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# THE CHARTERED ACCOUNTANT

JOURNAL OF THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA



Empowering  
MSMEs  
for  
Aatmanirbhar  
Bharat



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# Empowering MSMEs for Aatmanirbhar Bharat

The year 2020 has been unduly challenging and difficult. The celebrations in the new year, 2020 dampened rather quickly as the Governments moved heaven and earth to safeguard the human life by locking down countries one after another. The Indian Government moved very swiftly as the first lockdown was announced in March, 2020 limiting movement of the entire Indian population as a preventive measure against the COVID-19 pandemic. The ensuing period warped sense of time for one and all which was caused by long stretches of isolation and confinement within the four boundaries of secure homes. The series of lockdowns brought India to economic standstill as the government pulled business up short, ultimately human life is more important than any economic consideration. Thus, one of the most devastating impact of the global pandemic has been on the business and economies.

The lockdown period seemingly interminable in initial months, passed in a blip in retrospect. Today, when we have unlocked the locks, the country needs support from all quarters to bring it back towards its dream to become \$ 5 trillion behemoth, a target when translated into reality, will help India to become fourth largest economy, only behind US, China and Japan.

In a country with 1.38 billion plus population businesses that are small and medium in sizes are seen as employment generator and a tool for inclusive growth. In fact, micro, small and medium Enterprises (MSMEs) are considered to be the quintessential growth accelerators contributing to about 30% of the gross domestic product. With a vast network of 6.33 crore enterprises, out of which more than half are cohesively intertwined with rural economy, MSMEs contribute around 48 per cent to exports as well. Thus, the role of MSMEs in the Indian economic and social development can hardly be overemphasized. Rightly so, the Union Budget presented earlier this year has doubled the allocation to MSMEs to ₹15,700 crore for the upcoming financial year. The sector is an important pillar to carry forward the vision of 'Aatmanirbhar Bharat' and face economic challenging situation posed by the pandemic.

In view of the importance of the sector in the economy, the Institute of Chartered Accountants of India, as a partner in nation building, has taken a series of steps to catalytically induce growth of the sector and make them globally competitive. With a strong network of 164 branches, 5 Regional Council and over 325 thousand members, ICAI can reach across the length and breadth of the country and offer a supporting hand to MSMEs in terms of policy guidance and effectively avail benefits provided by the government.

ICAI has recently launched MSME Mentorship Programme under which CAs practicing as SMPs shall provide financial and strategic consultancy and help the sector overcome the financial challenges, augment resources and be judicious in expenditure. ICAI has also created "GST and MSME Sahayata Kendra" (Facilitation Centres) at one hundred plus locations across India to guide MSMEs to develop their business strategies, comply with taxation and other laws and take benefit of schemes rolled out by the Government. These centres offer expert services on pro bono basis to guide them on various aspect of their functioning. In the times of hostile environment induced by pandemic, the ICAI had also released a model for sustainability of MSMEs in form of "MSME Business Continuity Checklist". The model focuses on a number of factors that require special attention by the management of MSMEs which can guide their initiatives to face tough times. Keeping in mind that there would be specific situations for specific stakeholders, the checklist is made generic in nature, rather than specific to a kind of business.

The ICAI has always supported various initiatives taken by the Government for the benefit of society at large. In its existence of more than seven decades, ICAI has been upholding the virtues of independence, integrity and excellence. The ICAI endeavours to provide a conducive ecosystem to help the development of MSMEs and face the challenges in an effective manner.

**-Editorial Board ICAI: Partner in Nation Building**

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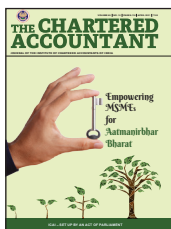
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# From the President



CA. Nihar N. Jambusaria  
President, ICAI

My Dear Professional Colleagues,

The pandemic has left the world economy grappling with unprecedented shocks and upheaval. Financial woes and economic catastrophe brought by a single year of the coronavirus pandemic not only undid the years of economic gain but also led to a deep contraction in many economies. Nonetheless, India with its continuous efforts creating an enabling environment for innovation and entrepreneurship, persists to be a steady, tenacious and indomitable player in the global race of emerging markets by consistently undertaking numerous endeavours to facilitate ease of conducting business in spite of the turbulent times that plague the world economy today. Fortunately, after contraction in two consecutive quarters in 2020, India is showing signs of recovery with slight positive GDP rate in the 3<sup>rd</sup> quarter. Key sectors of *trade, hotels, transport, communication and services related to broadcasting* despite being in red have performed much better as compared to 2<sup>nd</sup> quarter.

In order to become the next growth titan, India needs to bounce back in the next fiscal year, expanding by

(according to some estimates), about 10 per cent to reverse the growth hiatus brought about by the pandemic. Considering the current economic conditions and pandemic situation still prevailing in many parts, this seems to be a herculean task but certainly not impossible. We must leverage our strengths and translate our demographic surplus into higher standards of living by diversification of manufacturing and service sectors across destinations as well as products. India needs to take advantage of its vibrant service sector and channelize all attention towards bringing transformation in quality, complexity and sophistication of its export basket. Improving the infrastructure and reducing the trade and service costs will not only attract domestic and foreign investment but also expedite the growth. Enforcing economic reforms, upgrading skills, multiplying economic productivity and improving flexibility of markets are the pathbreaking measures which can accelerate India's journey of becoming a manufacturing powerhouse. In the competitive economic environment that exists today, India sets itself apart

with its resilient spirits, strengths of will and fixity of purpose, stimulated by the astute, strategic and proactive leadership of Government. Our tenacity and willingness to grow and evolve in sync with the dynamic times, allows us to put our best foot forward, form beneficial global allies in times of need and undertake high-value-augmenting initiatives.

The Institute of Chartered Accountants of India has always worked at providing requisite training and equipping its members with the necessary skills and knowledge required to spearhead our country towards economic prosperity. Under the fine guidance of ICAI Council and its Committees, our members can channelise the country's resources to the most rewarding avenues and ideate, adept and proficient strategies for their clientele that can benefit the individual, the business and the economy as a whole. I exhort all members to take up this challenge do something in the best interest of Indian economy. Remember the words of Theodore Roosevelt — "*in any moment of decision, the best thing you can do is the right thing, the next best thing is the wrong thing, and the worst thing you can do is nothing*".

The Institute of Chartered Accountants of India has always worked for the unanimous best of all its

# From the President

stakeholders, aided the government in its endeavours and been a partner in nation building. In the current year, to give focussed impetus to the Indian economic mindset, we have set up a “Committee on MSMEs & Start-up”. Through this committee, we will endeavour to support Ministry and Government bodies in building an enabling ecosystem for Industry, MSMEs and Start-ups by collating suitable inputs for framing growth oriented policies.

## Meetings that Matter

I, along with the Vice-President CA. (Dr.) Debashis Mitra had the privilege of meeting key Government functionaries to discuss matters related to contribution of accounting profession and its increasing role in economy. Our meeting with Smt. Nirmala Sitharaman, Hon’ble Union Finance and Corporate Affairs Minister was held to discuss our representation regarding the removal of requirement of audit and certification of reconciliation statement by a Chartered Accountant under CGST Act. We, besides other points, apprised that GST Audit is not an avoidable compliance. GST Audit by a Chartered Accountant ensures maker checker concept thereby detecting inconsistencies, lapses, errors and ambiguities, if any, in complying with the provisions of GST law. We also submitted that Audit should not be seen as a cost to the taxpayer, rather it is an investment for him, the benefits of which are reaped over a period of time. The taxpayer is able to take corrective actions for irregularities/lapses detected during the audit thereby saving avoidable costs in terms of interest and penalties. Further, audit also helps the taxpayers in saving on litigation expenses as errors are noticed and addressed in time. In this meeting, CA. Rajendra Kumar P, Chairman, GST and Indirect Taxes Committee also joined us. In this direction, CA. Babu Abraham Kallivayalil, Chairman, Professional Development Committee also met Finance Minister and Members in Parliament CA. Thomas Chazhikadan, CA. Suresh Prabhu, CA. Narain Dass Gupta.

I also met Shri Anurag Singh Thakur, Hon’ble Minister of State for Finance & Corporate Affairs wherein I expressed the similar sentiments and requested Hon’ble Minister to provide appropriate support to address the concerns which ultimately should be seen as beneficial to national interest.

We also had an opportunity to meet Shri Rajesh Verma, Secretary Corporate Affairs as well as Joint Secretaries MCA Shri Manoj Pandey, Shri Gyaneshwar Kumar Singh and Shri K.V.R. Murty.

These meetings provided us the opportunity to discuss our professional matters with the dignitaries and reinstate our position as a partner in nation building. Two virtual meetings with the Secretary MCA and Jt. Secretary MCA were also held to apprise them about the networking guidelines and the proposed amendments in Industrial Training framework.

## Academic equivalence to the CA Qualification

The University Grants Commission (UGC) has granted the academic equivalence to the Chartered Accountancy qualification with its Post Graduate degree in all respects. The ICAI has been constantly pursuing with the UGC for the same. An Expert Committee was constituted last year by UGC and the ICAI had submitted a ‘*Concept Paper elaborating the ICAI scheme of education and training and its details*’ to the Committee. The UGC considered the recommendation of the Committee and resolved that Chartered Accountancy qualification be considered equivalent to Post Graduate course.

Grant of equivalence to the CA course with the PG degree will make our members eligible to appear in National Eligibility Test conducted by UGC and pursue Ph.D. in all the Indian universities across India. The recognition will also open up the international market for various Masters courses in foreign countries for ICAI members, thereby bringing the global acclamation and recognition of Indian CAs worldwide.

## Post Budget Memoranda

Pursuant to the presentation of the Union Budget 2021-2022 in the Parliament by the Finance Minister on 1<sup>st</sup> Feb, 2021, various steps were taken to formalise representation on the issues arising out of various proposals of Union Budget 2021-2022 and submit them to Ministry of Finance. ICAI Committees accumulated, collected and considered suggestions to finalise Post Budget Memoranda, 2021 covering direct and Indirect taxations.

## Sustainability Reporting Maturity Model

ICAI is working relentlessly to develop the culture of accurate and reliable non-financial reporting, develop reporting metrics for Sustainable Development Goals (SDGs), benchmarking sustainability disclosures, strengthening assurance frameworks for non-financial information, and capacity building of the profession. I am pleased to inform that to strengthen

# From the President

the sustainability reporting in the country, ICAI has developed "Sustainability Reporting Maturity Model (SRMM) Version 1.0" with an objective to bring out a comprehensive scoring tool based on report of the Committee on Business Responsibility Reporting constituted by the Ministry of Corporate Affairs (MCA) in August, 2020. This Sustainability Reporting Maturity Model (SRMM) would form the foundation for benchmarking sustainability reporting of Indian corporates. This Model would on one hand facilitate the corporates to assess their sustainability maturity level and at the same time will also aid in improving their scores with the availability of this easy-to-use tool thereby achieving the vision of sustainable ecosystem across the country. I am sure, our members will play an important role in helping the organizations increase their level of preparedness on the sustainability parameters.

## Highly Successful Campus Placement Programme

It is really heartening that the recent placement programme of ICAI is making newer records as organisations are selecting newly qualified Chartered Accountants in large numbers. The process of recruitment and selections at nine major centres got over recently. With the interviews at ten smaller centres are yet to commence, a good number of job offers have been made. The summary as on 23<sup>rd</sup> March, 2021 is given below:

| Campus Placement Programme  | Campus Feb-Mar 2021                      |
|---|--|
| Number of Candidates Registered   | 7226                                     |
| Total no. of organisations at all centres                               | 92                                       |
| Number of Jobs Offered by the participating companies at Bigger Centres | More than 4041                           |
| Highest salary (cost to company) offered for domestic posting           | ₹ 25 LPA (Power Finance Corporation Ltd) |
| Highest salary (cost to company) offered for International posting      | ₹ 32.76 LPA (Tolaram Group)              |

This accomplishment is in spite of the situation of lockdown. While number of job offers are very encouraging, immense opportunities exist in practice as well. Many young Chartered Accountants are

taking up jobs in industry, they should certainly weigh their options vis-à-vis practice. *Per se*, Chartered Accountancy profession is centred around practice that also brings a thrilling and satisfying experience. The professional opportunities exist in multiple areas of auditing, finance, taxation laws, corporate laws, insolvency, valuation, management consultancy and so on. As a small and medium practitioner, newly qualified CAs you may also avail many of the facilities available to the Chartered Accountants. Banks are also offering easy finance, that can be used to meet initial costs and set up office and start own practise.

Chartered Accountancy is a well revered profession. In fact, several persons in society hold a strong view that developing career and becoming professionally successful should be the most important objective in our lives on account of fierce competition that is present in the modern fast paced society. By virtue of the success it brings, Chartered Accountancy, a sound career option, is considered by many in the society as a means to secure future. Chartered Accountancy like several other professions can be very demanding on the time and efforts. While it is important to be successful in our profession and become financially secure, it is equally important to live and enjoy life, spend time with family and friends and have a fulfilled life.

A concept that has gained currency in recent past is having work-life balance which explains the ideal situation in which a professional can split time and energy between work and other activities related to social aspects. Through proper planning and time management you can easily make time for family, friends, self, spirituality, and other social activities, in addition to the effectively meeting out demands of the workplace. What you do is a matter of personal choice, but you must take care of your body and mind in best interest of yourself and your family.

Before I conclude, I wish you all a very happy, colourful and cheerful Holi. With Holika, let's burn the evil & negativity around us and spread new hope, positivity, progress & happiness. While celebrating, please keep the social distancing norms and government guidelines in mind.

Stay safe, stay healthy. Best wishes.



**CA. Nihar N. Jambusaria**  
President, ICAI  
New Delhi, 23<sup>rd</sup> March, 2021



# The Institute of Chartered Accountants of India

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# Photographs



ICAI President CA. Nihar N. Jambusaria and ICAI Vice-President CA. (Dr.) Debashis Mitra in a meeting with Hon'ble Minister of Finance & Corporate Affairs, Smt. Nirmala Sitharaman. Also seen in picture, Central Council Member CA. Rajendra Kumar P. (11.03.2021)



ICAI President CA. Nihar N. Jambusaria in a meeting with Hon'ble Minister of State for Finance and Corporate Affairs, Shri Anurag Singh Thakur (12.03.2021)



ICAI Vice-President CA. (Dr.) Debashis Mitra in a meeting with Hon'ble Governor of Assam Shri Jagdish Mukhi (12.03.2021)



ICAI President CA. Nihar N. Jambusaria and ICAI Vice-President CA. (Dr.) Debashis Mitra in a meeting with Secretary, Ministry of Corporate Affairs, Shri Rajesh Verma, IAS (04.03.2021)





ICAI President CA. Nihar N. Jambusaria addressing the National Conference 2021 organised by ITAT at Narmada, Gujarat. Also seen in picture, Hon'ble Justice Shri P. P. Bhatt, President ITAT and other dignitaries. (27.02.2021)



ICAI President CA. Nihar N. Jambusaria along with Central Council Member CA. Anuj Goyal at Seminar on Bank Audit & Income Tax in Ghaziabad (20.03.2021)

## Developments

### ICAI in Action

#### New Publications

Banking in India has become service oriented, maturing from the days of 'walking in business' to the present situation of always available banking solutions with ease of availing services anywhere, anytime. Technology also has its own challenges increasing the importance on audits. With regards to the functioning of the banks, Auditing and Assurance Standards Board of ICAI has come out with following publications to assist members in the assignments related to banks.

- **Guidance Note on Audit of Banks:** Audit of banks provide the stakeholders a comfort with regard to credibility of the financial statements of banks. The bank audit is an important step for all banks who seek a better optimisation of its overall management. For the benefit of the members and stakeholders at large revised 2021 edition of the "Guidance Note on Audit of Banks" has been released. The Guidance Note is comprehensive and self-contained reference document. A copy of the publication is available at <https://www.icaai.org/post/guidance-note-on-audit-of-banks-2021-edition>. It is essential that the members undertaking statutory audit of banks, both at the branch as well as the central level, keep themselves abreast with the latest developments in the banking sector.
- **Technical Guide on Revised Formats of Long Form Audit Report:** In the case of banks and bank



# Developments

branches, the auditors have to report on certain matters prescribed by the RBI. Such a report is termed as long form audit report (LFAR). The Reserve Bank of India has issued revised formats of Long Form Audit Report (LFAR) for banks and their branches vide its circular dated September 5, 2020 which are applicable for audits for financial year 2020-21 and onwards. Revised formats of LFAR contain several significant changes and several new reporting requirements vis-à-vis earlier formats of LFAR. To facilitate members as knowledge enriching initiative “Technical Guide on Revised Formats of Long Form Audit Report” has been released. The publication contains detailed guidance on all the reporting requirements prescribed in the revised formats of LFAR. A copy of the publication is available at <https://resource.cdn.icai.org/63901aasb-tg-lfar.pdf>.

- **Technical Guide on Audit of Internal Financial Controls in Case of Public Sector Banks:** Assessment of internal financial controls over financial reporting is a vital responsibility of the auditor, cast by Standards on Auditing (SAs). The Companies Act, 2013 introduced section 143(3) (i) which required the auditors of companies, other than specified class of companies, to report whether the company has adequate internal financial controls with reference to financial statements in place and the operating effectiveness of such controls. For the benefit of members the “Technical Guide on Audit of Internal Financial Controls in Case of Public Sector Banks” has been released. The objective of bringing out this Technical Guide is to provide a supplementary resource to auditors on the “Guidance Note on Audit of Internal Financial Controls Over Financial Reporting”. A copy of the publication is available at <https://resource.cdn.icai.org/63820aasb51350.pdf>.

## Strategic Alliance Review with IICA

The Institute has entered into a partnership with Indian Institute of Corporate Affairs (IICA) for the strategic alliance review. In this regard, ICAI plans to develop short, concise and conclusive PPTs on the topics specified by IICA in its curriculum related to various aspects of companies such as incorporation, capital, Board and secretarial standard. To facilitate the Independent Directors in evaluating and assessing their knowledge required to clear the self-proficiency test, it is proposed that MCQs may be developed by ICAI on various topics governing areas.

## Innovative Benchmarking Tool

An innovative benchmarking tool “Sustainability Reporting Maturity Model (SRMM) Version 1.0” has been developed which is a comprehensive scoring tool based on “Report of the Committee on Business Responsibility Reporting” issued by the Committee on Business Responsibility Reporting constituted by the Ministry of Corporate Affairs (MCA) in August, 2020. The corporates would be requested to adopt SRMM Version 1.0 and send their feedback which would help in developing a robust SRMM Version 2.0.

## Extension of Condonation Scheme to regularize UDINs

It is informed by the Central Board of Direct Taxes (CBDT) that UDINs have not been updated at the e-filing portal for more than 2.68 lakh IT forms uploaded by the Chartered Accountants on behalf of their assesseees which would result in invalidation of such IT forms. It is also given to understand that owing to several reasons, generation of the UDINs for the documents signed during 1<sup>st</sup> February 2019 to 31<sup>st</sup> January 2021 could not be done by the members upto 28<sup>th</sup> February 2021.

Accordingly, in order to mitigate the likely hardships that would be faced by the tax payers owing to such invalidation and considering the extension provided by the CBDT upto 30<sup>th</sup> April 2021, for updation of UDINs at the e-filing portal, the Condonation Scheme to regularize UDINs provided by the ICAI vide its announcement dated 31<sup>st</sup> January 2021, which ended on 28<sup>th</sup> February 2021, was extended upto 31<sup>st</sup> March 2021.

## Registration of ICAI Trademarks

A registered trademark establishes its ownership and protects it from unauthorized use by third parties. I am happy to share that the official logos of ‘ICAI Digital Learning Hub’ and ICAI mobile app ‘ICAI Now’ have been registered in the name of the Institute under class 41.





## Q. What is Code of Ethics?

A. Every profession has its own Code of Ethics.

The Chartered Accountants Act, 1949 has been enacted by the Parliament for the regulation of the profession of Chartered Accountants and for the purpose of carrying out the object of the Act, the Chartered Accountants Regulations, 1988 have been enacted.

The Chartered Accountants Act, 1949 has two schedules i.e. First Schedule & Second Schedule.

The First Schedule has four parts:

Part I - Professional misconduct in relation to Chartered Accountants in Practice.

Part II - Professional misconduct in relation to Members of the Institute in Service.

Part III - Professional misconduct in relation to Members of the Institute generally.

Part IV - Other Misconduct in relation to the members of the Institute generally.

The Second Schedule has three parts:

Part I - Professional misconduct in relation to Chartered Accountants in Practice.

Part II - Professional misconduct in relation to Members of the Institute generally.

Part III - Other misconduct in relation to members of the Institute Generally.

The revised (twelfth) edition of Code of Ethics is divided into Volumes I, II and III.

