Accountant, I will rank ICAI much-much higher, and much more professional. In skill development, ICAI is very good. As a partner-in-nation-building, ICAI is playing a big role. The way it has contributed to the effective implementation of GST so far, is commendable. Collection of such a huge amount of GST would not have been possible, had the ICAI and its members not acted rigorously for the cause. ICAI has acted very vigorously towards the upgradation of the skill of its members. Role of the Chartered Accountants has been extraordinarily significant in the upkeep of the national economy. Chartered Accountants have been the real partners-in-nation-building.

Do you foresee any challenge for CA professionals in the coming times? How should Chartered Accountants prepare in order to respond to them?

The challenges are many. Considering all phases of time have their own sets of challenges, ICAI should continue to review its Curriculum and work to upgrade the skill-sets of its members on a continuous basis, which it has been doing since inception. It should continue to involve its stakeholders and their feedback while supervising the quality of its education. So far as the use of technology in profession is concerned, ICAI has suitably stressed and highlighted this before its stakeholders in order to improve the edge of its professionals.

Your message to ICAI? We would like to know your expectations.

ICAI is doing a wonderful job. No doubt. But, improvement in education never ends. It has to be on continuous basis. What I learn, ICAI is on the job and it has been constantly revising and updating the curriculum as well as its pedagogy and related systems. I expect that Indian CA profession and professionals must continue to be on the top. ICAI has been a respectable institution and a regulator since its inception. Both Government and the members of ICAI have high expectations from the Institute. ICAI should continue to live up to its image and identity in the best interests of its members and students.

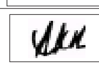
What is the secret behind this inspirational success of yours in public life? Any mantra of success for our readers?

See, the challenges in business will always be there. At SMC too, we have faced many challenges in the past. But we have withstood those. Normally, the CEO, Managing Director or Chairman should never accept the defeat. Real leaders know how to accept and respond to the challenges, and to overcome them. Then, hard work is essential for success. We need to have honesty and transparency in life and in everything we do. We must always keep ourselves up with our times. One has to be up-to-date in terms of the technology of one's times. This is required not just for our existence but for our success. ■

ICAI Elections 2018 - Manner of Recording of Votes

It is brought to the knowledge of all members eligible to vote that the Central Government has notified the amendments made in the Chartered Accountants (Election to the Council) Rules, 2006 in the Gazette of India vide Notification No. GSR 796E dated 23rd August, 2018. One of the amendments so made provide for recording of preference on ballot paper only in Arabic numerical numbers, i.e. 1, 2 and so on. Other modes of recording preferences on ballot paper, such as in Roman numerals or in words (like I, II, III or ONE, TWO, THREE) have been discontinued. In view of the same, members eligible to vote are requested to please place on the ballot paper the number 1 (in Arabic numeral only) in the box opposite the name of the candidate for whom they desire to vote. Members may, in addition, place the number 2 or the numbers 2 and 3 or the numbers 2, 3 and 4 and so on (in Arabic numeral only), in the boxes opposite the names of other candidates in the order of their preference up to the maximum number of candidates standing for the election. However, a cross, i.e. 'X' mark may be put in the boxes opposite the name(s) of candidate(s) to whom they do not desire to vote. Some illustrations of invalid marking of preferences on ballot paper are given below for the information of the members so that marking of preference in any manner, other than permissible manner, is avoided.

Illustrations

	Name and Membership No. of the Candidate on the ballot paper	Valid Marking	Invalid Marking	Reason
Illustration 1	ABC -------- M.No. --------	1	T	Preference not marked in Arabic Numeral.
Illustration 2	ABC -------- M.No. --------	1	One	Preference not marked in Arabic Numeral.
Illustration 3	ABC -------- M.No. --------	1	(i)	Preference not marked in Arabic Numeral.
Illustration 4	ABC -------- M.No. --------	1		1st preference not marked at all
Illustration 5	ABC -------- M.No. --------	1	1	Preference marked outside the box
Illustration 6	ABC -------- M.No. --------	1	1	Preference marked outside the box
Illustration 7	ABC -------- M.No. --------	1	Kumar	Name written in the box instead of marking valid preference
Illustration 8	ABC -------- M.No. --------	1		Signature used instead of marking valid preference.
Illustration 9	ABC -------- M.No. --------	1	एक	Preference not marked in Arabic Numeral.
Illustration 10	ABC -------- M.No. --------	1	God is great 1	Writing anything other than valid preference makes it invalid
Illustration 11	X) ABC -------- (Candidate 1) M.No. -------- Y) DEF -------- (Candidate 2) M.No. -------- Z) GHI-------- (Candidate 3) M.No. --------	1 2 3	1 1 2	Marking same preference to more than one candidate, makes that preference and all the subsequent preferences invalid.
Illustration 12	ABC -------- M.No. --------	1	✓	Tick symbol is used instead marking preference in Arabic Numeral.
Illustration 13	ABC -------- M.No. --------	1	X	1st preference is not marked