Volume- I of the Code of Ethics has been introduced in line with the IESBA Code in compliance of membership obligation of the ICAI towards IFAC. This part of the Code establishes a conceptual framework for all members to ensure compliance with five fundamental principles of professional ethics, namely, integrity, objectivity, professional competence and due care, confidentiality and professional behaviour. Under the framework, all Chartered Accountants are required to identify the threats to these fundamental principles and apply safeguards to ensure that the principles are not compromised. The framework applies to all Chartered Accountants, whether in practice or in service.

Volume-II of the Code of Ethics comprises two schedules to the Act along with decisions, directions, guidelines, statements, clarifications and also interpretations of the Council on the various clauses of these two schedules.

Volume-III of Code of Ethics comprises the decisions of the Courts, Council, Appellate Authority and Disciplinary Directorate on professional misconduct.

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# Know Your Ethics

## Q. What is the “professional or other misconduct”?

- A. Section 22 of the Chartered Accountants Act defines professional or other misconduct as follows :-

“For the purposes of this Act, the expression “professional or other misconduct” shall be deemed to include any act or omission specified in any of the Schedules, but nothing in this section shall be construed to limit or abridge in any way the power conferred or duty cast on the Director (Discipline) under sub-section (1) of Section 21 to inquire into the conduct of any member of the Institute under any other circumstances.”

What constitutes ‘misconduct under any other circumstances’ has to be determined on case to case basis keeping in view the facts of the circumstances of each case. Fraud, intention to deceive and committing an act which affects the public or society at large could be in the ambit of such misconduct. Following are few examples of ‘misconduct under any other circumstances’ by a member :-

1. Conviction by a competent Court for an offence involving moral turpitude punishable with imprisonment or for an offence not of a technical nature committed by a member in his professional capacity.
2. Retention of books and documents of the client and failure to return these to the client on request without a reasonable cause.
3. Material misrepresentation e.g. misrepresenting to a firm, while seeking employment as an accountant, that he has worked for three years as a senior assistant with another firm.
4. Publishing an advertisement in a newspaper with malafide intention to malign any person.
5. Using objectionable, derogatory and abusive language or/and making irrelevant, incoherent irresponsible and insane statements in his correspondence with a person.

## Q. What is the distinction between the two schedules?

- A. The two schedules are distinguished on the basis of gravity of misconduct and quantum of punishment for the misconduct, the second

schedule pertaining to comparably more grave misconduct and higher punishment.

## Q. What will be the procedure where a member is guilty of charges both under the First Schedule and Second Schedule to the Chartered Accountants Act, 1949?

- A. The procedure to be followed when a member is accused of misconduct under both schedules is the same which is followed for misconduct under the second schedule.

## Q. Can a member in practice render Management Consultancy and other services?

- A. Yes, however, the areas covered under the Management Consultancy and other services have been summarized by the Council. These are appearing under section 2(2)(iv) of the Chartered Accountants Act, 1949 in Volume-II of Code of Ethics, 2020.

## Q. Whether a member in practice is permitted to undertake the management of NRI funds?

- A. No, the member is not permitted to undertake such assignment because the same is not covered under “Management Consultancy and Other Services” permitted to be rendered by the practicing members of the Institute.

## Q. Can a Chartered Accountant provide ‘Portfolio Management Services’ (PMS) as part of CA practice?

- A. No, the Explanation to Clause (xix) of the definition of ‘Management Consultancy and other Services’ expressly bars the activities of broking, underwriting and Portfolio Management.

## Q. Whether a Chartered Accountant in practice is required to obtain any trade license for practicing?

- A. No, a Chartered Accountant in practice is not required to obtain any trade license for practicing as a professional. From the standpoint of ICAI, the certificate of practice is the only requirement to practice as a Chartered Accountant. It may, however, be noted that a Government / specified Authority may stipulate additional requirement(s) like registration, and the members may need to comply with such requirement(s).



# Amortisation of Stamp Duty and Registration Charges Paid/Payable towards Execution of Mining Lease Deeds

## A. Facts of the Case

1. A Maharatna Public Sector Undertaking (PSU) (hereinafter referred to as 'the Company'), is the leading steel-making Company in India having five integrated steel plants located at Bhilai, Durgapur, Rourkela, Bokaro and Burnpur; and three special steel plants at Salem, Durgapur and Bhadravati. The Company produces both basic and special steels for domestic construction, engineering, power, railways, automotive and defence industries as well as for sale in export markets.
2. The Company also owns iron ore, flux and coal mines located in various states of the country. The entire iron ore required for the production of steel is sourced from the captive mines of the Company. The mines are located in the states of Jharkhand, Odisha, Chhattisgarh and Madhya Pradesh i.e. close to the steel plants and ensure easy availability of iron ore, limestone, and dolomite to the steel plants.
3. The Company is carrying out mining activities on the leasehold lands for which the mining leases have been granted by the respective State Governments. Most of the leases have been granted way back in 1945, 1947, 1948, 1960 etc. At present, there are 13 leasehold lands in the state of Jharkhand, besides other mining leases in Odisha, Madhya Pradesh and Chhattisgarh.
4. For execution of lease deeds, Stamp duty and registration charges are applicable for renewal/extension of mining leases. It is also to note that there are no other major payments made towards execution of mining lease deeds.
5. As per the relevant Acts and Rules, mere renewal/extension & execution of mining leases does not enable the Company to carry out mining activities. The Company has to obtain approval of mining plan from Indian Bureau of Mines and also to obtain clearances such as forest clearance (if there is forest land involved) & environmental clearance under relevant Act and Rules of Ministry of Environment and Forest (MOEF). Payments towards obtaining these approvals and clearances are treated separately as intangible asset which are booked under 'Mining Right'.
6. The grant and renewal of such mining leases were earlier governed by Mines and Minerals (Development & Regulation) Act, 1957 (MMDR Act, 1957). There has been a substantial change in the framework of original MMDR Act, 1957 concerning the grant and renewal of mining leases and in this regard, MMDR Amendment Act, 2015 has come into force w.e.f. 12.01.2015(C/1 to C/12). In pursuance to the provisions as stipulated under section 8A(8) of MMDR Amendment Act, 2015 (relevant extracts have been supplied by the querist for the perusal of the Committee), and in exercise of the powers conferred by section 13 of MMDR Act, 1957, the Central Government by Notification dated 03.12.2015 has formulated the Mineral (Mining by Government Company) Rules, 2015. The matters related to extension of periods of mining leases held by Government Companies are being governed by MMGC Rules, 2015(C/13 to C/15). As per Rule 3 of the said Rules, the period of leases granted prior to 2015, are extended as herein under:  
  
“(1) All mining leases for minerals granted to a Government Company or corporation before the date of commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2015 (10 of 2015), namely, the 12<sup>th</sup> January, 2015 shall be deemed to have been granted for a period of fifty years.

- (2) The State Government, upon an application made to it in this behalf by the Government Company or corporation at least twelve months prior to the expiry of the mining lease, may, for reasons to be recorded in writing, extend the period of the mining lease for further periods of upto twenty years at a time.
- (3) Subject to sub-rule (1), all applications made by a Government Company or corporation for renewal of mining leases and which were pending as on the date of commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2015 (10 of 2015) shall be deemed to be applications for extension of the period of the mining lease and shall be disposed of in accordance with the provisions of sub-rule (2)."
7. As per the provisions of MMGC Rules, 2015, the mining leases granted prior to 12<sup>th</sup> January, 2015 (i.e. date of effect of MMDR Amendment Act, 2015) shall be deemed to have been granted for a period of 50 years. The mining lease periods shall be extended for further period of 20 years at a time provided an application for extension of the lease has been filed at least 12 months before expiry of mining leases.
8. Though the leases are pending for formal extension order, by virtue of the deemed extension clause, as the Company has submitted necessary application and carried out required formalities as per the Act/Rules to obtain further extension, the Company is carrying out mining activities on the leasehold land. As such, execution of mining lease deeds are also pending for the applications submitted for extensions.
9. It is also to note that as per the provisions of MMDR Amendment Act, 2015 & MMGC Rules, 2015, there are all probabilities that the State Government would accord approval for the extension (of the Leases) in favour of the Company.
10. The Company has calculated internally the lease period allowed for extension of the mining leases and accordingly considered in accounts the amount towards stamp duty and registration charges on estimated basis considering best information available with the Company, which might be paid while State Government accord for formal extension of such leases.
11. The querist has stated that due to specific exclusions on applicability of Indian Accounting Standard (Ind AS) 17, 'Leases' to leases 'to explore for or use minerals, oil, natural gas, and similar non-regenerative resources', the amount of stamp duty and registration charges is estimated and capitalised under leasehold land and amortisation is charged over the remaining useful life of the leasehold land. If any revision of estimation is carried out in a year, the revised gross block less accumulated depreciation till date, is amortised over the remaining lease period. Every year, the Company reviews the estimate and necessary accounting adjustments are carried out as under:
- |   |            |
|---|------------|
| Previous estimated gross amount         | = A        |
| Accumulated amortisation                | = B        |
| Remaining lease period                  | = 15 years |
| Revised estimated gross carrying amount | = X        |
| Amortisation per year                   | = (X-B)/15 |
- The reason for revision of estimates is due to change in certain factors viz., changes in monthly royalty rates and frequent changes in the methodology adopted by the Government Authorities.
- The Company has been following the above practice consistently over the years. The querist has further submitted an illustrative example explaining the treatment being followed by the Company and the treatment suggested by the Auditor as Annexure I.
12. The instant matter is related to three mining leases under the state of Jharkhand.
- a) Dhobil mining lease covering an area of 513.036 hectare was initially granted on 8<sup>th</sup> March, 1948 for a period on 30 years. Further, the State Government renewed the lease for another 20 years period i.e.

from 08.03.1978 to 07.03.1998. The lease was due for renewal on 7<sup>th</sup> March, 1998, and necessary application for renewal of mining lease for another 20 years period upto 07.03.2018 was submitted to the State Government under the provisions of the then Act/Rules. The stamp duty and registration charges were estimated and being amortised considering remaining useful life upto 7<sup>th</sup> March, 2018. Till 2016-17, no formal renewal/extension order was issued for 1998 to 2018 by the State Government. Meanwhile, the Company also submitted application for further renewal of lease period for another twenty years period upto 07.03.2038 under the provisions of the then Act/Rules. Based on the available information, the Company estimated stamp duty and registration charges amounting to ₹ 3.00 crore and amortised the gross carrying amount upto 7<sup>th</sup> March, 2018. After promulgation of MMGC Rules, 2015, the Company submitted an application for extension of lease as per the provisions of said rules. On 8<sup>th</sup> March, 2018, the concerned department under State Govt. of Jharkhand issued necessary Order towards extension of the lease upto 8<sup>th</sup> March, 2038. The State Govt. has also issued Order towards regularising renewal from 1998 to 2018 on the even date. Subsequent to it, the State Govt. raised demands towards stamp duty and registration charges in the month of April, 2018 and May, 2018 respectively. The demanded amount consists of two periods i.e. from 1998 to 2018 and from 2018 to 2038. The total demand for both the periods amounted to ₹ 12.84 crore. It is to note that while raising the demand for both the periods, Govt. of Jharkhand has considered the latest royalty rate available as on that date.

- b) In case of lease (Ajitaburu), the lease was initially granted on 07.12.1947 for an area of 323.887 Hectare. Considering first grant of lease for fifty years, the extension was due on 6.12.1997 and further extension was due on 7.12.2017 for twenty years.

The applications towards extension for two periods were pending with the Govt. The Company has amortised the estimated amount of stamp duty and registration charges for the first 20 years period upto 6.12.2017 and considered a further estimate for stamp duty for the period from 7.12.2017 upto 7.12.2037. In 2018-19, the Company has amortised the total estimated gross carrying amount considering remaining useful life upto 7.12.2037.

- c) In case of lease (Budhaburu), the lease was initially granted on 8.12.1945 for an area of land 823.617 Hectare. Considering the first grant of lease for fifty years, the extension was due on 7.12.1995 and further extension was due on 8.12.2015. The applications towards extension for two periods were pending with the Govt. The Company amortised the estimated amount of stamp duty and registration charges for the first period upto 8.12.2015 and considered a further estimate for stamp duty for the period from 8.12.2015 to 7.12.2035. In 2018-19, the Company has amortised the total estimated gross carrying amount considering remaining useful life upto 7.12.2035.
13. In the financial year 2017-18, for Lease (Dhobil) – Government of Jharkhand passed the Order of extension upto 8<sup>th</sup> March, 2038. On receipt of Order for extension and further to its demand for stamp duty and registration charges for two periods (i.e. from 08.03.1998 to 07.03.2018 and 08.03.2018 to 08.03.2038), the Company further capitalised the total differential amount under 'Leasehold Land' and the revised gross carrying amount (i.e. ₹12.84 crore minus already amortised amount ₹ 3 crore) was considered for amortisation over the remaining useful life i.e. upto 08.03.2038.
14. On receipt of demand of stamp duty and registration charges towards mining leasehold land (Dhobil), the present estimate of lease (Ajitaburu) and lease (Budhaburu) have

been revised in line with the methodology adopted for Dhobil lease. While revising the estimate, the Company has revised the estimate for the entire forty year period including the previous period as well, i.e. for lease (Ajitaburu) total estimate for the period 1997-2017 and period from 2017 to 2037 have been revised. Similarly, for lease (Budhaburu) total estimate was revised including the previous estimate made for the period 1995 to 2015 and 2015 to 2035. Accordingly, the respective revised gross carrying amount for forty year period as on 31<sup>st</sup> March, 2018 minus amortisation already done, have been amortised over the remaining useful life i.e. upto year 2037 for lease (Ajitaburu) and upto 2035 for lease (Budhaburu).

15. It may also be noted that while the leases are extended and corresponding demand is raised for the future period, Government has to regularise for past lease period as well and by paying the demand for past as well as future periods, the Company is entitled to the economic benefit accruing over the remaining future useful life i.e. till the future remaining period of lease. It is also to note that these leases are perpetual in nature and the period of lease is extended as per law for 20 years at a time.
16. It is to state that the above accounting treatment is being consistently followed as per the Accounting Policy of the Company as stated below and as per applicable Accounting Standards, viz., Indian Accounting Standard (Ind AS) 16, 'Property, Plant and Equipment' and Ind AS 8, 'Accounting Policies, Changes in Accounting Estimates and Errors', the relevant clauses of which are as under:

Accounting Policy of the Company states:

**"Use of Estimates and Management Judgement**

In preparing the financial statements in conformity with Company's Accounting Policies, management is required to make estimates and assumptions that affect reported amounts of assets and liabilities and the disclosure of contingent liabilities as at the date of the financial statements. ... Actual results could differ from those

estimates. Any revision to such estimates is recognised in the period in which the same is determined." (Para 2.4 on page 39 of the Annual Report)

**"3.1.2 Depreciation**

... The estimated useful lives and residual values of depreciable/ amortisable assets are reviewed at each year end, with the effect of any changes in estimate accounted for on a prospective basis.

Where the historical cost of a depreciable asset undergoes a change, the depreciation on the revised unamortised depreciable amount is provided over the residual useful life of the asset. ..." (Para 3.1.3 on page 39 of the Annual Report)

Relevant excerpts of Ind AS referred to are as under:

**Ind AS 16 – Property, Plant and Equipment**

***"Depreciation is the systematic allocation of the depreciable amount of an asset over its useful life."***

***"Depreciable amount and depreciation period***

**50 The depreciable amount of an asset shall be allocated on a systematic basis over its useful life.**

**51 The residual value and the useful life of an asset shall be reviewed at least at each financial year-end and, if expectations differ from previous estimates, the change(s) shall be accounted for as a change in an accounting estimate in accordance with Ind AS 8 *Accounting Policies, Changes in Accounting Estimates and Errors*."**

"56 The future economic benefits embodied in an asset are consumed by an entity principally through its use. However, other factors, such as technical or commercial obsolescence and wear and tear while an asset remains idle, often result in the diminution of the economic benefits that might have been obtained from the asset.



Consequently, all the following factors are considered in determining the useful life of an asset:

- (a) expected usage of the asset. Usage is assessed by reference to the asset's expected capacity or physical output.
- (b) expected physical wear and tear, which depends on operational factors such as the number of shifts for which the asset is to be used and the repair and maintenance programme, and the care and maintenance of the asset while idle.
- (c) technical or commercial obsolescence arising from changes or improvements in production, or from a change in the market demand for the product or service output of the asset. ...
- (d) legal or similar limits on the use of the asset, such as the expiry dates of related leases."

## Ind AS 8 - Accounting Policies, Changes in Accounting Estimates and Errors

"32 As a result of the uncertainties inherent in business activities, many items in financial statements cannot be measured with precision but can only be estimated. Estimation involves judgements based on the latest available, reliable information. For example, estimates may be required of:

- (a) bad debts;
- (b) inventory obsolescence;
- (c) the fair value of financial assets or financial liabilities;
- (d) the useful lives of, or expected pattern of consumption of the future economic benefits embodied in, depreciable assets; and
- (e) warranty obligations.

33 The use of reasonable estimates is an essential part of the preparation of financial statements and does not undermine their reliability.

34 An estimate may need revision if changes occur in the circumstances on which the estimate was based or as a result of new information or more experience. By its nature, the revision of an estimate does not relate to prior periods and is not the correction of an error."

**"36 The effect of change in an accounting estimate, other than a change to which paragraph 37 applies, shall be recognised prospectively by including it in profit or loss in:**

- (a) the period of the change, if the change affects that period only; or
- (b) the period of the change and future periods, if the change affects both.

**37 To the extent that a change in an accounting estimate gives rise to changes in assets and liabilities, or relates to an item of equity, it shall be recognised by adjusting the carrying amount of the related asset, liability or equity item in the period of the change.**

38 Prospective recognition of the effect of a change in an accounting estimate means that the change is applied to transactions, other events and conditions from the date of the change in estimate. A change in an accounting estimate may affect only the current period's profit or loss, or the profit or loss of both the current period and future periods. For example, a change in the estimate of the amount of bad debts affects only the current period's profit or loss and therefore is recognised in the current period. However, a change in the estimated useful life of, or the expected pattern of consumption of the future economic benefits embodied in, a depreciable asset affects depreciation expense for the current period and for each future period during the asset's remaining useful life. In both cases, the effect of the change relating to the current period is recognised as income or expense in the current period. The effect, if any, on

future periods is recognised as income or expense in those future periods.”

## B. Query

17. On the basis of above facts, the Company seeks the opinion of the Expert Advisory Committee on the following issues:

- (a) Whether the total payment including differential amount (i.e. actual payment minus estimated amount) for past period can be amortised over the future remaining useful life of lease period. or
- (b) Where the gross block is estimated and amortised, whether the differential gross carrying amount for the past period based on revised estimate, is to be charged fully in the year of revision(s).

## C. Points considered by the Committee

18. The Committee notes that the basic issue raised in the query relates to amortisation of the differential amount (i.e. actual payment minus estimated amount) of stamp duty and registration charges for past period, viz., whether the same can be amortised over the future remaining useful life of lease period. The Committee has, therefore, considered only this issue and has not considered any other issue that may arise from the Facts of the Case, such as, accounting treatment of mining rights and various expenditure incurred for and during the mining activities, accounting for any other cost incurred in relation to renewal including any recurring cost, depreciation method to be followed in case of iron ore reserves, etc. Further, the opinion issued is purely from accounting perspective and not from the perspective of legal interpretation of Mines and Minerals (Development & Regulation) Act, 1957 (MMDR Act, 1957), MMDR Amendment Act, 2015, Mineral (Mining by Government Company) Rules, 2015 etc. At the outset, the Committee wishes to clarify that situations of three different mines have been discussed in the facts, however, the Committee has examined the issue from the broad perspective of accounting principles to be followed and not with respect to each situation separately. Further, the Committee wishes to point out

that the Indian Accounting Standards referred to in the Opinion are the Standards notified by the Companies (Indian Accounting Standards) Rules, 2015, as revised or amended from time to time.

19. At the outset, from the perspective of the applicable Accounting Standard for mining leases, the Committee notes that the erstwhile Ind AS 17, ‘Leases’ and Ind AS 116, ‘Leases’ (which supersedes Ind AS 17 and is applicable from the accounting periods beginning on or after April 1, 2019) state as follows:

*Ind AS 17*

**“2 This Standard shall be applied in accounting for all leases other than:**

- (a) leases to explore for or use minerals, oil, natural gas and similar non-regenerative resources; and

...”

*Ind AS 116*

“3 An entity shall apply this Standard to all leases, including leases of *right-of-use* assets in a *sublease*, except for:

- (a) leases to explore for or use minerals, oil, natural gas and similar non-regenerative resources;

...”

The Committee notes from the above that Ind AS 17/116 does not apply to leases to explore for or use minerals and therefore these standards are not applicable in the extant case. The Committee further notes the following paragraphs of Ind AS 106, ‘Exploration for and Evaluation of Mineral Reserves’:

*Ind AS 106*

“3 An entity shall apply this Ind AS to exploration and evaluation expenditures that it incurs.”

“5 An entity shall not apply this Ind AS to expenditures incurred:

- (a) before the exploration for and evaluation of mineral resources, such as expenditures incurred before the entity has obtained the legal rights to explore a specific area.
- (b) after the technical feasibility and commercial viability of extracting a mineral resource are demonstrable.”

“9 An entity shall determine an accounting policy specifying which expenditures are recognised as exploration and evaluation assets and apply the policy consistently. In making this determination, an entity considers the degree to which the expenditure can be associated with finding specific mineral resources. The following are examples of expenditures that might be included in the initial measurement of exploration and evaluation assets (the list is not exhaustive):

- (a) acquisition of rights to explore;
- (b) topographical, geological, geochemical and geophysical studies;
- (c) exploratory drilling;
- (d) trenching;
- (e) sampling; and
- (f) activities in relation to evaluating the technical feasibility and commercial viability of extracting a mineral resource.”

“12 After recognition, an entity shall apply either the cost model or the revaluation model to the exploration and evaluation assets. If the revaluation model is applied (either the model in Ind AS 16, *Property, Plant and Equipment* or the model in Ind AS 38) it shall be consistent with the classification of the assets (see paragraph 15).”

“15 An entity shall classify exploration and evaluation assets as tangible or intangible according to the nature of the assets acquired and apply the classification consistently.

16 Some exploration and evaluation assets are treated as intangible (eg drilling rights),

whereas others are tangible (eg vehicles and drilling rigs). To the extent that a tangible asset is consumed in developing an intangible asset, the amount reflecting that consumption is part of the cost of the intangible asset. However, using a tangible asset to develop an intangible asset does not change a tangible asset into an intangible asset.”

The Committee notes from the above-reproduced requirements of Ind AS 106 that mining lease in the extant case is an exploration and evaluation asset under Ind AS 106, which should be initially recognised at cost and subsequently in accordance with Ind AS 38, considering that the mining lease is intangible in nature.

20. The Committee further notes the following paragraphs of Ind AS 38, ‘Intangible Assets’:

**“88 An entity shall assess whether the useful life of an intangible asset is finite or indefinite and, if finite, the length of, or number of production or similar units constituting, that useful life. An intangible asset shall be regarded by the entity as having an indefinite useful life when, based on an analysis of all of the relevant factors, there is no foreseeable limit to the period over which the asset is expected to generate net cash inflows for the entity.**

89 The accounting for an intangible asset is based on its useful life. An intangible asset with a finite useful life is amortised (see paragraphs 97–106), and an intangible asset with an indefinite useful life is not (see paragraphs 107–110).”

**“94 The useful life of an intangible asset that arises from contractual or other legal rights shall not exceed the period of the contractual or other legal rights, but may be shorter depending on the period over which the entity expects to use the asset. If the contractual or other legal rights are conveyed for a limited term that can be renewed, the useful life of the intangible asset shall include the renewal period(s) only if there is evidence to support renewal**



**by the entity without significant cost. The useful life of a reacquired right recognised as an intangible asset in a business combination is the remaining contractual period of the contract in which the right was granted and shall not include renewal periods.”**

“96 Existence of the following factors, among others, indicates that an entity would be able to renew the contractual or other legal rights without significant cost:

- (a) there is evidence, possibly based on experience, that the contractual or other legal rights will be renewed. If renewal is contingent upon the consent of a third party, this includes evidence that the third party will give its consent;
- (b) there is evidence that any conditions necessary to obtain renewal will be satisfied; and
- (c) the cost to the entity of renewal is not significant when compared with the future economic benefits expected to flow to the entity from renewal.

If the cost of renewal is significant when compared with the future economic benefits expected to flow to the entity from renewal, the ‘renewal’ cost represents, in substance, the cost to acquire a new intangible asset at the renewal date.”

The Committee also notes the basis of conclusions on International Accounting Standard (IAS 38), ‘Intangible Assets,’ issued by the International Accounting Standards Board, which state as follows:

“BC 66 The Board noted that the useful life of an intangible asset that arises from contractual or other legal rights is constrained by the duration of those rights. The useful life of such an asset cannot extend beyond the duration of those rights, and may be shorter. Accordingly, the Board concluded that in determining the useful life of an intangible asset, consideration should be given to the period that the entity

expects to use the intangible asset, which is subject to the expiration of the contractual or other legal rights.

BC 67 However, the Board also observed that such rights are often conveyed for limited terms that may be renewed. It therefore considered whether renewals should be assumed in determining the useful life of such an intangible asset. The Board noted that some types of licences are initially issued for finite periods but renewals are routinely granted at little cost, provided that licensees have complied with the applicable rules and regulations. Such licences are traded at prices that reflect more than the remaining term, thereby indicating that renewal at minimal cost is the general expectation. However, renewals are not assured for other types of licences and, even if they are renewed, substantial costs may be incurred to secure their renewal.

BC 68 The Board concluded that because the useful lives of some intangible assets depend, in economic terms, on renewal and on the associated costs of renewal, the useful lives assigned to those assets should reflect renewal when there is evidence to support renewal without significant cost.”

From the above, the Committee notes that an intangible asset with finite useful life is to be allocated on a systematic basis over its useful life. The term “useful life” is defined as: (a) the period over which an asset is expected to be available for use by an entity; or (b) the number of production or similar units expected to be obtained from the asset by an entity. The Standard further states that if the contractual or other legal rights are conveyed for a limited term that can be renewed, the useful life of the intangible asset shall include the renewal period(s) only if there is evidence to support renewal by the entity without significant cost.

The Committee also notes from the above that in case the cost of renewal is significant when compared with the future economic benefits expected to flow to the

entity from renewal, the 'renewal' cost represents, in substance, the cost to acquire a new intangible asset at the renewal date. Thus, the Committee is of the view that the accounting for cost of renewal in the extant case would depend upon whether the same is significant when compared with the future economic benefits expected to flow to the entity from renewal. In case it is so, the cost of renewal shall represent the cost to acquire a new intangible asset (mining lease) at the renewal date and accordingly, it should be amortised over its useful life, viz., the renewal period, however, it may be shorter depending on the period over which the entity expects to use the asset. In this context, the Committee notes from the illustrative example provided by the querist in the Annexure I that the Company is considering the estimated cost of renewal of a lease as a new separate asset, which is being amortised over the period of renewal of that lease. From this, it is assumed that the cost of renewal is significant when compared with the future economic benefits expected to flow to the entity from renewal. Therefore, the Committee is of the view that each cost of renewal should be amortised over its useful life, viz., each renewal period (which is normally 20 years in the extant case) or any shorter period depending on the period over which the entity expects to use the asset. Further, as far as difference in the estimated cost and actual cost is concerned, the Committee is of the view that since there was uncertainty with regard to amount of cost to be incurred at the time of renewal of lease, the Company should make a provision for the present obligation in respect of renewal cost at the renewal date, viz., when such leases are renewed (which in the extant case may be assumed to be renewed on the expiry of the initial or earlier renewed period) on the basis of best estimate of the expenditure required to settle the present obligation of renewal cost, viz., stamp duty and registration charges, as per the requirements of Ind AS 37, 'Provisions, Contingent Liabilities and Contingent Assets'; and the same should also be reviewed at each reporting date and adjusted to reflect the current best estimate. Further, the provision being in respect of the intangible asset (mining lease), it should be capitalised as a new intangible asset. If the provision amount is different from the actual expenditure incurred, same should be considered as change in estimates as per the requirements of Ind AS 8, 'Accounting Policies, Changes in Accounting Estimates and Errors', which being related to the new intangible asset (mining lease), should be amortised

over its remaining useful life, viz., the remaining period of renewal for which such costs were estimated (and not including the period of next renewal period) or the remaining shorter period if expected period of use is shorter.

In case the useful life has already expired, the change in estimates of the amount of stamp duty and registration charges should be recognised as an expense forthwith in the period of such change. In this regard, the Committee also notes that Ind AS 8 provides as follows:

"34 An estimate may need revision if changes occur in the circumstances on which the estimate was based or as a result of new information or more experience. By its nature, the revision of an estimate does not relate to prior periods and is not the correction of an error."

**"36 The effect of change in an accounting estimate, other than a change to which paragraph 37 applies, shall be recognised prospectively by including it in profit or loss in:**

- (a) the period of the change, if the change affects that period only; or**
- (b) the period of the change and future periods, if the change affects both.**

**37 To the extent that a change in an accounting estimate gives rise to changes in assets and liabilities, or relates to an item of equity, it shall be recognised by adjusting the carrying amount of the related asset, liability or equity item in the period of the change.**

38 Prospective recognition of the effect of a change in an accounting estimate means that the change is applied to transactions, other events and conditions from the date of the change in estimate. A change in an accounting estimate may affect only the current period's profit or loss, or the profit or loss of both the current period and future periods. For example, a change in the estimate of the amount of bad debts affects only the current period's profit or loss and therefore is recognised in the current period.

However, a change in the estimated useful life of, or the expected pattern of consumption of the future economic benefits embodied in, a depreciable asset affects depreciation expense for the current period and for each future period during the asset's remaining useful life. In both cases, the effect of the change relating to the current period is recognised as income or expense in the current period. The effect, if any, on future periods is recognised as income or expense in those future periods."

From the above, the Committee notes that Ind AS 8 states that a change in accounting estimate is recognised prospectively by including it in profit or loss in the period of change, if the change affects that period only or the period of the change and future periods, if the change affects both. It further states that the effect of a change in an estimate is applied from the date of the change in the estimate and the effect, if any, on future periods is recognised as income or expense in those future periods e.g. change in estimated useful life or the expected pattern of consumption of the future economic benefits. The Committee notes that in the extant case, if at the time of change in estimates, it is determined that the useful life (determined as per the afore-mentioned discussion) has already expired, the change affects only the current period and should be recognised in the period of change only. However, if there is any remaining useful life of the intangible asset at the time of change in estimates, the change in estimates affects both the current and future periods, and accordingly, the intangible asset (mining lease) should be amortised over the remaining useful life of the mining lease.

## D. Opinion

21. As discussed in paragraph 20 above, the Committee is of the opinion that since in the extant case, the cost of renewal is significant when compared with the future economic benefits expected to flow to the entity from renewal, each cost of renewal should be amortised over its useful life, viz., each renewal period (which is normally 20 years in the extant case) or any shorter period depending on the period over which the entity expects to use the asset.

The differential amount between the amount provided for in respect of past renewal cost (viz., estimated stamp duty and registration charges) and the actual cost should be considered as a change in estimates as per the requirements of Ind AS 8, 'Accounting Policies, Changes in Accounting Estimates and Errors'; and should be amortised over the remaining useful life of the intangible asset (mining lease), viz., the remaining period of renewal for which such costs were estimated (and not including the period of next renewal period) or the remaining shorter period if expected period of use is shorter, as discussed in paragraph 20 above. In case the useful life has already expired, the change in estimates of the amount of stamp duty and registration charges should be recognised as an expense forthwith in the period of such change.

|    |   |
|----|---|
| 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 June 4, 2020. 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 eight volumes. This is 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 <a href="mailto:eac@icai.in">eac@icai.in</a> .  |


## Annexure I

|  |                   | Extension granted in Mar 18 for two periods |                               |   |                                |
|--|-------------------|---|-------------------------------|---|--------------------------------|
| Year of Grant  |                   |   |                               |   |                                |
|  |                   | 1st extension                               |                               |   |                                |
| 30 Yrs   |                   |   | 2nd Extension                 |   |                                |
| <b>March 1948</b>  | 20 Yrs            |   | 3rd extension                 | Next expiry                             |                                |
|  | <b>March 1978</b> | 20 Yrs                                      |                               |   |                                |
|  |                   | <b>March 1998</b>                           | 20 Yrs                        |   |                                |
| <b>Lease I</b>   |                   |   | <b>March 2018</b>             | <b>March 2038</b>                       |                                |
| Stamp duty & Registration charges estimated                                      | Paid & amortised  | Paid & amortised                            | Rs 100                        | Rs 100                                  |                                |
| Amortisation /Yr   |                   |   | $100/20 = 5$                  | $100/20 = 5$                            |                                |
| Amortised upto March 2017  |                   |   |                               | 95                                      |                                |
| Demand receipt in Mar 18 for two periods   |                   |   | Two periods = Rs 150 + Rs 150 |   |                                |
| Amortisation in Accounting Year <b>2017-18</b> and onwards adopted               |                   |   |                               | $\{(150 + 150) - 95\} / 21 \text{ Yrs}$ |                                |
| Amortisation in Accounting Year <b>2017-18</b> and onwards as suggested by Audit |                   |   |                               | (50 + 5)                                | $(150) / 20 \text{ Yrs} = 7.5$ |

|  |                   | Extension pending for two periods |  |                                    |                                   |
|--|-------------------|-----------------------------------|--|------------------------------------|-----------------------------------|
| Year of Grant  |                   |                                   |  |                                    |                                   |
|  |                   | 1st extension                     |  |                                    |                                   |
| 30 Yrs   |                   |                                   | 2nd Extension                            |                                    |                                   |
| <b>March 1945</b>  | 20 Yrs            |                                   | 3rd extension                            | Next expiry                        |                                   |
|  | <b>March 1975</b> | 20 Yrs                            |  |                                    |                                   |
|  |                   | <b>March 1995</b>                 | 20 Yrs                                   |                                    |                                   |
| <b>Lease II</b>  |                   |                                   | <b>March 2015</b>                        | <b>March 2035</b>                  |                                   |
| Stamp duty & Registration charges estimated                                      | Paid & amortised  | Paid & amortised                  | Rs 100                                   | Rs 100                             |                                   |
| Amortisation /Yr   |                   |                                   | $100/20 = 5$                             | $100/20 = 5$                       |                                   |
| Amortised upto March 2017  |                   |                                   | $100 + 5 + 5$                            |                                    |                                   |
| Revision of estimates  |                   |                                   | Two periods = Rs 150 + Rs 150            |                                    |                                   |
| Amortisation in Accounting Year <b>2017-18</b> and onwards adopted               |                   |                                   | $\{(150 + 150) - 110\} / 18 \text{ Yrs}$ |                                    |                                   |
| Amortisation in Accounting Year <b>2017-18</b> and onwards as suggested by Audit |                   |                                   |  | $\{(50 + (7.5 - 5) + (7.5 - 5))\}$ | $\{(150 - 15)\} / 18 \text{ Yrs}$ |

(The above is an Illustration provided by the querist)





# Invitation to Write Articles

Chartered Accountants and other subject experts, with academic passion and flair for writing, are invited to share their expertise through the ICAI Journal – *The Chartered Accountant*. The article may cover any topic relevant to the accounting world covering auditing, finance, laws, strategy, taxation, technology and so on. While submitting articles, please keep following aspects in mind:

- ❖ The length of articles should be about 2500 words.
- ❖ Articles should be original in nature
- ❖ An executive summary of about 100 words should accompany the article.
- ❖ Articles should not have been published or sent for publishing in any other print or electronic media.

Please send articles to Journal Section - The Chartered Accountant, The Institute of Chartered Accountants of India, ICAI Bhawan, A-29, Sector 62, NOIDA – 201309. Attach photograph, editable soft copy of file, declaration of originality and assignment of copyright in the prescribed format along with the article. E-mails may be sent to [eb@icai.in](mailto:eb@icai.in).

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## The Institute of Chartered Accountants of India

## MSMEs – Cornerstone of Economic Recovery

*The COVID-19 pandemic has brought unprecedented challenges not only as a public health crisis but also in form of social disarray and slowdown in economic activities. In this backdrop, the 2021 union budget was eagerly anticipated by businesses and individuals alike as a pivotal point from which our economy's recovery efforts could be jump-started. A large contributor to India's economic stability is the MSME sector, the revival of which is primarily anticipated to boost economic activity in general. The Union Finance Minister presented the budget with a six-pillar approach for economic revival, focusing on capital expenditure and capacity-building, which was preceded by many other measures. Read on...*



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2020 has been one of the most distressing years in recent times due to the global COVID-19 pandemic and its drastic effect on health, businesses, and societies. As we progressed through the outbreak in the first quarter of FY 2020-21, the Indian economy saw a slowdown, with real GDP falling by 23.9% and 7.5% in Q1 and Q2 compared to results for the same period in FY 2019-20. This was brought on by factors like lockdowns, restrictions on non-essential activities, and reduction in discretionary spending by citizens.

As restrictions eased out in the second and third quarters, we came to understand some inherent challenges, like vulnerabilities of informal sector workers (including migrant labourers) and global supply chain shortcomings. India also had other pressures like having to increase medical facilities and PPE production capacities and intermittent border aggressions.

MSME (Micro, Small and Medium Enterprises) sector is seen as the backbone of the Indian economy as it is a huge



job creator. It engages our vast working-age population in both rural and urban locations. Presently there are over six crore MSME entities involved in the manufacture of goods or provision of services in India. They contribute to nearly 30% of our exports. During the onset of the COVID-19 crisis as well, domestic manufacturers rose to the occasion by innovating on existing facilities to produce necessary supplies like sanitisers, masks, PPE kits, etc. Hence MSMEs are the natural choice for beneficiaries of Government revival schemes as their growth would have a trickle-down effect on the economy.

Recently, the definition of MSMEs was amended to change the criteria for classification as MSME to a combination of annual turnover and investment instead of 'investment in plant and machinery/equipment'. An enterprise is now classified as a Micro, Small or Medium enterprise if it has an investment of less than INR 1 crore, 10 crores and 50 crores, respectively, and turnover less than INR 5 crore, 50 crores, and 250 crores, respectively.

Some necessary pre-budget economic relief measures were rolled out by the Central Government through stimulus packages with multiple tranches under the Atmanirbhar Bharat Yojana (self-reliant India campaign) in May, October, and November 2020. These

measures focused on dual goals of strengthening the indigenous market and securing public welfare by providing liquidity to MSMEs and banking institutions, supporting migrant labourers, farmers, and poor sections of society through assured food security schemes, easing entry barriers for private players, boosting infrastructure, etc. Some of the specific benefits to MSMEs under the Atmanirbhar Bharat Abhiyaan included:

- INR 3 lakh crore collateral-free automatic loans for MSMEs, as an emergency credit line for covid-relief (ECLGS), out of which over 71% has already been disbursed to qualifying businesses.
- Investment in MSMEs by the central government through MSME fund of funds having a corpus of INR 10,000 crore, for entities demonstrating growth potential.
- Global tenders have been disallowed in government procurement orders having value up to INR 200 crore. This will help domestic players in general.

Beyond this, there was also a movement dubbed 'Vocal for Local', which encouraged the production of domestic goods and services, relying on nationalistic sentiment to reduce dependence on imports. This led to a reduction in Chinese imports by 25%



Several regulations around the securities market are proposed to be merged as a single code.

by August compared to the same period last year, which of course, led to a boost in sales of homegrown manufacturers, including MSMEs.

Further, the threshold limit for default for initiating corporate insolvency resolution procedures under the Insolvency and Bankruptcy Act, 2016, has been increased to INR 1 crore, as opposed to the previous limit of INR 1 lakh. This display of leniency towards MSMEs is a welcome relief in these uncertain times.

In March 2020, the IT Ministry had notified a Production-Linked Incentive (PLI) Scheme under which manufacturers of mobile phones, allied equipment manufacturing, pharmaceutical ingredients and medical devices would receive an incentive of up to 6% on incremental sales from the base year, FY 2019-20. Now, the same has been expanded to include other sectors like food processing, other electronics, telecom, speciality steel, automobiles and auto components, solar photovoltaic modules, textiles, and white goods such as air conditioners and LEDs. Certain

threshold criteria have been prescribed, i.e., minimum incremental investment of INR 10 crore (MSME) or INR 100 crore (Others) and a maximum incremental investment of INR 1000 crore. Some sectors also have threshold criteria for incremental sales.

The Union Budget for Financial Year 2021-22 was widely anticipated to follow on the same lines of self-reliance, help strengthen the fundamentals of the economy, and bring it back to a healthy growth rate while also keeping in mind the needs of the general population. The budget was presented by the Hon'ble Finance Minister Nirmala Sitharaman on 1 February 2021 in the Parliament.

The fiscal deficit target is around 6.8% of the GDP for FY22 and is estimated to rise to 9.5% for FY21, which is nearly thrice the previously set targets of 3.5%. The budget proposes this be brought down to 4.5% of the GDP by FY25-26.

This year's focus was announced as the six pillars for reviving the economy - Health and Wellbeing, Physical and Financial Capital and Infrastructure, Inclusive Development for Aspirational India, Reinvigorating Human Capital, Innovation and R&D, and Minimum Government Maximum Governance. Several regulations around the securities market are proposed to be merged as a single code.

Several direct taxes and indirect taxes amendments were also proposed.

One of the key features of this year's budget has been the increase in capital expenditure compared to the previous year. The overall capital expenditure for FY22 is INR 5.54 lakh crore. This is expected to increase the economy's productive capacity directly, thereby charting a course for sustained economic growth and long-term stability instead of the alternative relief measures of disbursing cash benefits or slashing tax rates, which do, of course, boost growth but may not be sustainable. Moreover, India has already seen historic cuts in tax rates since 2016, both for domestic companies and individual taxpayers.