[TO BE PUBLISHED IN PART III SECTION 4 OF THE GAZETTE OF INDIA, EXTRAORDINARY DATED 19th NOVEMBER, 2018]

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA
NEW DELHI – 110 002

19th NOVEMBER, 2018

NOTIFICATION
(Chartered Accountants)

No.54-EL(1)/13/2018 : In partial modification of the Notification No.54-EL(1)/10/2018 dated 6th September, 2018 and in compliance with the direction of the Hon'ble High Court of Judicature at Allahabad, vide *ex parte* Order dated 17th September, 2018 in Writ C.No. 31365 of 2018, passed in the matter of Kapil Gupta vs. The Institute of Chartered Accountants of India & Others, it is hereby notified that 7th and 8th December, 2018 have been appointed as the dates for recording of votes, in terms of Rule 21(3), for elections to the Twenty Fourth Council from Central India Regional Constituency and Twenty Third Central India Regional Council of the Institute of Chartered Accountants of India for Ghaziabad as well, after clubbing Indirapuram, Sahibabad, Vaishali etc. with Ghaziabad. Also in the light of above, it is hereby further notified that 'Chinchwad' being part of the jurisdiction of Pune have been clubbed with Pune and consequently the recording of votes in Polling Booth(s) set up at Chinchwad shall take place for two days, i.e. 7th and 8th December, 2018.

The above polling booths will remain open from 8.00 a.m. to 8.00 p.m. on the respective date(s).

(V Sagar)
Returning Officer and Secretary

Classifieds

5686 Jaluka & Associates Jamshedpur based CA firm is looking for expansion. Interested CA firms/individuals please apply on jalukanandan@gmail.com, 8406000707.

5687 Delhi based Chartered accountant having 10+ years of experience in Taxation seeks Professional work on assignment / retainership basis at Delhi/NCR; ca.nidhijain@yahoo.com

5688 Kolkata based FCA with office CoP 14 years and Industry experience 20 years, age 62 seeks partnership proposal from CA firm. 9830235235

5689 CA firm with two 3+ year experience partners, seeks professional work on assignment, retainership or partnership basis in Mumbai region. Contact: 07738034125/ info@nexcel.co.in.

5690 Mumbai based CA having 28 years (10 finance + 18 information technology) of experience in industry seek professional work on retainership/employment basis. 9820531163; sawantam@gmail.com

5691 Firm with 17 years standing from Pune looking to setup branches in Mumbai , Navi Mumbai, Banglore, Chennai, Hyderabad by merging CA firms. Interested CA firm may send its details to ang@angca.com

5692 CA firm having offices in Delhi, Gurgaon, Noida, Dehradun requires CA Articles, Semi Qualified and CA. Contact at hr@uccglobal.in

5693 FCA age 61, 35 years experience in Statutory body/private sector/profession looking to work with CA firm/commercial organisation.9869418535; pukrc1@gmail.com

5694 Proprietorship firms / Retired CAs interested in merging / joining with a 46 years old CA firm, please write with details including Date of Birth/Establishment, Membership/ Registration Number, DISA etc to advcafirm@gmail.com

5695 Raipur (CG) based CA owning proprietprship firm intend to associate with other firm through merger or otherwise. Interested respondent can send mail at vivofpo@gmail.com

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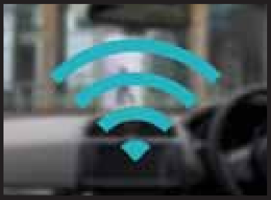

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