Given that the pandemic took most nations by surprise regarding preparedness for a healthcare crisis, the government is focusing on developing the healthcare infrastructure of India through a centrally sponsored scheme called PM Aatmanirbhar Swasth Bharat Yojana, with an initial outlay of INR 64,180 crores over six years to develop existing and new healthcare systems for the detection and cure of new and emerging diseases.

The overall outlay for Health and Well-being is around INR 2.24 lakh crores (which has increased by 137% since the previous year) out of which a

dedicated sum of INR 35,000 crores has been allocated for the COVID-19 vaccine for FY22. The increased allocation is expected to expand and strengthen existing national health institutions, National Centre for Disease Control (NCDC), Health Emergency Operation Centres and mobile hospitals.

Announcements benefiting the agricultural sector were linking 1000 more mandis to the e-national agriculture market (e-NAM) – a big push for e-platforms to help connect small producers and manufacturers to potential buyers. Others include developing five major fishing hubs, enhanced agro-credit lines, and increased contribution to a rural infrastructure development fund.

Some other significant announcements which are



A new initiative called 'Turant Customs' will be likely introduced for faceless, paperless, and contactless customs measures. An electronic portal for facilitating registration, filing of bills, payment of duties etc., has been visualised to streamline the customs process.



expected to increase robustness in the economy are:

- Privatisation of two public sector banks and one general insurance company and ongoing disinvestments of four public sector enterprises to be completed in FY22;
- Regulated gold exchanges to be set up country-wide;
- Setting up of seven textile parks over three years under the scheme of mega-investment textile parks;
- Increase in the FDI limits in the insurance sector from 49% to 74%.
- Government-owned development finance institution for infrastructure debt financing to be set up
- Dedicated Asset Reconstruction Company and Asset Management Company to take over stressed assets of public sector banks to be set up;
- A single securities markets code to be introduced by consolidating four existing acts regulating the capital market, depositories, securities contracts, and government securities;
- Pipeline for monetisation of public assets such as roads, railways, airports, oil and gas infrastructure, power transmission infrastructure, warehouses, sports stadiums, etc. to be instituted;

- Launch of voluntary vehicle scrapping policy to retire unfit/outdated vehicles via a vehicle fitness test.

### **Ease of Doing Business**

- The scope of Small Company under The Companies Act, 2013 has been widened to include companies with paid-up share capital and turnover of INR 2 Crore and INR 20 Crore.
- NRIs will now be allowed to establish OPCs (one person company) of any size.
- e-court systems are likely to be established for smoother NCLT functioning
- AIFs and Business Trusts likely to be brought within the ambit of the SEBI Act

The Bill has introduced a string of proposals on business taxation and personal taxation and proposals relating to assessment and dispute resolution. Some changes to GST have also been proposed. Easing compliance norms and lessening tax burdens are expected to provide a much-needed boost to the economy.

### **Direct tax**

There are no changes in direct tax rates for individuals or corporate entities. However, in an unprecedented move, the tax audit limit under section 44AB has been increased from INR 5 crore to INR 10 crore (where at least 95% of payments are digitised), which would provide relief to many companies.

The following are the other significant proposals:

- Tax holiday for start-ups on reinvestment of long-term capital gains now extended to include investments in start-ups up to 31 March 2022.
- Goodwill of a business or profession will not be considered a depreciable asset, and no depreciation to be allowed even in respect to purchased goodwill.
- Relaxation on interest for default in advance tax payments extended to dividend income. No relaxation in respect of deemed dividend under section 2(22)(e).
- A new TDS of 0.1% (5% in the absence of PAN) has been introduced -- where a person's (deductor's) total sales, gross receipts or turnover from the business exceeds INR 10 crore during the year, and he is responsible for paying any sum to any resident for purchase of goods of value exceeding INR 50 lakh.
- Certain relief provisions have been introduced to facilitate the disinvestment of a public sector company. Further, there are some relaxations in provisions applicable to IFSCs.
- Advance tax will henceforth be applicable on dividend income only

after its declaration. Tax holidays are proposed for aircraft leasing and rental companies.

#### • **Assessment and Litigation**

- The Authority for Advance Rulings (AAR) to be discontinued and the Central Government to constitute one or more Board for Advance Rulings, such that ruling of the Board for Advance Rulings will not be binding on the Department or the taxpayer and it would be appealable before the High Court.
- Faceless, nameless ITAT scheme to be introduced on the same lines as the faceless appeal scheme in a jurisdiction-less manner. This will help in reducing costs and increasing efficiency and transparency.
- Income Tax Settlement Commission will be discontinued, and an Interim Board will be constituted for pending cases.
- Vivaad se Vishwas (VsV) scheme not available for cases decided by the Income Tax Settlement Commission.
- Dispute Resolution Committee to be constituted for preventing new disputes and settling issues at the initial stage in the case. Those assessed with a taxable income of up to INR 50 lakh and any

disputed income of INR 10 lakh can approach this committee.

- The time limit for reopening assessment proceedings has reduced from 4/6 years to 3 years, except when income concealed exceeds INR 50 lakhs, in which case the time limit is 10 years.
- Assessing Officer to have the power to provisionally attach taxpayer's property during the pendency of penalty proceedings for fake entries/invoices if penalty likely to exceed INR 2 crore.
- **Capital Gains**
  - The definition of slump sale has been expanded to include all types of 'transfer' (including exchange).
  - Section 43CA amended such that the stamp duty value can be up to 120%, as opposed to earlier 110%, of the consideration in case of transfer of residential unit subject to other conditions.
- **Individuals**
  - Senior citizens having annual income consisting of only pension and interest will be exempt from filing income tax returns. New section 194P will be inserted to enforce the deduction of tax for such clients by banks.
  - Interest accrued on an individual's contribution



There is a marked change from established trends regarding capital expenditure and the national deficit. Tax reforms have been mostly procedural to increase efficiency and ensure effective collection.

to provident fund is an account now taxable (in excess of INR 250,000).

- Expenditure incurred during a specified period, in lieu of Leave Travel Concession (LTC) exempt, subject to fulfilment of the prescribed conditions.
- Maturity proceeds from the unit-linked insurance policy (ULIP) issued on or after 1 February 2021, proposed to be taxable as capital gains if the aggregate annual premium exceeds INR 250,000 in any financial years.

#### **Goods and Service Tax**

Certain updates were made in connection with the Goods and Service Tax by amendment of the CGST Act for several provisions as follows:

- Section 16 amended to allow taxpayers' claim of the input tax credit based on GSTR-2A and GSTR-2B.



MSMEs are the beating heart of our country, propelling job creation, urbanisation, higher education, and increasing quality of life to our population.

- Section 50 of the CGST Act is being amended to provide for a retrospective charge of interest on net cash liability with effect from 1 July 2017.
- Section 35 and 44 amended: Mandatory requirement of furnishing the GST reconciliation report signed by the specified professional is relaxed by allowing the filing of annual return on a self-certification basis. The Commissioner can exempt a class of taxpayers from the requirement of filing the annual return.

### Customs

Agriculture Infrastructure and Development Cess (AIDC) has been newly imposed on petrol and diesel at INR 2.5 and INR 4 per litre respectively. Further, a new initiative called 'Turant Customs' will be likely introduced for faceless, paperless, and contactless customs measures. An electronic portal for facilitating registration, filing of bills,

payment of duties etc., has been visualised to streamline the customs process. Also, certain changes have been proposed in the Customs Tariff Act's Schedule I with effect from 1 January 2022 to align with HSN 2022 to ensure alignment with the global valuation principles.

There has been a reduction in customs duty on a few items, such as:

- Reduced duty on copper scrap from 5% to 2.5%
- Basic and Special additional excise duty on petrol and high-speed diesel oil (both branded and unbranded) is reduced
- Increased duty on solar inverters from 5% to 20%
- Raised duty on solar lanterns from 5% to 15%
- The basic customs duty on gold and silver reduced.
- The Department will rationalise duty on textile, chemicals and other products
- Regarding agricultural products, the customs duty is increased on cotton, silks, alcohol, etc.
- Exemption of Social Welfare Surcharge on the value of AIDC imposed on gold and silver.
- The exemption on the import of leather will be withdrawn as they are domestically produced.

These are some of the salient updates brought in by the Finance Bill, 2021 and preceding relief measures. There is a marked change from established trends regarding capital expenditure and the national deficit. Tax reforms have been mostly procedural to increase efficiency and ensure effective collection. However, through economic and public policy measures in the budget, the Indian economy seems to be on the road to recovery in the post-COVID era. The latest economic survey released by the ministry of finance projects the GDP growth rate to rebound to 11% for the 2012-22 period while the budget estimated real GDP to be between 10 and 10.5%.

### Endnote

MSMEs are the beating heart of our country, propelling job creation, urbanisation, higher education, and increasing quality of life to our population. Their revival is a key aspect of building a better India post-covid. This, when combined with our strides made in healthcare, vaccine research and production, and other prevention measures, is likely to help restore some semblance of normalcy in Indian society in FY 2022. The years 2020 and 2021 shall be remembered as a time of resilience by the Indian people – students, private sector employees, and businesses alike. ■■■

# Survival, Revival and Growth of MSMEs

*MSME sector has emerged as a highly vibrant and dynamic sector of Indian economy with its multifold contributions. However, the sector has not been able to contribute its full potential due to a number of challenges faced that have been aggravated by the pandemic. To ease out the negative repercussions of pandemic on Indian economy a series of steps are being taken that underlined the vision Aatmanirbhar Bharat to convert the tremendous challenges faced by the nation into opportunities and make the country self-reliant. Recognising the importance of the sector in the economy the Budget 2021 include several measures that will have a direct or indirect bearing on the MSME sector. In fact the Budget allocation for FY.2021-22 for MSME has been increased from ₹7,572 crore in the previous year to ₹15,700 crore. Read on...*



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All sectors of the economy are overwhelmed by the havoc exacted by the unanticipated COVID-19. Therefore, the Government of India, Reserve Bank of India, State Governments and other organisations are determined to bring back the economy into the path of progress and prosperity by injecting right medicine in form of proper measures and their execution. The MSME sector is contributing immensely for the overall development of the economy in many ways. Some of the contributions are generation of employment opportunities, production of various range of

products and services to fulfill the requirements of domestic and international markets, appropriate utilization of locally available resources, contribution to the gross domestic products (GDP) and contributing towards balance regional developments. Finally, we can say that, these are the backbone of an economy. It has been the lifeline of rural and semi-rural population.

## Challenges faced by MSMEs

Despite being a vibrant sector, majority of Indian MSMEs have often struggled to grow due to lack of timely financing





and the situation is even worse after Covid-19 pandemic. The operational challenges are listed below:

**1. High cost of Credit:**

The cost of credit is high for this sector as cheap funds are not available. The innovation driven units require continuous flow of funds for their research and development (R&D) activities. The high transaction cost for bank loan and high-risk perception towards this sector makes the cost of funds high. In this sector the units are not in a position to provide collateral securities which causes non-availability of funds.

**2. Lower technology levels:**

The MSMEs in India are categorized by low technology level units except few. The lower technology level in this sector pose a major drawback in emerging globalized market. As a result, the products from these sectors are not comparable to the imported one; which is a major cause for their sustainability into the market.

Today; we live in the world that is rapidly changing due to technological advancements. The technological advancements lead to fourth industry revolution which is known as "Industry 4.0" Industry 4.0 is characterized by the increasing digitization,

innovation, interconnection of products, business models and value chains.

Various technologies are integral part of Industry 4.0 which includes data volumes, internet of things (IOT), computational power, augmented reality, business analytics, artificial intelligence, simulation, elemental design, advanced robotics, sensor-based technologies, additive manufacturing and cyber-physical systems. This digital revolution changing the business models of all manufacturing industries whether it is large, small or medium. Due to "Industry 4.0" revolution the companies face pressure to transform itself as quickly as possible. The need of digitalization is realized not only for large scale industries even small and medium size industries must be digitized to compete in global market.

**3. Insufficient infrastructure facilities:**

The profitability and productivity of MSMEs are negatively affected due to insufficient infrastructure facilities including roads, water, power/electricity. There is a need to use updated technology to tune with the global trends to ensure MSMEs competitiveness with availability of skilled workforce and enough infrastructure facilities. The MSMEs which are located either at urban areas which

are decades old or located at rural area which are in unorganized manner. The infrastructure facilities are poor and unreliable in these areas which pose great threat to innovate.

**4. Lack of Skilled manpower:**

Innovation needs skilled manpower; though India has a large pool of human resources but there is a scarcity of skilled manpower. The industry continues facing the problem of shortage of skilled manpower which are required for manufacturing, marketing, servicing, etc. Apart from it; there is a lack of culture of research which directly affect the innovations in the industry.

**5. Problems of storage, product designing, packaging and display:**

MSMEs face problems of storage, product designing, packaging and display their products. These units normally do not have any marketing organization hence products compare unfavorably with the quality products of large scale industries. Selling outlets are not available for their products which is also a serious constraint for MSMEs. The insufficient infrastructural facilities create problems for marketing their products even if a unit innovates the effective monetization remains a key concern. Effective technology will resolve the hindrance and

remove the road blocks and allow companies to concentrate on their core business of innovation.

#### 6. Delays in settlement:

Owing to limited bargaining power of MSMEs in the market; the largescale buyers usually have long settlement lead times when they deal with these units. It causes shortage of funds for their capex requirements and performance R & D activities.

#### Revival of Indian MSME's (Post COVID-19)

There has been an unprecedented slowdown due to Covid-19 and MSMEs are worst affected. Given their pivotal role in Indian economy, urgent measures need to be taken for their survival, revival and growth. Indian Government has taken various initiatives including Atma Nirbhar Package, however, still majority MSMEs are looking for timely guidance and hand holding at this critical phase.

In order to bring more enterprises under MSMEs category, new rationalized pattern has been adopted with dual criteria of turnover as well as investments made.

The programmes initiated by Government of India "Make in India" pushed the MSMEs to attract FDIs, achieving growth and integrate with major global value chains. Some of the benefits made available are:

#### 1. Benefits for Registration with Udyam Portal:

Government of India has offered a free one-time registration facility to MSMEs through its Udyam portal and various incentives are available to registered entities. Traders are not allowed to do MSME registration and only manufacturing or service sector units can register with Udyam. Despite having 6.5 crores MSMEs, hardly 25% of them have been registered due to lack of awareness about following key benefits among the businessmen:

- i) Priority sector lending under Credit Guarantee Trust Fund (CGTMSE) for:
  - a. Overdraft interest rate concession of 1%
  - b. Collateral free loans to micro and small enterprises
- ii) Benefits of sourcing capital goods to start business:
  - a. Credit Linked Capital Subsidy Scheme (CLCSS) for purchasing machinery & technologies
  - b. Export Promotion of Capital Goods (EPCG) to allow import of capital goods at zero duty
- iii) 50% subsidy on patent registration & eligibility for industrial promotion scheme
- iv) Concessional rate of electricity tariff from few state electricity boards
- v) Reimbursement of ISO certification charges

**Government of India has offered a free one-time registration facility to MSMEs through its Udyam portal and various incentives are available to registered entities.**

| L= Lakhs<br>Cr=Crores | Old norms for Manufacturing sectors | Old norms for Service Sectors | New norms for Manufacturing & Services  |
|-----------------------|-------------------------------------|-------------------------------|---|
| MICRO                 | Investment < 25 L                   | Investment < 10 L             | Investment < 1 Cr<br>Turnover < 5Cr     |
| SMALL                 | Investment < 5 Cr                   | Investment < 2 Cr             | Investment < 10 Cr<br>Turnover < 50 Cr  |
| MEDIUM                | Investment < 10 Cr                  | Investment < 5 Cr             | Investment < 50 Cr<br>Turnover < 250 Cr |

- vi) Protection against delayed payment and allowed to seek interest after 45 days
- vii) Newly introduced 'Samadhaan - Sambandh - Sampark' scheme for empowerment
- viii) More than 30 schemes are available online at [www.champions.gov.in](http://www.champions.gov.in)

There is an urgent need to create awareness about above schemes offered for the benefits of business enterprises so that maximum entities can avail desired benefits.

## 2. Start-ups – Powerful Segment of MSMEs:

As per Department of Promotion of Industry & Internal Trade (DPIIT), any firm or company having innovative approach as well as scalable business model with a high potential to create wealth and employment can register as start-up provided it is less than 10 years old and annual turnover is less than Rs 100 crores since inception. Following is category-wise data with DPIIT as on July 2020:

- Total Registrations: 61,300
- DPIIT Recognition: 32,849
- Eligibility for Angel Tax Benefits: 1,658
- Eligibility for 80-IAC benefits (IMB) – 266

In order to promote innovation, development and improvement of key products, processes or services, Government of India has offered 100+ benefits to start-ups by launching special Startup India initiative. As a result, India is currently third largest ecosystem in the world after USA and China. Several local companies have started accessing international markets and even, many of them have secured good investments from investors. However, due to Covid19 meltdown, large number of start-ups are facing critical challenges and they urgent need help.

### 3. Massive Destruction due to Covid-19 hit: Capital markets shrunk by 30% in a span of just few months in March 2020, while key indicators like Industrial

| Worst affected sectors | Moderately Affected Sectors | Least Affected Sectors   |
|------------------------|-----------------------------|--------------------------|
| Travel & Tourism       | Metals & Mining             | Pharmaceuticals          |
| Automobiles            | Textiles                    | FMCG /Consumables        |
| Real Estate            | Logistics                   | Education                |
| Aviation               | Oil & Gas                   | Information Technologies |

Irrespective of the category to which the company belongs to, everyone is needing money at this critical time. While worst affected and moderately affected companies are needing money for survival, less affected companies are looking to grow inorganically by acquiring good targets at cheaper rates.

### Utmost Support from Government to MSMEs:

In the past few months, Covid-19 has taken the entire

Production as well as Purchasing Managers' Index touched lifetime low in April 2020.

The Covid-19 and the accompanying lockdown has impacted almost every sector of the Indian economy. While in case of some sectors like the travel and hospitality sector, the impact has been more profound and disruptive, in order sectors like the service sector, the lockdown has fundamentally altered the manner of doing business. Both the start-up and the MSME sector have also experienced significant slowdown in the past year.

However, some selective companies across different sectors made a comeback.

globe in its grip. It has severely affected the growth prospects of the major economies of the world and India is no exception. To ease out the negative repercussions of covid-19 on Indian economy, the honorable Prime Minister of India has announced a financial package of Rs. 20 lakh crore on 12<sup>th</sup> March 2020 which underlined the vision 'Self-reliant India'.

Given the massive impact of Covid-19 pandemic and unprecedented slowdown, Government of India had taken



various measures for survival, revival and growth of MSMEs. Following are some key measures:

- i. Launched liberalized working capital scheme for funding up to 5 crores with reduced margins ~ 10% on stock and 15% on receivables
- ii. Speedy processing of tax refunds of ₹ 1.18 lakh crores to more than 33.5 lakh taxpayers with an intention to introduce liquidity in the system
- iii. Incremental assistance with Atmanirbhar Package (Self-Reliant India).
  - ♦ ₹ 3 lakh crores collateral free automatic loans.
  - ♦ ₹ 20000 crores subordinate debt for stressed assets.
  - ♦ ₹ 50000 crores equity infusion through “Fund of Funds” for listed companies.
- iv. Many incentives offered for reducing cash outflow of MSMEs
  - ♦ Reduction in TDS & EPF rates to offer more cash in hand
  - ♦ Guidance to PSUs / Government departments for releasing payment in 45 days
  - ♦ Relaxation in provisions under Insolvency & Bankruptcy Code in case of default

- ♦ Global tendering allowed only for projects beyond Rs 200 crores

Though Government has taken various measures which can help MSMEs to revive, many of them are not properly aware of the same and hence, they continue to face challenges. Being a partner of nation building, CA's can be helpful for them to understand various schemes and take applicable benefits under them.

### Endnote

In spite of financial difficulties owing to COVID-19 hit, the Government is determined to strengthen the MSMEs to contribute their full potential for the overall development of the country. Now, it is for the MSMEs to make use of these benefits and contribute their best to enable the country to realize its ambitious goals of ‘Make in India’ and ‘Self-Reliant India’ through the development of goods and services to substitute the imported goods and services, and to improve its export performance.

Pandemic Covid- 19 has brought many challenges for MSMEs with ample number of opportunities too. To catch the domestic market with parallel export opportunities, Indian MSMEs have to prove their worth themselves by playing on volume with the high quality. Extensive product promotion, brand awareness programs, advertisement on different platforms, maintaining efficiency in cost, upgradation of products with the changing



The Government is determined to strengthen the MSMEs to contribute their full potential for the overall development of the country.

needs of customers are the key parameters for the success of Swadeshi Brands. Indians must change their perception towards Swadeshi Brands and switch their preferences to local products and promote them as well. Measures taken by government and changes in perception of Indian towards Swadeshi product will definitely work for the upliftment of MSMEs. A sound industrial policy and a new Innovation policy is required, and policies on making Industrial infrastructure are also required. These all will lead to the fulfilment of dream of “Aatmanirbhar Bharat”.

“When the Prime Minister said go ‘vocal for local’, he meant that products be made competitive vis-a-vis global brands. It didn’t mean that one must only buy products that have a logo ‘made in India’ on it. With the Vocal for Local theme capturing the imagination of the nation, the spotlight has also turned to Micro Small and Medium Enterprises (MSMEs) which can play a significant role in tapping the potential of local products. ■■■

# Micro, Small and Medium Enterprises – Growth Engine for Aatmanirbhar Bharat

*The Micro, Small & Medium Enterprises (MSMEs) have been significantly contributing to the socio-economic development of the Indian economy by providing solution to the unemployment quandary and reducing the economic imbalance. The MSME sector has often been termed the 'engine of growth' for emerging Indian economy, one of the fastest growing large economy in the world. The steady growth in the number of MSMEs, their significant contribution to GDP, employment and exports, is bringing down the income inequality and leading to the achieving Sustainable Development Goals, thereby becoming the crucial sector of the Indian economy. Read on...*

The MSME sector contributes significantly to the Indian economy by contributing to the Gross Domestic Product (GDP), exports and employment generation and significantly contributes to the socio-economic development, being the second-largest employment generating sector after agriculture. The sector helps to regulate economic activity, have less capital requirement than large enterprises and is quintessential part of non-agricultural based industrial eco-system of rural areas. MSMEs often act as complementary to the large-scale industries as auxiliary units indulging in supportive activities.

The MSMED Act, 2006, was enacted to provide for facilitating the promotion and

development and enhancing the competitiveness of micro, small and medium enterprises by way of defining MSMEs, putting in place policy framework, addressing the issue of delayed payments, etc.

New composite criteria of classification for manufacturing and service units were notified on 26.06.2020, with guidelines regarding composite criteria to facilitate the present and prospective entrepreneurs. With the development, there is no difference between manufacturing and service sectors. Also, a new criterion of turnover was added in the previous criteria of classification based only on investment in plant and machinery. Also, the government decided that the exports related turnover will not be counted in the limits of



Contributed by Secretariat, Committee on Economic Commercial Laws & Economic Advisory.

turnover for any category of MSME units whether micro, small or medium.

MSMEs in the Indian Economy have shown remarkable development because of the policy framework brought in by the government & the initiatives being taken from time to time for the growth and development of the MSMEs. The MSMEs are widening their domain across sectors of the economy, producing diverse range of

products and services to meet demands of domestic as well as global markets.

As per the data available with Central Statistics Office (CSO), M/o Statistics & Programme Implementation, the contribution of MSME sector in Country's Gross Value Added (GVA) and Gross Domestic Product (GDP) at current prices from 2014-15 to 2018-19 is as below:

### Share of Gross Value Added (GVA) of MSME in all India GDP

Figures in ₹ Crores adjusted for FISIM at current prices

| Year    | Total MSME GVA | Growth (%) | Total GVA | Share of MSME in GVA (%) | All India GDP | Share of MSME in All India GDP (in %) |
|---------|----------------|------------|-----------|--------------------------|---------------|---------------------------------------|
| 2014-15 | 3658196        | -          | 11504279  | 31.80                    | 12467959      | 29.34                                 |
| 2015-16 | 4059660        | 10.97      | 12574499  | 32.28                    | 13771874      | 29.48                                 |
| 2016-17 | 4502129        | 10.90      | 13965200  | 32.24                    | 15391669      | 29.25                                 |
| 2017-18 | 5086493        | 12.98      | 15513122  | 32.79                    | 17098304      | 29.75                                 |
| 2018-19 | 5741765        | 12.88      | 17139962  | 33.50                    | 18971237      | 30.27                                 |

Source: Central Statistics Office (CSO), Ministry of Statistics and Programme Implementation

The contribution of Manufacturing MSMEs in the country's total manufacturing GVO (Gross Value of Output) at current prices has also remained more or less constant at around 33% i.e. one-third during the period from 2014-15 to 2018-19.

As per the National Sample Survey (NSS) 73<sup>rd</sup> round, conducted by National Sample Survey Office, Ministry of Statistics & Programme Implementation during the

period 2015-16, there were 633.88 lakh unincorporated non-agriculture MSMEs in the country engaged in different economic activities (196.65 lakh in Manufacturing, 0.03 lakh in Non-captive Electricity Generation and Transmission, 230.35 lakh in Trade and 206.85 lakh in Other Services) excluding those MSMEs registered under (a) Sections 2m(i) and 2m(ii) of the Factories Act, 1948, (b) Companies Act, 1956 and (c) construction activities falling under Section

F of National Industrial Classification (NIC).

Micro sector with 630.52 lakh estimated enterprises accounts for more than 99% of total estimated number of MSMEs. Small sector with 3.31 lakh and Medium sector with 0.05 lakh estimated MSMEs accounted for 0.52% and 0.01% of total estimated MSMEs, respectively. Out of 633.88 estimated number of MSMEs, 324.88 lakh MSMEs (51.25%) are in rural area and 309 lakh MSMEs (48.75%) are in the urban areas.

Further, as per the NSS 73<sup>rd</sup> round, MSME sector has been creating 11.10 crore jobs (360.41 lakh in Manufacturing, 0.07 lakh in Non-captive Electricity Generation and Transmission, 387.18 lakh in Trade and 362.82 lakh in Other Services) in the rural and the urban areas across the country. Micro sector with 630.52 lakh estimated enterprises provided employment to 1076.19 lakh persons that in turn accounts for around 97% of total employment in the sector. Small sector with 3.31 lakh and Medium sector with 0.05 lakh estimated MSMEs provided employment to 31.95 lakh (2.88%) and 1.75 lakh (0.16%) persons of total employment in MSME sector, respectively.

Under the Prime Minister's Employment Generation Programme (PMEGP) the estimated employment generated (number of persons) in micro enterprises during the years 2014-15, 2015-16, 2016-17, 2017-18 and 2018-19





MSMEs in the Indian Economy have shown remarkable development because of the policy framework brought in by the government & the initiatives being taken from time to time for the growth and development of the MSMEs.

are 3.58 lakhs, 3.23 lakhs, 4.08 lakhs, 3.87 lakhs and 5.87 lakhs, respectively.

MSMEs are also key contributor to the exports in the Country. As per the Directorate General of Commercial Intelligence and Statistics (DGCIS) the Share of MSMEs related Products in total Export from India during 2018-19 is 48.10%. Within the country, to create more opportunities for domestic local players, the government, as announced in the Aatmanirbhar Bharat package, has disallowed global tenders in government procurement up to 200 crore, by amending the General Financial Rules 2017.

Last year, the World Bank and Government of India signed a \$750 million Agreement for Emergency Response Program to support increased flow of finance into the hands of MSMEs, severely impacted by the COVID-19 crisis. The World Bank Group, including its private sector

arm – the International Finance Corporation (IFC), will support the government's initiatives to protect the MSME sector by unlocking liquidity, strengthening NBFCs and SFBs and enabling financial innovations

*“The MSME sector is central to India's growth and job creation and will be key to the pace of India's economic recovery, post COVID-19. The immediate need is to ensure that the liquidity infused into the system by the government is accessed by MSMEs. Equally important is to strengthen the overall financing ecosystem for MSMEs,” said Junaid Ahmad, World Bank Country Director in India. “This operation seeks to achieve both these objectives by furthering the role of NBFCs and SCBs as effective financial intermediaries and leveraging fintech to broaden the reach of finance into the MSME sector.”*

The M/o MSME Ministry in collaboration with the concerned Ministries, Departments, State Governments and other Stakeholders envisages a progressive MSME sector by promoting the growth and development of the MSMEs; providing support to the existing enterprises; implementing avant-garde technology and promoting establishment of novel MSMEs. The Ministry runs various schemes for the inclusive development of MSMEs by providing financial & technology assistance, upgradation, development of infrastructure, skill

development, enhancing competitiveness and market assistance.

In accordance with the provisions of the Micro, Small & Medium Enterprises Development Act, 2006 the MSMEs are classified (as per the new classification notified by the government to come into effect from 1<sup>st</sup> July, 2020) as below:

- (i) a micro enterprise, where the investment in plant and machinery or equipment does not exceed one crore rupees and turnover does not exceed five crore rupees;
- (ii) a small enterprise, where the investment in plant and machinery or equipment does not exceed ten crore rupees and turnover does not exceed fifty crore rupees; and
- (iii) a medium enterprise, where the investment in plant and machinery or equipment does not exceed fifty crore rupees and turnover does not exceed two hundred and fifty crore rupees.

In May 2020, the Government released a policy thrust for self-reliance while announcing the Aatmanirbhar Bharat package being a special economic package to fight the Covid-19 pandemic in India. Accordingly, five pillars of self-reliant India (Aatmanirbhar Bharat) were sketched out as economy, infrastructure, system, vibrant demography and demand. It was emphasized that self reliance

was essential for achieving global competitiveness. The Government also announced a comprehensive package of ₹20 lakh crore equivalent to 10% of India's GDP under Aatmanirbhar Bharat Abhiyan for implementing reforms across various sectors including MSMEs.

Accordingly, the Ministry of MSME is focusing on all aspects, in addition to the existing credit related schemes and other announcements, the following announcements were made under the Atmanirbhar Bharat Package to provide better access to finance for MSMEs:

- i) Government of India will provide a support of ₹ 4,000 Cr. to Credit Guarantee Trust for Micro and Small Enterprise. It will make provisioning of ₹20,000 crore as subordinate debt to provide equity support to the stressed MSMEs.
- ii) Credit Guarantee Scheme for Subordinate Debt (CGSSD) for Stressed MSMEs has been Finalized and Launched on 24<sup>th</sup> June, 2020. As on 31.12.2020, 12 banks have extended guarantees amounting of ₹ 17.66 crore to 178 borrowers.
- iii) ₹50,000 cr. Equity infusion for MSMEs through Fund of Funds to establish a framework to help MSMEs in capacity augmentation and provide an opportunity for MSMEs to get listed in stock exchanges.

iv) Guidelines on Self-reliant India (SRI) Fund scheme has been approved and issued by the M/o MSME. NSIC Venture Capital Fund Ltd., a subsidiary company of National Small Industry Corporation Ltd. (NSIC) incorporated under Companies Act 2013. It has been identify as SPV for Fund of Funds.

v) SBI Cap Ventures Ltd and Khaitan and Company were selected as Fund Manager/ Asset Management Company and Legal Advisor for SRI Fund. Ministry is taking further steps for operationalization of the fund of Funds. The SRI Fund scheme is in initial stage of implementation. These initiatives will help in attracting investments as Debt as well as Equity and creating more jobs in the MSME sector.

The data on opening of new MSMEs being the most critical indicator to assess the development of MSME Sector portrays the favorable conditions for the growth of such enterprises in the economy. Till 30.06.2020 total MSME registration UAM was 10232451. Nevertheless, the emergence and progression of COVID-19 from starting of 2020 brought many troubles for the MSMEs along with the other sectors of the economy. To remain globally competitive MSMEs have to incessantly modernize themselves to meet the global challenges. With the consistent measures and support being provided in India by the MSME Ministry and its

organisations, to boost the MSMEs through its various Schemes and programmes, with dexterity the MSME sector has commendably adapted as well as innovated. In continuation of endeavors, the Ministry has entered into long term Agreements, Memorandum of Understanding/Joint Action Plan with 19 countries viz. Tunisia, Romania, Rwanda, Mexico, Uzbekistan, Lesotho, Sri Lanka, Algeria, Sudan, Cote d'Ivoire, Egypt, Republic of South Korea, Mozambique, Botswana, Indonesia, Vietnam, Mauritius, Sweden and UAE. The Technology Centers (TCs) set up by the Ministry play a crucial role in providing practical skill development training to more than 2 lakh unemployed youth and industry workforce per year. Four TCs have been set up through bilateral collaboration of the Governments of Germany, 3 TCs with the cooperation of Denmark.

The MSMEs have been adding notably to the expansion of entrepreneurial endeavors through business innovations. They have been escalating their realm across other sectors of the economy and manufacturing various products and services to fulfill the local as well as global market requirements. Globally, the MSMEs have been acknowledged as the engine of the economic growth. Likewise, in India also, the MSMEs have successfully been taking this imperative responsibility.

*References: Annual Report of Ministry of Micro, Small and Medium Enterprises (2020-21), Press Releases by World Bank and Press Information Bureau. ■■■*

# Creating Conducive Direct Tax Environment for MSMEs

*India has an entire legislature dedicated to small businesses, known as Micro, Small and Medium Enterprises (MSMEs). The journey of MSMEs at this stage was difficult, since, in the past India's economy was driven largely through the agriculture and allied sector. Soon came focus on industrial development and now the service sector contributes over 54 per cent of the economy and almost four-fifths of total FDI inflows. At the same time, MSMEs have played a vital role in the Indian economy, significantly to about 24.5% of the country's gross domestic product (GDP). An integral part of the supply chain, the produce of MSMEs contributes to about 45%<sup>1</sup> of the overall exports. Read on....*



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MSMEs employ a large number of people across the country and play their part as a significant rural employer, as majority of the MSMEs operate in rural India. To mitigate the problem of unemployment is again a challenging task and obviously growth of MSMEs may be the answer to a large extent. As per the MSME Development Act, 2006 (MSMED), the MSME industry has two sectors: the manufacturing sector and the service sector. In India, the manufacturing end of the industry comprises of at least 6% of the GDP and the service end contributes to almost 25% of the GDP.

## Existing safeguards for MSME's

MSME's being the thread that runs throughout the economy is granted additional safeguards by the government specifically relating to the recovery of their sales/ services. The MSMED Act, 2006, has put in place various reporting obligations and safeguards for the MSME sector. The MSMED Act overlaps with the Income-tax Act, 1961 and requires a host of reporting and compliance requirements. Key compliances for the MSME sector in the Income-tax Act have been captured below:



<sup>1</sup> <https://www.cii.in/Sectors.aspx?enc=prvePUj2bdMtgTmvPwwisYH+5EnGjyGXO9hLECVtNuXK6QP3tp4gPGuPr/xpT2f>



### Interest inadmissible under section 23 of MSMED Act, 2006

The first and foremost enactment piece of legislature which came to notice is separate clause introduced in the tax audit report somewhere in 2009 and applicable to all the assesses, the tax auditor is required to report the amount of interest inadmissible under section 23 of the MSMED, Act 2006. As per the said section, any interest for delayed payment to MSME is not allowed as deductible expenditure while computing the total income of the assessee under the Income-tax Act, 1961 notwithstanding the provisions of section 36(1)(iii) of Income-tax Act, 1961. The intention of inserting such provision is quite obvious, i.e., MSMEs are running their business with limited funds & working capital. Hence, the outstanding dues of MSMEs should be cleared within the stipulated time, so that MSMEs are in a position to run their business smoothly without any financial hurdle. The survey of judicial precedents do not throw any case law on the issue so by and large it can be presumed that the object of inserting this clause is served. Though there could be cases of disclaimer about reporting obligation as required information at the end of the auditee is not provided to the auditor so as to enable him to qualify his report.

### Section 15 of MSMED Act, 2006

Requirement on the buyer to make payment on or before the date agreed upon in writing, or where there is no agreement in this behalf, before the appointed day. This section also provides that the period agreed upon in writing shall not exceed 45 days from the day of acceptance or the day of deemed acceptance.

### Section 16 of MSMED Act, 2006

Section 16 of the MSME Act provides for the date from which and the rate at which the interest is payable. Accordingly, where a buyer fails to make payment of the amount to the supplier, as required under section 15, the buyer shall, be liable to pay compound interest with monthly rests to the supplier on that amount from the appointed date or, as the case may be, from the date immediately following the date agreed upon, at 3 times of the bank rate notified by the Reserve Bank of India (RBI).

### Section 22 of MSMED Act, 2006

This section provides that where any buyer is required to get his annual accounts audited under section 44AB of Income-tax Act, 1961 or under any law, such buyer shall furnish the following additional information in his annual statement of accounts, namely:

- The principal amount and interest due thereon (to be shown separately) remaining unpaid.



Any interest for delayed payment to MSME is not allowed as deductible expenditure while computing the total income of the assessee under the Income-tax Act, 1961 notwithstanding the provisions of section 36(1)(iii) of Income-tax Act, 1961.

- The amount of interest paid by the buyer in terms of Section 16 along with the amount of payment made to supplier beyond the appointed date during each accounting year.
- The amount of interest due and payable for the delay in making payment (which have been paid but beyond the appointed day during the year) but without adding the interest specified under this Act
- The amount of interest accrued and remaining unpaid at the end of each accounting year.
- The amount of further interest remaining due and payable even in the succeeding years, until such date when the interest dues as above are actually paid to the small enterprise, for the purpose of disallowance as a deductible expenditure u/s 23.

## Challenges faced by MSMEs

MSMEs face a number of challenges that relate to absence of adequate and timely banking finance, procurement of raw materials at a competitive rates, need for better Infrastructure facilities, lack of skilled manpower, etc.

To overcome these concerns, there are a number of initiatives taken by the Government to create skilled manpower, overcoming the challenges.

For example, if the MSME is backed-up with adequate finance, competitive wages/ salary can be offered to its manpower, where raw material is available at competitive rates, the MSME will be in a position to break-even early, thereby earning profits which will enable compensation to the manpower. Likewise, if the MSME is equipped with basic infrastructure facilities, the manpower would be willing to work for such MSMEs.

Fortunately, Income-tax Act, 1961 in the avatar of section 2(15) which defines "Charitable Purpose" includes one of the purposes as "Education". Under this piece of legislation if NGOs/ Trusts are formed to impart education under the wider connotation of education as charitable purpose, it will enhance availability of skilled manpower. However, multiple amendments have resulted in added complexities in the trust taxation regime. Professional fraternity should step-up on trust taxation compliance to avoid any consequences. This

will help the MSME sector with required skilled employment.

## Vaccine for the MSMEs

As the world is currently reeling from the wrath of the ongoing Coronavirus pandemic, several small businesses have even been forced to shut down their operations completely or go neck-deep in debt in order to try and survive this tough period. The Government of India in order to support the rehabilitation and ensure the upliftment has implemented major economic stimulus with a special focus on MSMEs to better equip them in the current situation. The registration criteria has also been modified so that a large number of enterprises are able to take benefits of the facilities available to the MSMEs and help in Indian growth story by virtue of their registration as an MSME/ SSI ('Small Scale Industries') under the MSMED Act, these entities are entitled to certain benefits. Some of the benefits are:

1. **Collateral Free Bank Loans:** The Government of India has recently notified that collateral-free credit shall be available to all companies in all small and micro business sectors. This initiative ensures funds for MSMEs/SSIs. Under this initiative, existing as well as the new enterprises can claim the benefits enshrined herein. A trust by the name of the Credit Guarantee Trust Fund Scheme was introduced by the Government of India, Small

Industries Development Bank of India ('SIDBI') and the Ministry of Micro, Small and Medium Enterprise Development to ensure this scheme is implemented for all MSMEs/SSIs.

2. **Patent Registration:** A significant subsidy of 50% is given to registered MSMEs/SSIs. This subsidy can be availed for patent registration only by furnishing a copy of the application to the respective ministry.
3. **Exemption of Interest Rates on Overdrafts:** Registered MSMEs/SSIs are eligible to avail a benefit of 1% on overdrafts however the implementation of this scheme differs from bank to bank and clarity needs to be sought from the bank extending the overdraft facility.
4. **Eligibility for Industrial Promotion Subsidy:** The Government of India also ensures that registered MSMEs/SSIs are eligible for subsidies on amounts spent towards Industrial Promotion. The Micro, Small and Medium Enterprises Ministry regulates the quantum of the subsidy and the same is a regular feature in the budget as well.
5. **Protection against delayed payments:** Very often buyers of services or products from MSMEs/SSIs usually tend to delay/default on the payments

to be made to them. The Ministry of Micro, Small and Medium Enterprise, Government of India with the intention of providing support to these enterprises enshrined upon them the right to charge interest on the payments that are delayed from their buyers/ customers. For the quick and easy settlement of such disputes, the government has issued guidelines advising such settlement must be done in minimum time through conciliation and arbitration and other such measures. In case, if any MSME/ SSI registered enterprise supplies/ provides any goods/ services to a buyer/ customer then the buyer/ customer is required to make the complete payment on or before the agreed date of payment as per the arrangement between the parties or within 15 days from the day they had accepted the goods/ services from MSME/ SSI registered business in cases where the date of payment is not mentioned. If the buyer/ customer causes a delay in the payment for more than 45 days after accepting/ consuming the products or services then the buyer/ customer is liable to be charged compound interest on the amount that was agreed to be paid for the products/ services provided/ rendered. The interest rate is usually three times the rate that is notified by the RBI.

6. **Concession on electricity bills:** This fixed rate of concession is available to all registered MSMEs/ SSIs by simply furnishing an application to the Electricity Department or their respective DISCOM, such application shall be accompanied with a copy of the MSME/ SSI registration obtained under the MSMED Act. Granting concessions is of course a welcome move, but uninterrupted availability of power supply is of utmost importance. If productivity is hampered due to lack of power supply, MSMEs may not be in a position to sustain such losses in long term. On the power sector, Government has encouraged through providing tax holiday to power sector companies (especially windmill) under section 80IA of the Income-tax Act, 1961 along with accelerated depreciation. Increase in windmill farms as well as other green energy parks, will increase the supply of power. Consequently, will help in providing uninterrupted power supply to MSMEs. So it can be considered as integrated step though there is no evidence to demonstrate that it is for MSMEs.
7. **Reimbursement of ISO Certification charges:** Any amount spent towards obtaining an ISO certification by registered

MSMEs/ SSIs is eligible for reimbursement from the Government of India on filing of an application to that effect along with the requisite set of documentation.

8. **No global tenders up to ₹ 200 crores:** The government has amended the General Financial Rules 2017<sup>2</sup> to disallow global tenders in government procurement up to ₹ 200 crore, as announced in the Aatmanirbhar Bharat package. This bold step is expected to create more opportunities for domestic players and will allow the local industry to gain from this initiative.

Recently, the World Bank has allocated about ₹ 5,600 crore (\$750 million) emergency response funding to the MSME sector. This provides much-needed liquidity and supports the government's strategy of using NBFCs and small banks to channelize funds to the MSMEs.

### Biting the silver bullet

The government has realized the potential of the MSME sector and at the same time understands the perils plaguing the economy due to its under-performance. While some initiatives have been taken on

<sup>2</sup> <https://doe.gov.in/divisions/amendments-general-financial-rules-gfr-2017>





Government's constant focus on developing infrastructure, such as power, roads, waterways, etc. are steps in the right direction. Such efforts from the Government keeps the MSME sector hopeful of better ways of doing business.

the policy front, the impact of the taxation system on MSME is twin layered- through the corporate tax and GST. The budget of 2020 had a major focus on accelerating the growth of the MSMEs. As a structural change was made in the definition of an MSME, thereby enhancing the base, more enterprises are now poised to avail tax benefits announced to MSMEs. Some ways in which the current taxation system is expected to boost MSMEs are:

- **Reduction of corporate tax rate:** The corporate tax rate for new manufacturing companies has been reduced to 15% while the overall tax rate for all other companies has been cut down to 22%. While the reduction in tax rates puts India in the league of countries having one of the lowest tax rates, the budget has done away with some of the incentives

available and utilised by the MSME industry namely, tax holidays for infrastructure, agriculture, and food processing units. While this is a welcome move, government should consider similar rate cuts for business which are in the form of partnership or proprietorship, since there are many MSMEs in this category. Though this move needs applause, at the same time, one should be conscious that certainly it is challenging task before the Government to raise revenue as well to run the economy.

- **Relief from tax audit:** In a bid to make tax compliances simpler for a wider number of MSMEs and thereby allowing them to focus on growth, the threshold provided for entities to get their books audited under the income-tax has been increased from the existing limit of ₹ 1 crore to ₹ 5 crore (with some conditions). The increase in threshold surely relieves MSMEs which are able to satisfy the prescribed conditions from the compliance burden.
- **Goods and Service Tax:** Several changes have been made in the indirect tax system to improve compliance. Simplification of GST returns, Aadhaar-based verification of taxpayers, electronic

invoicing to facilitate compliance, etc. have made GST compliance multifold easier for MSMEs.

- **Tax holiday expansion for start-ups:** Startups in the MSME sector have not enjoyed the high-ticket funding or unending queues of angel investors filling up gaps caused by cash burnouts. To allow fledgling startups an opportunity to grow, startups having turnover up to ₹ 25 crores earlier had the tax benefit of getting 100 per cent of profits as a deduction for three consecutive years. In a further bid to support startups, this limit has gone up to ₹ 100 crore. Additionally, the benefit has been extended to be allowed for three out of the first 10 years instead of the first seven years. Relieving startups from the burden of taxation has provided this ultra-competitive sector with breathing space.

### MSME Wishlist

- **Expansion of TDS/TCS:** The current Budget, 2021 had expanded the scope of TDS provisions widely, specifically the goods transactions are now proposed to be in the ambit of TDS net. Although the intention of widening the TDS scope is not of much concern, but the MSMEs will need to cope-up with the compliance

requirement. Apart from the compliance burden, if the buyer satisfies the conditions prescribed under such TDS provisions, the cash inflow from the buyer will be reduced by the tax deducted amount.

- **Faceless assessment/ appeal regime and inability to scale technologically:**

Lot of new initiatives are brought into the income tax net and all these initiatives are digitally driven. Given that most of the assessments are now conducted in a faceless mechanism, MSMEs will need to invest in digital infrastructure.

- **Lack of good tax advisor:** Typically, it is seen that small business struggle to get good tax advice and in turn may end up in an unavoidable situation. The MSME owners are largely occupied in their business activities and hence, a good tax advisor would be of a great help. The chartered

accountants with their strong skills in the area of taxation can play a crucial role in correctly advising MSMEs on tax matters.

- **MSME corridor:** Given the challenges faced by this upcoming sector, Government may consider allocating dedicated space for MSME entities. Wherein all the basic infrastructure facilities are made available to this sector. Such initiative may provide a larger field of play to the MSME sector.

MSMEs may be incorporated in several different legal entity types. From sole proprietorships and One Person Companies to Limited Liability Partnerships and Private/ Public Limited Companies, the choice of the business entity is dependent on various factors such as owner liability, compliance burden, investment and funding, exit strategy, taxation, etc. As most of the MSMEs are formed as a proprietorship or partnership enterprise, it is imperative for the sector to strive towards



The government has realized the potential of the MSME sector and at the same time understands the perils plaguing the economy due to its under-performance.

corporatization of Small & Medium Enterprises for good corporate governance as well as to energize the economy as a whole.

Along with choice of form of entity the corresponding provisions under Income-tax Act shall be applicable. For example, compliance of tax deductions at source are mainly applicable to an entity other than individual and HUF unless the individual and HUF are audited in preceding year u/s 44AB, different tax rates, eligible deductions for specific form of entity, etc. However, the choice of form of entity may not be driven by simply looking at direct tax provisions and a host of other considerations would play a role in exercising choice of form of entity.

At last there is no other way to conclude the thought but saying that one has to step boldly. Refinement/ Revision/ Improvement is a process and as an accountants' we know that either there could be *profit/ loss/ breakeven*, but the show must go on.



## Perspective to Contributions Made by GST to MSME Sector

*Lack of extensive employable capital does not bring about establishment of MSME sector. Operations at a certain level of efficiency is best pursued within the limits of an MSME enterprise. There are diminishing returns if overheads of a mega enterprise were to be thrust upon operations that are more efficiently run without those overheads. Therefore, MSME industry is enterprise of choice with a certain extent of investment and a desired extent of diversity. But often MSME sector is looked upon as players in needs of someone's largesse, which is neither the view of the investors, lenders, Government nor the view of entrepreneurs. Encouragement to MSME enterprise*



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*is required by the Government in the form of 'facilitating and enabling' the continuation of their own efficiencies and path to growth and success. This article considers contribution of GST to this sector and presents yet another view to these processes which can reveal the true potential of GST. Read on...*

GST carries a very powerful legislative framework for flow of credit in the course of creation of value and translates into revenue where consumption takes place. There lies more potential of the system to be explored and revealed, than limiting the concentration to mere generation of revenue. GST promises more than just revenue generation. It is a deft system, especially the one we have here in India, where transactions' trail is explicit. Here is another perspective to consider whose expectations from GST could be met in 'facilitating and enabling' strengthening of the MSME sector.





## Expectations from GST

There have been several aspects to GST that were discussed and therefore expected to find a place in the legislation itself such as:

- Multi-point tax with credit for taxes paid;
- Borderless flow of trade and seamless flow of credit;
- Simplified revenue neutral tax structure with HSN-based classification;
- Tax on value added with refund of any overflow of credits on account of exports, rate-inversion or other specified end-uses;
- Self-assessment and simplified compliance and reporting based on online tool;
- Minimal and essential Governmental intervention and expanded in exceptions;
- Rule-based and transparent anti-evasion measures;

- Enforcement of tax avoidance minimally intrusive and based on principles of natural justice;
- Voluntary compliance ecosystem where compliance rating compels compliance resulting in minimal litigation;
- Robust advance ruling mechanism to resolve potential disputes; and
- Appellate mechanism as the arbitrator for addressing interpretational conflicts which would be few and far between.

## Experience in GST

- Legislative challenges started right from the get-go in reaching an acceptable understanding by all stakeholders:
  - o Business and supply;
  - o Taxability with a precise definition;
  - o Transactions internal to an entity but of inter-State character;
  - o Non-taxable and extra-territorial transactions;
  - o Threshold exemption and composition schemes.
- Credit as a right requires clarity about:
  - o Basis for claim (resulting in linkage to end-use of inward supplies).
  - o Conditions to claim (resulting in denial for

failure of specified conditions);

- o Manner of claim (resulting in a loss of claim if not included in the Form or within the time permitted).
- Tax rates became complicated due to:
  - o Policy to impose Cess on sin goods;
  - o Exemption to transactions caught in definitions of taxability;
  - o HSN for services needed scheme of classification and notes with explanation to scheme.
- Valuation needed to be specific to cover:
  - o Incentives and commissions;
  - o Subsidies and price protection;
  - o Related party transactions;
  - o Transactions with non-monetary forms of consideration.
- Seamlessness of credit took a beating with:
  - o Blocking of credits based on subjective criteria and not limited to credits on exempt supplies;
  - o Taxes paid in other States do not flow to home-State except via ISD route is unnecessary compliance burden.



Entire system operates on a technology-enabled Common Portal, but the journey so far has been very unnerving due to Government's responsiveness to make amends where justified and deserved.

- Refunds was to be precise and limited based on intelligible differentia;
- Authority to self-assess needed to be monitored by specific provisions such as scrutiny on one end with detailed audit at the other end and best-judgement assessments in between; and
- Aspects on anti-avoidance, penalty and prosecution are interspersed adequately.

Entire system operates on a technology-enabled Common Portal, but the journey so far has been very unnerving due to Government's responsiveness to make amends where justified and deserved. While this responsiveness is welcome, it has also attracted the ire of trade due to the number of amendments made.

### MSMEs Challenges

MSME segment represents a very large population of taxpayers who make a

significant contribution not only to the revenues of the Government but also to some very important and efficient links in the supply chain of mega industries. Not all taxpayers absorb changes to the law in the same manner or the same pace. MSME needs more engagement before roll-out. Government's taxpayer-engagement in certain recent changes is a glorious illustration of how to roll-out changes. Clearly, such taxpayer-engagement was missing in the past and there are non-compliances arising from that limited engagement that is still unresolved and is presenting itself in departmental audits and inquiries with interest and penalties. It is a problem that needs to be addressed and resolved on priority.

MSME industries' experience has been the 'inherent inflexibility' in GST that expects all taxpayers to make every transition smoothly. Whether it is transitional credits or belated returns or interest or unpaid arrears. There are challenges that need to be resolved but not without active engagement with the Government.

This is not to say that taxpayer has not made bona fide mistakes due to misunderstanding of this new law for which the responsibility is acceptable. But this is a fact that bona fide defaults and on-compliances are lurking with need for proper solution. Any attempt at resolving these deviations



Government's taxpayer-engagement in certain recent changes is a glorious illustration of how to roll-out changes.

should be done with due care so that they do not include and enrich ingenious fraudsters from 'making hay while the sun shines.'

*Bona fide* taxpayers would like not to be ruffled by the aggressive measures that has fraudsters in the crosshairs. Fraudsters are a separate class of taxpayers and as the Government's own paper expresses, they too lie in different sub-categories based on their 'end game'. MSME industries seem to be burdened by the weight of the administrative machinery that challenges gullible taxpayers.

Government is welcome to exercise all lawful measures and pursue fraudsters or foil their plans but not before 'separating the grain from the chaff'. There's so much publicity around these 'questionable' transactions that there is untold fear about carrying out transactions with genuine parties. Everyone is looking over their shoulders to see who is the 'wolf in sheep's clothing'. MSMEs are having to prove their *bona fides* every step of the way.



Authority to self-assess needed to be monitored by specific provisions such as scrutiny on one end with detailed audit at the other end and best-judgement assessments in between.

Government's predicament about lines of distinction being blurry is understandable but it is equally true that not all non-compliant taxpayers are fraudsters. MSME sector cannot afford to engage in fraudulent activities deliberately as the price of fraud can be debilitating. To paint all non-compliance with the same brush would undo all the good work done in nurturing MSME sector and there is not a single MSME enterprise who would speak for fraudsters and the law bring such to justice.

Similar differentiation is justified in fatal and non-fatal defects in e-way bill compliance. It is seen that all deviations are met with the same rigorous penalty under Section 129. Allowing time to understand and comply with e-way bill requirement cannot be treated with 'one size fits all' rule when Circular 64/38/2018-GST dated 14 Sept 2018 itself admits minor offences and prescribes nominal penalties. MSMEs have borne the brunt of the e-way bill defects as this responsibility has been thrust upon them by mega industries for whom supplies, or job-work is undertaken. MSME enterprises have embraced this new requirement the fastest and are on their way to get ready with e-invoicing when thresholds are reduced further. Empathy in administration will see more than encouraging compliance and surge in revenues too.

### Credit to Government for Its Responsiveness

Credit must be given where it is due and Government's initiatives that must be commended are:

- Deferring 'New Returns 2020' and introduction of 'QRMP 2021 with IFF';
- Automating self-authenticated refunds;
- Enabling GSTR2B as a static document;
- Extending due dates, where justified;
- Upgrading technology backbone; and
- Timely amendment to rules to harmonize with the requirements of law.

It is this responsiveness that brings hope especially to MSME taxpayers that 'where Government wills (to alleviate taxpayer's woes) there are ways. There are many remarkable areas where the principles under earlier tax regime, which shares the same equitable jurisprudence with GST, will meet the ends of justice, namely:

- Circular 962/5/2012-CX dated 28 Mar 2012 which allows all 'vesting credit conditions' be eclipsed where demands are made beyond self-assessment of liability;
- Circular 1053/2/2017-CX dated 10 Mar 2017 containing administrative discipline to apply to all quasi-judicial functions



There is no doubt that taxpayers have made mistakes and certainly all of them have been set right and errors greatly reduced.

such that it is followed *mutatis mutandis* in GST and in all such proceedings by State Government agencies who seem liberal in exercising authority 'in the interests of justice'. Justice delivery by Central agency cannot result in an outcome different when delivered by State agency(ies);

- Circular 213/3/2019-CX dated 5 Jul 2019 which admits that reversal of common credits does not apply when abatements are allowed, which could well be relevant to transactions listed in schedule III, 1/3<sup>rd</sup> abatement allowed in HSN 9954 and to all notional values under Rule 32 or where value is imputed.

Aspects that could greatly advance compliance by MSME sector if Government were to consider:

- All changes introduced be applied with prospective operation and clear transition plan published for taxpayer awareness including its effects for past tax periods;



- Release of new functionalities on Common Portal be published and made operational from a reasonable but future date. The suddenness of implementing new ways of doing old things makes it cumbersome for taxpayers to attend to these changes. Online service of notice was unknown until recovery action was initiated and taxpayer's claim that notice was not served came to be dismissed in Court proceedings. New ways of doing old things are acceptable but when these new functionalities are implemented, wide publicity be given to them; and
- Filing appeal before First Appellate Authority needs to be simplified across agencies and across States. Phased roll-out of automation is understandable but taxpayers have multi-State operations and if practices are uniform or changes notified from a prospective date would help taxpayers adhere to changes. Pre-deposit for appeals still via DRC-03 challan but without option of 'pre-deposit'.

### Taxpayer Friendly Measures

While there may be certain measures that are common to all taxpayers, but MSME sector feels the burden the most due to the mounting interest liability along with threat to business

continuity. Without delving into changes in the law, certain ease-of-doing business measures that could help administration too, namely:

- Payment 'under protest' is a right in the interests of equity that taxpayers enjoy and providing a payment mechanism which is binary does not allow the law to breathe and grow. And every new law needs space for these accommodations. When there are doubts, whether it relates to credit or tax, taxpayers who are not enthused to aggressively litigate would gladly 'deposit disputed amounts' and wait for the air to clear a Enabling an interim payment option would go a long way in taking away the anxiety that has suddenly taken severe proportions. Introduction of rules such as 86A or 86B are cases in point where there is a clear sense of anxiety to take sudden measures;
- Credit 'under protest' is also a remedy that taxpayers require in respect of credit that is doubtful to everyone else but the taxpayer. If taxpayer were permitted to 'avail without utilizing' such credit, taxpayers will not forfeit credit due to the time limit in section 16(4) but still enjoy the fruits of litigation or clarity to law. Doubtful credits claimed by taxpayers are aggressively pursued by administration to be reversed, with interest

and penalty, adding to eventual pendency in appeals. A remedy similar to rule 37 where credit availed is permitted to be 'reversed with restoration' free from any further time limitation would not only single-out credits that taxpayer considers doubtful for inquiry without anxiety and yet protect taxpayer from interest and punitive consequences.

### Extension of Section 172 imminent

There is no doubt that taxpayers have made mistakes and certainly all of them have been set right and errors greatly reduced. First 5 years is reasonable and certainly first 3 years begs exercise of powers that the Legislature has allowed the Executive under section 172 to 'remove (following difficulties':

- Transition credits permitted when Courts across the Nation have issued directions based on bona fides of each case. Taxpayer who is wronged by the law



Taxpayers are eager to amend ways where they have misunderstood or failed to realize the extent this new law differs from earlier tax regime.

and burdened with disproportionate losses due to innocent mistakes will not be won over to become compliant in future;

- Taxpayers be relieved of the inflexibility of time limit under section 16(4) to claim bona fide credit;
- Interest on all belatedly discharged arrears be imposed on 'net tax' liability and clever wordings to carve out only one use-case in proviso to section 50(1) of belated returns does good to no one as there are scores of other cases where net tax liability remains unpaid;
- Alternate methods be allowed to demonstrate compliance with section 16(2)(c) and not enforce matching as the only method from 1 Jul 2017. Taxpayers will be unable to bear a double impact when the only default by Supplier is in reporting as B2C in GSTR1 returns;
- Refunds met with Deficiency Memos

repeatedly or glitches in GSTRx and multiplicity of amendments to rule 89(4) and 96(10) amply justifies reprieve to taxpayers; and

- Indiscreet orders passed under section 62 and under rule 21 need resolution as time to file appeal has passed even before taxpayer could realize the many different ways section 169 permits 'service' of notices and orders.

Taxpayers are eager to make amends where they have misunderstood or failed to realize the extent this new law differs from earlier tax regime. Remedial measures foster healthy relations and its no one's case that GST will be able to deliver on its promises in an adversarial compliance environment.

### Conclusion

There is no incentive to be non-compliant and MSME sector knows this all too well, where its margins are in single digits and GST is in double digits, this sector is all too concerned to deviate. Compliance is a journey that is best undertaken with much



Compliance is a journey that is best undertaken with much preparation and awareness building along with assurance of 'no sudden changes will augur well with MSME enterprise as well as others.

preparation and awareness building along with assurance of 'no sudden changes will augur well with MSME enterprise as well as others.

It must be accepted that taxpayer-base is too large for administration to aggressively pursue and effectively implement this new law. Where taxpayers are willing, MSME sector is the one with the greatest motivation to cooperate and be compliant with law, it is important the Government joins hands to ensure self-assessment of liability in its true sense without fear of looming inquiry or demands.

MSME industry is willing, even eager, to go from 'bullock cart to bullet train' but only seeks time and closer taxpayer-engagement to make through every transition. But the one that brings the most value in GST is one where there is a happy partnership with Government and industry to make this journey pleasant.



# Equalisation Levy 2.0 - Proposed Amendments

*In order to tackle the tax challenges due to digital economy, several measures are being implemented globally. In this quest, India introduced Equalisation Levy ('EQL') in 2016, which was subsequently expanded in 2020. To address the issues faced by industries while applying the EQL provisions, amendments have been proposed in Union Budget 2021 to rationalise and / or clarify the EQL provisions. Read on...*



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## PROPOSED AMENDMENTS

- To address the issue of double taxation emerged due to amendment brought in Finance Act, 2020, it has been proposed that the transactions which have been subjected to EQL provisions shall be exempt from income tax w.e.f. Financial Year ('FY') 2020-21 and onwards (instead of FY 2021-22).
- It has been clarified that EQL provisions shall not apply to the income of non-resident which is in the

nature of royalty or fees for technical services.

- Certain expressions such as 'online sale of goods' or 'online provision of services' have now been defined, which are relevant to determine the applicability of EQL provisions on e-commerce operators.

## BACKGROUND

The global economy has undergone a drastic change in last few years in the way of conducting business. Instead of the traditional brick-and-mortar approach of doing





business, a good number of business activities can be carried out nowadays through digital or electronic means. This digital economy is a result of various evolving business models such as e-commerce, digital advertisements, social media, payment gateway, etc. Numerous online businesses are now carrying on their business across the world without having any physical presence in a particular jurisdiction (say, India).

In such cases, the online businesses might not be subjected to any tax in that jurisdiction (India) on their revenue, in light of the beneficial provisions under the tax treaties, and thus resulting in a loss of tax revenue to the Indian government.

In order to tackle the aforesaid tax challenges due to digital economy, countries are implementing several measures by taking a cue from the OECD - G20 project on Base Erosion and Profit Shifting (BEPS). **Action Plan 1** of such project which deals with the **tax challenges of digital economy**, made certain suggestions to address these challenges. One of such measure was EQL, which was introduced in India through the Finance Act, 2016 ('FA16').

In FA16, EQL @ 6% was made applicable in respect of income of a non-resident from specified services, i.e., online advertisement, any provision for digital advertising space or any other facility or service for the purpose of online advertisement

(commonly referred to as 'EQL 1.0'). These provisions were particularly relevant in the context of search engines that provide online advertisement, online classifieds, social media applications and websites which have provisions for promoted content and advertisements.

In Finance Act, 2020 ('FA20'), the scope of EQL was expanded to cover non-resident e-commerce operators w.e.f. FY 2020-21 (commonly referred to as 'EQL 2.0'). As per expanded scope, EQL @ 2% was levied on any consideration received or receivable by a non-resident e-commerce operator from **e-commerce supply or services** made or provided or facilitated by it to:

- a person resident in India; or
- a non-resident (in respect of the sale of advertisements targeted at, or data collected from, a person resident in India or using an IP address located in India); or
- a person who buys goods or services using an IP address located in India.

#### **Meaning of e-commerce supply or services**

The term 'e-commerce supply or services' was defined as:

- Online sale of goods owned by the e-commerce operator; or
- Online provision of services provided by the e-commerce operator; or
- Online sale of goods or provision of services or



Earlier, there was no clarity that whether income of a non-resident e-commerce operator in the nature of royalty and fees for technical services, which are anyway taxable under the Act read with the tax treaty, could also be subjected to EQL 2.0.

both, facilitated by the e-commerce operator; or

- Any combination of activities listed hereinabove.

Further, at that time, Section 10(50) of the Income-tax Act, 1961 ('the Act') was also amended to clarify that any income from any e-commerce supply or services that has been subjected to EQL provisions, shall not be taxable w.e.f. FY 2021-22.

#### **ISSUES AND AMENDMENTS**

There were certain loose ends in the existing provisions for which the stakeholders were looking forward to certain clarifications. In order to rationalise and / or clarify, the following amendments have been proposed:

##### **1. Addressing the double taxation for FY 2020-21**

The amendment brought through FA20 resulted in

an issue / anomaly that while provisions of EQL 2.0 were applicable with effect from 01 April 2020, the corresponding exemption from income tax in the hands of non-resident recipients was applicable only from 01 April 2021. It meant that during FY 2020-21, such income will be taxable under the Act and will also be subject to EQL 2.0 (as the exemption was available for FY 2021-22 and onwards).

### ***Amendment to Section 10(50) of the Act***

In order to remove the aforesaid double taxation, Union Budget 2021 has proposed to amend Section 10(50) of the Act, to provide that any income of a non-resident, which has been subjected to EQL 2.0, shall not be taxable under the Act w.e.f. 01 April 2020. Thus, making the said income **exempt for FY 2020-21** as well.

## **2. Should Royalty and Fee for Technical Services be subject to EQL provisions or Income-tax provisions?**

Earlier, there was no clarity that whether income of a non-resident e-commerce operator in the nature of royalty and fees for technical services, which are anyway taxable under the Act read with the tax treaty, could also be subjected to EQL 2.0.

Also, there was a potential for abuse that a taxpayer could offer certain reasons to levy EQL at the rate of 2% (by taking a position that they qualify as e-commerce operator and their supply comes under the purview of e-commerce supply) on an income in the nature of royalty and fees for technical services and claim exemption under Section 10(50) of the Act, where such income is subjected to tax at 10% under the Act (ignoring beneficial provision under the tax treaty, if any) and could have a saving of 8%.

### ***Section 163 of the FA16 and Section 10(50) of the Act - exclusion of Royalty and Fee for Technical Service from the ambit of EQL***

In order to remove the confusion amongst the taxpayers and to eliminate the aforesaid potential for abuse of Section 10(50) of the Act, it is now proposed to insert an explanation to Section 163 of the FA16, to provide that consideration received or receivable for specified services and e-commerce supply or services shall not include consideration which is taxable as royalty or fees for technical services in India under the provisions of the Act read with respective tax treaty.

A corresponding amendment has also been



There could be an interpretation that if all the elements of a sale transaction (i.e. from placing an order to till the transfer of title of goods) have occurred online, then only same could be treated as an online supply of goods, which could exclude a large number of physical goods sold online from application of EQL 2.0.

proposed in Section 10(50) of the Act, to clarify that said exemption will also not apply to income in the nature royalty or fees for technical services taxable under the Act read with the tax treaty.

## **3. What qualify as 'online sale of goods' or 'online provision of services'?**

The provisions of EQL 2.0 were made applicable to e-commerce supply or services, which were defined to mean '*online sale of goods*' or '*online provision of services*'. The expressions '*online sale of goods*' or '*online provision of services*' are very broad terms and have not been defined anywhere in the Act and EQL provisions.

In the absence of any definition of these terms, there was no clarity as regards the applicability of EQL 2.0 where only one element of sale (such as, placing of an order) has taken place through an online medium (such as, an application or email), would it be considered as subjected to EQL 2.0 by the tax authority particularly, when such electronic medium is being maintained and managed by the seller.

There could be an interpretation that if all the elements of a sale transaction (i.e. from placing an order to till the transfer of title of goods) have occurred online, then only same could be treated as an online supply of goods, which could exclude a large number of physical goods sold online from application of EQL 2.0.

Further, there could be another interpretation that if an order has been placed through an email and where the platform / server used for placing such order is being maintained and managed by the online seller itself, then that could also be classified as e-commerce operator and thus subject to EQL 2.0.

### ***Definition of 'online sale of goods' or 'online provision of services'***

In order to clarify the meaning, it is now proposed that an e-commerce supply or service will be subject to EQL 2.0 when any of the following activities takes place online:

- Acceptance of offer for sale; or
- Placing of purchase order; or
- Acceptance of the purchase order; or

- Payment of consideration; or
- Supply of goods or provision of services (partly or wholly).

On a plain reading of the aforesaid proposed amendments, it appears that the legislature is in favour of levying EQL 2.0 on every transaction including which has taken place entirely in physical world (i.e. without having any element involving electronic means) as long as one single part of such transaction has happened online (for which a platform has been managed by the e-commerce operator).

Therefore, this provision may result in a radical expansion of scope of EQL 2.0, perhaps far beyond its original intent.

The objective of amendments brought through Union Budget - 2021 is to clarify the position and intent of the government of introducing the EQL 2.0. While it seeks to clarify certain doubts and settle certain ambiguities, there is still a need for further clarifications to reflect and provide more clarity on other aspects (such as, availability of treaty benefit where EQL provisions apply, applicability of EQL provisions on physical supply of goods, absence of advance ruling mechanism, etc.) to make this levy more viable and acceptable. ■■■





# Taxability of Liaison Office under GST

*Liaison office is a viable option for the foreign company proposing to enter the Indian market for the first time to undertake exploratory activities and analyze the growth potential and connect with prospective customers/ vendors without undertaking any commercial activity as such with cost of maintaining such liaison office, being met out of funds repatriated by Head Office. From GST perspective, challenges exist with regard to taxability of liaison office. This article attempts to present an in-depth analysis of the governing provisions for liaison office and to address issues. Read more...*



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Goods and Services Tax Act ('GST'), a very big reform is at present in fourth year of implementation. The act which aimed to simplify the taxation process has evolved over time to address the foottraces in its path by rationalizing the rate structure, further simplification of compliance norms, ease of doing business and addressing the anomalies in the provisions by issuing requisite notifications / circulars as and when required. However, still there are numerous issues that need to be elucidated to avoid issues among the taxpayers. This article attempts to explain one such uncertainty pertaining to taxability of liaison office under GST.

A foreign company may initiate business in India by setting up a liaison office to explore Indian market for their potential opportunities to invest and establish business presence in India. Establishment of liaison office in India by foreign entities is governed by Reserve Bank of India under Foreign Exchange Management (Establishment in India of a branch office or a liaison office or a project office or any other place of business) Regulations, 2016. These regulations define 'liaison office' as:

*"a place of business which act as a communication channel between the principal place of business or*



### *Head Office located outside India and entities in India*

Under the RBI guidelines, liaison offices cannot undertake any commercial /trading/ industrial activity, directly or indirectly, and must maintain itself out of inward remittances received from abroad through normal banking channel.

Activities which can be undertaken by liaison office are specified in Schedule II of the regulations, which are listed under:

- i. Representing the parent company / group companies in India.
- ii. Promoting export / import from / to India.
- iii. Promoting technical/ financial collaborations between parent / group companies and companies in India.
- iv. Acting as a communication channel between the parent company and Indian companies.

Therefore, entire administrative expenses like rent, security, electricity etc. including salary expenses of Indian liaison office are met by foreign parent entity. It merely acts an executing arm of the head office and do not have resources to carry on the business activity.

### **Taxability in GST**

In order to understand GST taxability on above transaction, let us first analyse whether the liaison office has the capabilities to carryout activities of the nature that would constitute 'supply' liable to GST. Section 7 of the Central Goods and Services Tax Act, 2017 defines the term supply, which reads as under: -

7. (1) For the purposes of this Act, the expression "supply" includes-

- (a) *all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business;*
- (b) *import of services for a consideration whether or not in the course or furtherance of business and;*
- (c) *the activities specified in Schedule I, made or agreed to be made without a consideration*

It may be worthwhile to mention that 'place of business' under the GST law includes

- (a) *a place from where the business is ordinarily carried on, and includes a warehouse, a godown or any other place where a taxable person stores his goods, supplies or receives goods or services or both; or*
- (b) *a place where a taxable person maintains his books of account; or*
- (c) *a place where a taxable person is engaged in business through an agent, by whatever name called.*

Further, Section 2(50) defines "fixed establishment" as a place (other than the registered place of business) which is characterised by a sufficient degree of permanence and suitable structure in terms of human and technical resources to supply services, or to receive and use services for its own needs.

On conjoint reading of above definitions along RBI regulations as per Foreign Exchange Management Regulations, it is evident that liaison office is



On conjoint reading of above definitions along RBI regulations as per Foreign Exchange Management Regulations, it is evident that liaison office is not permitted to carry out any commercial / trading / industrial activity directly or indirectly at its place of business or the fixed establishment due to express bar in the regulations.

not permitted to carry out any commercial / trading / industrial activity directly or indirectly at its place of business or the fixed establishment due to express bar in the regulations.

In the given scenario, liaison office is not undertaking any activity per se on its own. It cannot generate any income in India as per the RBI guidelines. In the absence of consideration, it cannot be termed as supply under Section 7(1)(a). Therefore, reference would now be drawn to Schedule I which list down certain activities which would constitute supply even if there is no component of consideration.

Entry 2 of Schedule I of the CGST Act, 2017 specifies supply of services between related parties or distinct persons as specified under Section 25, even without consideration, constitute a supply, when made in the course or furtherance of business.

Now the term related parties are defined under explanation to Section 15 of the CGST Act which specifies as under:

“(a) persons shall be deemed to be “related persons” if—

- (i) such persons are officers or directors of one another's businesses;
- (ii) such persons are legally recognised partners in business;
- (iii) such persons are employer and employee;
- (iv) any person directly or indirectly owns, controls or holds twenty-five per cent. or more of the outstanding voting stock or shares of both of them;
- (v) one of them directly or indirectly controls the other;
- (vi) both of them are directly or indirectly controlled by a third person;
- (vii) together they directly or indirectly control a third person; or
- (viii) they are members of the same family;
- (c) persons who are associated in the business of one another in that one is the sole agent or sole distributor or sole concessionaire, howsoever described, of the other, shall be deemed to be related.”

Further, relevant extract of distinct persons as specified under Section 25 is enumerated below:

“(4) A person who has obtained or is required to obtain more than one registration, whether in one State or Union territory or more than one State or Union territory shall, in respect of each such registration, be treated as distinct persons for the purposes of this Act.

(5) Where a person who has obtained or is required to obtain registration in a State or Union territory in respect of an establishment, has an establishment in another State or Union territory, then such establishments shall be treated as establishments of distinct persons for the purposes of this Act.”

Given above legal provisions, careful analysis would be required to determine whether liaison office and foreign entity would be treated as related parties or distinct person to attract GST applicability. This is one of the gray area which needs to be addressed under GST.

There are two school of thoughts in this regard, first being the liaison office is nothing more than an extended arm of the Head office and performs no separate functions other than those specified and approved by the RBI. It has been established for the ease of communication between Indian counterparts and the foreign entity, accordingly the liaison office is neither related nor distinct persons as it is only one legal entity and no relationship can be established. There cannot be a flow of services inter se the liaison office and head office as it amounts to ‘no supply’ and therefore, the reimbursement of expenses made by the foreign head office cannot be treated as a consideration towards any service.

However, another view is that liaison office and head office related in terms of explanation (c) to Section 15 of the CGST Act and scope of business, as defined in Section 2(17) of CGST Act is wide enough to include the activities or transactions which are incidental to the main activity of trade, commerce, manufacture, profession etc. And since the

liaison office is involved in promoting the business of foreign entity in India, it would constitute ‘SUPPLY’ under GST.

Once supply gets attracted, one need to analyse the requirement of getting registered under GST which is governed under Section 22 of the CGST Act, 2017. In case the aggregate turnover in a financial year exceeds the prescribed threshold limit, registration provisions gets attracted.

### Survey of AARs

There are divergent advance rulings under GST regime which are pronounced by Authority for Advance Ruling to determine taxability of GST on transactions by liaison office. Some of the advance rulings are listed below for ease of reference:

#### 1. M/S Habufa Meubelen B.V. 2018 (7) TMI 883 – Authority for Advance Ruling – Rajasthan

Issue placed before Rajasthan Advance ruling authority was whether the reimbursement of expenses and salary paid by foreign Head Office (HO) to the liaison office established in India is liable to GST as supply of service, when no consideration for any



Careful analysis would be required to determine whether liaison office and foreign entity would be treated as related parties or distinct person to attract GST applicability.



services is charged/ paid and whether the registration requirement would get attracted.

It was decided that in the given case, the applicant does not have any other source of income and it is solely dependent on the HO for all its expenses which are subsequently reimbursed by the HO. Therefore, HO and liaison office cannot be treated as separate persons as there cannot be any flow of services between them as one cannot provide service to self and the reimbursement of expenses made by the HO cannot be treated as a consideration towards any service.

Further, as there are no taxable supplies made

by the liaison office, they are not required to get registered.

**2. M/S. Takko Holding GMBH 2018 (10) TMI 1315 – Authority For Advance Ruling – Tamil Nadu**

On similar issue relating to discharge of GST by liaison office, Tamil Nadu authority for advance ruling held that the applicant is acting as an extension of the German Office in its procurement activities from suppliers in India as has been spelt out in the RBI permission letter. Hence, they are neither related nor distinct persons, but are in fact working as employees of the foreign office. Accordingly, none of the liaison activities of the applicant is covered under the definition of supply, no GST leviable.

**3. M/S. Wilhelm Fricke Se 2021 (1) TMI 690 - Authority For Advance Ruling, Haryana**

Issued place before the advance ruling authority was whether the reimbursement of expenses and salary paid by Wilhelm Fricke SE, Germany to the liaison office established in India is considered as supply of services as per Section (7) of the CGST Act, 2017 or under Schedule I of CGST Act, 2017, especially when no consideration is charged/ paid.

It was decided that since there is no commission/ fees being charged or any other remuneration being received/ income being earned by the office in India for the liaison activities/ services rendered by it, the HO and Liaison Office cannot be treated as separate persons. The amount received from HO are the funds for payment of salary, reimbursement of expenses like rent, security, electricity, travelling, etc. No consideration is being charged by the applicant from the HO for such services.

**4. M/S. Fraunhofer-Gesellschaft Zur Forderung Der Angewandten Forschung 2021 (1) TMI 690 - Authority For Advance Ruling, Haryana**

It was held that Section 2 (17) (a) of the CGST Act 2017 stipulates that *“business” includes any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit. Further “business” also includes any activity or transaction in connection with or incidental or ancillary to sub-clause (a), in terms of Section 2(17) (b) of the CGST Act 2017. Accordingly, liaison activity falls within the ambit of business.*



HO for all its expenses which are subsequently reimbursed by the HO. Therefore, HO and Liaison Office cannot be treated as separate persons as there cannot be any flow of services between them as one cannot provide service to self and the reimbursement of expenses made by the HO cannot be treated as a consideration towards any service.

Further, applicant and head office are deemed to be related in terms of explanation (c) of Section 15 of the CGST Act as they act on behalf of its head office for its customers in India. Thus, the activities of the applicant squarely fit to be treated as supply in terms of Section 7(1)(c) of the CGST Act 2017, even in the absence of consideration.

The supply of services by the applicant amount to inter-state supply of services in terms of Section 7(5) of the IGST Act 2017. Further persons making any inter-state taxable supply shall be required to be registered compulsorily in terms of Section 24 of the CGST Act 2017.

It is pertinent to note that Karnataka Appellate AAR has set aside the order of AAR stating that liaison office is a place of business to act as a communication channel between the head office and does not generate any income / commission / remuneration. A service rendered to self cannot come within the purview of supply under GST.



## Reasons and Reconciliation of Rulings

Given the above contrary pronouncements by Authority for Advance ruling, it is quite evident that such decisions add to unwarranted litigation and sows the seeds of doubt among taxpayers.

The conflict is not something that can be admitted as a disharmony which will sort itself out in due course to pay GST on the repatriation of cost of maintenance of GST while still maintaining the assertion about the nature of activity to be compliant with extant regulation under FEMA. Income-tax will likely step in to expect that this 'underlying activity' being admitted, albeit for GST purposes, to be in the nature of business, would be liable to foreign corporations' tax and be compliant with transfer pricing regulations. All these compliances render the undertaking given to FEMA void. As such, Applicants must review their presentation of facts and make amends to the nature of activities undertake so as squeeze out any semblance of business in India so that repatriation (of cost of maintenance of liaison offices) steers clear of 'supply'. And when a transaction is not supply, flow of money will not be consideration.

## Conclusion

Extant regulations in FEMA is a policy statement of the Government to welcome foreign capital to undertake exploratory



Extant regulations in FEMA is a policy statement of the Government to welcome foreign capital to undertake exploratory and non-commercial activities before they make a decision to invest and set-up commercial activities in India.

and non-commercial activities before they make a decision to invest and set-up commercial activities in India. Business is, therefore, understood not as expenditure in a foreign jurisdiction but an enterprise with its own 'income generating capacity' that is created in such jurisdiction.

It appears that a liaison office that pays GST on the repatriation (of cost of its maintenance) and even pays Income-tax on an arm's length price would stand of forfeit its status as liaison office and become a branch office or other form of permanent establishment. And the definition of fixed establishment and distinct persons in GST would be a cause of concern for 'liaison offices'.

To conclude, a clarification from the government on this issue will surely be helpful in preventing cognizance of these rulings and will aim to bring more clarity. ■■■

# Classification and Its Relevance in GST Regime

*Classification means arranging in classes or categorising things according to shared qualities or characteristics. Under the Goods and Services Tax (GST) laws, classification of goods and services help in determining its taxability, i.e., the applicable rate of tax or exemption from payment of tax, as the case may be. The scheme of classification of goods is framed in accordance with the Customs Tariff Act, 1975 (hereinafter referred to as 'CTA') which is in-turn based upon the Harmonised Coding System, while classification of services is a modified version of the United Nations Central Product Classification. In this article, we intend to limit our discussions on classification of goods. Read more...*



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India being a signatory to the International Convention on the Harmonized Commodity Description and Coding System, 1983, has adopted the classification codes and the General Rules of Interpretation (*GI Rules*) as prescribed under the Convention. The classification of goods is governed by the provisions under the CTA. The First Schedule to the CTA specifies the nomenclature that is based on the Harmonised Commodity Description and Coding System generally referred to as "Harmonized System" or simply "HS", developed by the World Customs Organization (WCO).

## Methodology of Classification

The Harmonised System (*HS*) provides commodity/product codes and description up to 4-digit (Heading) and 6-digit (Sub-heading) levels only and member countries of WCO are allowed to extend the codes up to any level subject to the condition that nothing changes at the 4-digit or 6-digit levels. India has developed 8-digit level classifications to indicate specific statistical codes for indigenous products and also to monitor the trade volumes. For legal purposes the texts of the section notes, chapter Notes, subheading





notes, supplementary notes, headings, subheadings, and the GI rules should be relied upon to determine the classification of an item.

### General Rules for Interpretation

Classification of goods covered under the First Schedule to the CTA, is done as per the GI Rules. The GI Rules is a set of six rules for classification of goods in the Tariff Schedule. These rules have to be applied sequentially.

- Rule 1 gives precedence to the section or chapter notes while classifying a product.
- Rule 2(a) applies to goods in incomplete or unfinished condition having essential character of complete or finished goods, presented in unassembled or disassembled form. Rule 2(b) is applicable to 'mixtures' and 'composite goods'.
- Goods which cannot be classified by application of Rule 2(b), shall be classified by application of Rule 3, i.e., by application of 'most specific description' as per Rule 3(a) or by ascertaining the 'essential character' of the articles per Rule 3(b) or by taking into consideration the heading that occurs last in the numerical order as per Rule 3(c).
- Goods which cannot be classified in accordance with the above rules will

be classified under the heading appropriate to the goods to which they are most akin, by application of Rule 4.

- Rule 5(a) and (b) relate to classification of packing materials and packing containers.
- Rule 6 lays down that for legal purposes, the classification of goods in the sub-headings of a heading shall be determined according to the terms of those sub-headings and any related sub-heading notes and, *mutatis mutandis*, to the above rules, on the understanding that only sub-headings at the same level are comparable. For the purposes of this rule the relative section and chapter notes also apply, unless the context otherwise requires.

### HSN and Classification

The CTA is based on harmonised system of nomenclature; but Tariff nowhere states that notes in HSN will be applicable for its interpretation. For the purpose of uniform interpretation of HSN, the WCO has published detailed explanatory notes to various heading and sub-headings. WCO in its various committees discusses classification of individual products and gives classification opinion of the same. Such information, though not binding in nature, provides a useful guideline for classifying goods.

In the case of **O.K Play (India) Limited v. CCE [2005 (180) ELT 300 (S.C)]** the Hon'ble Supreme Court of India made the following observations:

- (a) There cannot be a static parameter for correct classification.
- (b) HSN along with the explanatory notes provide a safe guide for interpretation of an entry.
- (c) Functional utility, design, shape and predominant usage have also got to be taken into account while determining the classification of an item.
- (d) Aforestated aids and assistance are more important than the names used in the trade or common parlance in the matter of correct classification.

It was held by the Hon'ble Apex Court in **L.M.L Limited v. CC [2010 (258) ELT 321 (S.C)]** that in order to resolve a dispute on tariff classification, internationally accepted nomenclature emerging from HSN explanatory notes is a safe guide for classification. It was also held that the HSN explanatory notes are also dependable guide for interpretation of Customs Tariff apart from interpreting Central Excise Tariff.

As discussed supra, the Customs Tariff generally is

based on the tariff classification adopted by WCO in its harmonised commodity description of coding system. Hence, wherever a chapter of Customs Tariff is fully aligned with the corresponding chapter of HSN, the HSN explanatory note explaining the scope of headings of that chapter would have persuasive value in the determination of scope of headings of correspondence chapter of customs Tariff. It is therefore fairly settled that the explanatory notes provided in HSN is an important aid for ascertaining the classification of a product.

### Principles of Classification

In addition to the aforesaid rules and principles of classification, certain principles for classification have been evolved over time by the Courts and Tribunals. Few of such significant principles are:

- (a) **Trade Parlance:** As per this principle, the popular meaning attached to that by those using the product is to be considered and not the scientific and technical meaning of the product for the purpose of classification.
- (b) **Relevance of end use:** This principle states that the end use to which a product is put cannot be the basis for determination of its classification. Further, the product should be classified based on its statutory fiscal

entry, basic character, function and use of the product.

#### (c) Other principles of classification

- Condition of material at the time of import or clearance;
- Mere separate price in invoice does not mean goods are to be classified separately;
- Exemption notification cannot determine classification;
- Method of showing separate prices in invoice does not mean goods are to be classified separately;
- Classification cannot be decided on basis of advertisement or product literature of the product;
- Product literature cannot be sole basis for classification.

### Classification Disputes under GST

The Central Board of Indirect Taxes and Customs (CBIC) has issued notifications prescribing rate of applicable on supply of goods falling under different chapters, chapter headings or tariff Items. The tax rates are revised from time to time as per the recommendations of the GST Council. These rates are



It is also pertinent to note that taxpayers are mandatorily required to mention 8 digits Tariff Entry for certain category of goods falling under Chapter 28 (organic chemicals), Chapter 29 (pharmaceutical products), Chapter 38 (miscellaneous chemical product) and Chapter 39 (plastics and articles thereof) with effect from 01.12.2020.

divided among multiple slabs (Nil, 0.25%, 3%, 5%, 12%, 18% and 28%) and taxability of each of the products is dependent on its classification. It is therefore natural to expect disputes in determining classification of goods on account of the difference in interpretation of entries in the rate notification between taxpayers and authorities. The CBIC has issued Circulars providing clarification on classification of goods and services from time to time; however, some of these clarifications have led to unsettling the issue.

### Recent Amendments

The CBIC has notified<sup>1</sup> that taxpayers with turnover upto ₹ 5 crores and beyond are

<sup>1</sup> Notification No. 78/2020-C.T., dt. 15.10.2020



Supplying goods or services under incorrect classification may not only result in tax disputes but also attract penal provisions.

required to mention HSN at 4 digit and 6 digit, respectively, on their tax invoices with effect from 01.04.2021. It is also pertinent to note that taxpayers are mandatorily required to mention 8 digits Tariff Entry for certain category of goods<sup>2</sup> falling under Chapter 28

(organic chemicals), Chapter 29 (pharmaceutical products), Chapter 38 (miscellaneous chemical product) and Chapter 39 (plastics and articles thereof) with effect from 01.12.2020. The taxpayers claiming refund of ITC are also required to provide category of input supply along with HSN wise details<sup>3</sup> of goods and services in their refund application (in Annexure 'B'), so as to enable the authorities to easily identify the goods and services.

### Endnote

Determination of classification of goods is not a new phenomenon for importers and

manufacturers. It has, however, gained more prominence now since it is one of the mandatory requirements for almost all the taxpayers (including service providers) under GST regime. It is therefore imperative for taxpayers to take due care in identifying accurate classification of goods and services supplied by them. Supplying goods or services under incorrect classification may not only result in tax disputes but also attract penal provisions. It is therefore advisable for all taxpayers to regularly review the correctness of classification adopted with respect to goods or services supplied by them. ■■■

<sup>2</sup> Notification No. 90/2020-C.T., dt. 01.12.2020

<sup>3</sup> Circular No. 135/05/2020-GST, dt. 31.03.2020

## ICAI News

### Survey For Seeking Preference For Learning Foreign Language Through Virtual Mode From Icai Members And Students

**Last Date: 15<sup>th</sup> April, 2021**

Committee for Development of International Trade, Services & WTO (CDITSWTO) of ICAI is taking forward the Action Plan for Champion Sector in which promoting foreign language amongst members and students is one of the mandates by Government of India.

With an aim to overcome language barrier and thereby to have enhanced professional opportunities overseas, ICAI, under the aegis of the Committee had initiated online batches of German, French, Spanish, Japanese and Business English Languages for its members and students through German, French, Spanish, Japanese and British Embassy and is working to initiate batches for Chinese, Arabic and Dutch languages in next few months based on the demand for said foreign languages.

Interested members/students are requested to kindly express their interest for the preferred foreign language which would facilitate ICAI to open up future batches of foreign languages. The expression of interest can be provided at <https://www.icai.org/post/survey-seeking-preference-for-learning-foreign-language> latest by 15<sup>th</sup> April 2021.

**Chairman**

**Committee for Development of International Trade, Services & WTO**

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# Future of Audit – A Journey Towards Automation

*In these unprecedented times when existence and survival is the biggest question, it is very important for all the accountancy professionals both in practice and in industry, to realise that cost savings without affecting the quality of audit is going to be the key factor. Achieving balanced result will not only help in improving efficiency and effectiveness of the audit, but will also bring us closer to the future of audit. If we break down the whole assurance testing approach, it contains Test of Control (TOC), Substantive Procedures, and Substantive Analytical Procedures, etc. Each of these has its own method of testing so that we can gain comfort over balances. It is important for us to realise that automation is the next big thing. Read more...*



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Many would doubt that automation costs a lot, but that is not the case, if we plan it well then it can turn out to be a huge cost saver. For the big clients there are many monotonous, but logical procedures that Chartered Accountants and articleship trainees perform and it takes lot of time to execute the same. Whereas such logical steps such as excel calculations, tie-outs, attribute testing, sample selections, sending confirmations, etc. can be automated from start till end. Initially, for the first it might add a bit to the cost because we

will be performing manually and additional hours will be incurred in automation, but it will surely show its results from the second year onwards, when it will be a huge time saver, resultantly saving money.

It will be more interesting to read the article with keeping in mind all the audit clients and areas you are responsible for. Try to recall procedures performed on all the work papers you know. Doing this exercise before reading the next part will help you to correlate the automation possibilities in a much better way.



## Why Automation?

### 1. Optimising the Available Time:

The highly valued benefit of automation is optimization of available time. Automation can free up the capacity for teams by reducing manual efforts and focusing that saved time on high value decision making activities or learning something which really adds value to the overall performance of an employee. Having time to think about something, can help you in planning audits, and think about improving the processes.

### 2. Improved Output Quality:

One benefit of the automation is its capacity to cover 100% of the population. Hence, improving the reliance over audit procedures performed. Also automation helps in reducing manual errors, thereby improving accuracy. Further, if there are any mistakes, it can be easily detected by

automation solutions.

Overall, it leads to accurate audit results and thereby, increasing trust of various stakeholders.

### 3. Efficiency and Cost Reduction:

Automation helps in completing the process in less time as compared to the time taken to complete the task manually. Direct benefit of the same is gaining efficiency in completing the task. Further, since lot of time is saved, it also results in reducing cost. Cost savings for automation should always be measured from long term perspective and not from short term, reason being obvious initial cost involved in implementing the automation.

### 4. Better Questions:

Since automation gives us accurate analytics and results, it encourages auditors to ask better questions to clients and thereby gaining more in-depth knowledge of business and transactions taking place. It also does a value addition to audit firm's business value in a way that client acknowledges the efforts put on by audit teams to conclude the audit.

## What are the automation techniques available?

If you ever thought of saving countless hours while engaging in various tasks, then following tools can help you in achieving the same.



Automation helps in reducing manual errors, thereby improving accuracy.

There are a number automation tools that are available in the market which you can help you in your professional work. There are basic and advanced tools that can be identified by you depending upon your requirements. Some of the tools that are available are:

1. **Excel Macro:** For any formatting, monotonous calculations, analytical procedures etc. that we perform, we can easily create an excel macro. Excel Macro has the lot of unexplored potential to automate many of the excel processes which we otherwise perform manually. It all depends upon how far one is able to think for its usage. Primarily, it's not easy to code or setup a Macro, but there are lot many courses available on various online education portals where you can learn the implementation. Moreover, you can also hire someone on contract basis to work on the Macro.

Some of the use cases of developing automation through macros are:

- a. Formatting the data
- b. Comparing the data among multiple files



Automation can free up the capacity for teams by reducing manual efforts and focusing that saved time on high value decision making activities or learning something which really adds value to the overall performance of an employee.



Cost savings for automation should always be measured from long term perspective and not from short term, reason being obvious initial cost involved in implementing the automation.

- 2. Advanced Excel Macro (use of VBA):** Introspect on what all audit procedures you generally perform and answer this question. Do you take third party data from any website to do some independent recalculations? Or, do you send bulk emails for confirmation purpose and you spend lot of time in sending initial e-mails, tracking them and sending follow-ups? So did you ever think that you are probably spending lot of time and manual effort in carrying out such similar procedures? Yes, we do have solution for all such things. Excel Macro can do any such logical steps as well. Advanced coding of excel Macro is not easy, but resources to deliver the services using excel Macro can surely be hired on contract basis.

One more use case for the Advanced Excel Macro, can you recall a process wherein you pull out some data independently

from various sources to confirm the valuation or any other percentages for recalculation. Think how time taking it is to pull out individual information and then try to recalculate, but now all those things can also be automated.

Can you imagine one thing from this? With the help of excel macros and its usability in numerous areas, you can increase the testing upto 100%. That means, more reliance on the data, more reliance on the testing procedures and resultantly more reliance on the overall result of the financial statement communicated to various stake holders. All these things at no extra effort, rather we will still end up saving lot of time.

- 3. Mail Merge:** How many of us send several confirmations or e-mails during our audit? Do you end up creating one confirmation at a time? That is not required if use Mail Merge feature With the help of this feature you can create as many different letters you want in just one go, the whole process would not take more than 15 minutes to create and print the letters into PDF or physical print. This is really an interesting feature with lot of other unexplored used cases, but the whole purpose is to give you a highlight of its possibilities so that you can explore more.

- 4. Visualisation Tools:** These tools help in audit planning and decision making. With the data received from client, you can input it in the visualisation tool to come up with various visualisation charts showing trends, that can help you to channelise the audit procedures in the required areas The capability of this tool in strategy and decision making is simply beyond par. Using this tool is not that difficult exercise; one can easily learn this tool from available online education portals.

Some of the areas wherein we can use this is:

- Analysis of financial statement line: YoY analysis, Sub-Category analysis, JE analysis, etc
  - Budget to Actual Analysis
  - Audit Tasks analysis
- 5. Python Script:** What is python script? It is a reusable set of code which is in the form of instructions that interprets the act to be done over computer system. Now since we know that python script is a code, we all might have doubts that how can this code help us in doing audit? This is the technology that will define the real future of audit. With the use of python and advance python script we can automate the tick marks, tie-outs and file references. Moreover, in day-to-day audit we use



lots of attributes to for control testing, good news is, and all of that can also be automated. Obviously one time cost is involved but the long term benefit can cover all that cost. For sure it will be difficult for you to guess about its cost-benefit analysis, but what if I say that a task that use to take around 20-30 hours, can now be completed within 2-3 hours. That means we will be saving 90% of the time, and saving time means saving cost and also more reliance on the audit results because with automation we eye to cover 100% of the population.

## 6. Excel Models/Analyzers:

Just like Excel Macro, even other excel models can also be used for analytical procedures. Excel Model basically is a spreadsheet that helps us in making quantitative estimates, forecasts etc. Further, audit of estimates is one of the most important tasks and generally most of the fraud risk areas are from

estimates. With the help of excel model we are just required to input the data and some quantitative and qualitative inputs. Within seconds we will have the estimates ready in front of us. Excel Models will help in taking important decisions related to audit.

## 7. Audit Techniques to Concise Large Sets of Readable Data:

This is the audit technique which might not come under budget of many, but considering the capabilities of Artificial Intelligence (AI) and its smart learning capabilities, the use of AI cannot be denied in future. How many times is the auditor required to read various contracts, agreements which could consist of hundreds of pages or more. Reading each and every word, tying out the relevant particulars from various other files is a time consuming process. Often it is seen as one of the most monotonous and time consuming job. Just imagine if one has to read hundreds of such agreements and work on it. Can these numbers be somehow reduced? The answer is yes, audit in future will come down to use of technology at its best. Only the decision making parameters which are subjective in nature will be required to be taken care of. That is what is seen as the future of audit.



With the help of intelligent checklists, a team will be able to reduce much of their time spent; in a way it will help everyone to stay compliant.

8. **Checklists:** Completing an audit successfully is not the end; rather it is just a beginning of another cumbersome process that most of the auditors have to go through. Everyone knows about long checklists that the audit team has to fill in order to complete the final documentation. It is at the top in the to-do-list of auditors, and in a way it is important to comply with the various standards and regulations. But one thing we all can relate is the ambiguities on applicability or non-applicability of series of questions in an audit. Now in medium size firms, it is a tedious job to fill that checklist manually, but what if automation can help in reducing that load. What if only the applicable questions related to the particular audit is shown in the system? Does that help in reducing the time and efforts? Certainly, because filling that checklist is one task and reviewing is another. With the help of intelligent checklists, a team will be able to reduce much of their time spent; in a way it will help everyone to stay compliant.



That means we will be saving 90% of the time, and saving time means saving cost and also more reliance on the audit results because with automation we eye to cover 100% of the population.

- 9. Software tools for automating monotonous yet logical calculations:** With the help of such tools you can automate many monotonous yet logical calculations. It basically works around excel files, even the most complicated logical steps (including testing and calculations) One can automate lot of processes starting from sample selections to reconciliations and from formatting the file to applying multiple formulas and filters. Tasks which ideally use to take days and hours to finish can now be completed in few minutes and that too with utmost accuracy. Learners can seek certification courses available online.

Some of the areas wherein we can use this are:

- Reconciliations
- Recalculations
- Variance Analysis

- 10. Tools to convert readable data files to usable formats:** Have you ever faced a situation wherein you got a readable PDF or text file as a support from client and you felt it is too big to convert into excel, and you spent hours extracting the data to excel. There are cost effective solutions that convert the long PDF and text files to excel, and are easy to use. Using such tools, you can convert long pdf and text files to excel and they provide results quickly. Use of such automation tools can also be learned by taking few courses available easily online.

- 11. RPA Tool:** You would have observed that most of the tools discussed above are usable when there are logical steps involved and which are quite straight forward. But what about areas or processes which are subjective in nature and requires decision making because lots of qualitative



RPA tools have the ability to get into the systems and perform audit functions and make decisions on the basis of factors involved.

and intuitive factors are involved. You are a big firm and you have money to invest which can give you benefits in long run, Robotic Process Automation (RPA) is definitely the future which one should look for. RPA tools have the ability to get into the systems and perform audit functions and make decisions on the basis of factors involved. Here the article describes the process, at a very basic level. However, its actual capabilities can be extrapolated only after researching your requirement and need for implementing the tool.

There is lot of unexplored potential in the field of automation and it is strongly believed that lot can be done to make our audits further automated and streamlined.

These were some automation techniques that one can start with for the audit, there are other high end techniques which have not been discussed about here. But most importantly, if you implement any of the above mentioned tools/applications, it is going to save a lot of time and money in the long run. ■■■



## Budget, Bad Bank and Chartered Accountants

*A bad bank is a separate entity that isolates illiquid and high risk assets held by a bank or a financial Institution. They are being seen as panacea for the non-performing assets problems faced by Indian Banks. Will this Bad bank be an elixir for the current and long term problems faced by the PSBs? What Bad Bank could additionally contribute other than the 28 ARCs registered with RBI? Many such questions are lingering in the financial market hence let us analyze the parts and particles of Bad Bank. Read on...*



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Performance of banking stocks after the budget was not obscure but rather it was scintillating. Reason for the unassailable upswing in the share prices was due to the announcement of Asset Reconstruction Company (ARC) and Asset Management Company (AMC) for managing the Non-Performing Assets (NPAs) of Public sector banks (PSBs), popularly known as Bad Bank. Later Finance Minister has given some hints that this institution will be guaranteed by Central Government and equity will be raised through a consortium of Public, Private banks, large state owned entities like Rural Electrification

Corporation (REC), Power Finance Corporation (PFC) etc.

### What does Bad Bank mean?

Financial dictionary describes Bad Bank as “A government owned entity that takes over and liquidates toxic assets from failed or declining financial institutions to leave them with a clean balance sheet”. McKinsey observes four basic models of Bad Bank, out of the four, two are internal management proposals like guarantee from Government on part of the portfolio and internal restructuring whereby bank creates a separate dedicated unit to hold and manage the sticky





accounts. Two other options have separate existence from that of the parent organization like, bank creates either an independent bank to deal with the delinquent assets or creates a Special Purpose Entity (SPE) which carries the bad books in its portfolio for effective management hence both the external methods are having the characters of a Bad Bank.

**Formation and Portfolio of Bad Bank.** Bankers estimate that new Bad Bank will have a capital of around Rs 15,000 crores, which could manage bad loans worth of Rs 3 lacs crores from the existing Gross NPAs of Rs 7 lacs cores. ARCs will normally fund only 10-15% upfront for the loans purchased and rest will be issued as Security Receipts (SRs) which would be paid depending on the amount recovered, same operating method might be followed by Bad Bank also. In nutshell Bad Bank acquires the NPAs like Housing, Industrial, Secured and Unsecured etc. from banks and finds out a buyer for decent price and liquidates the same, difference between buying and selling price will be the operating margin or surplus.

**Does Bad Bank differ from ARCs?** Operation style of Bad Bank might be more or less same that of ARCs but Bad Bank will have the advantage of a government guarantee which will directly help in obtaining finance at near to zero risk rates. Apart from advantage on financing cost, a government

guaranteed Bad Bank could tap the capital market for initial and subsequent capital requirements. Availability of capital and finance at lower cost will ensure liquidity and Bad Bank will have the capacity to hold the loans for a considerable period of time so that pressure on distress selling at huge haircuts could be avoided. As per the initial hints, Bad Bank will be jointly funded by banks and statutory institutions hence will have a better professional management who have adequate knowledge and experience to deal with large stuck industrial projects and also with niche business ventures.

**Will Bad Bank have any added advantage in process or enforceability?** From the discussions, it could be observed that Bad Bank will have a single window type or fast track clearing mechanism and necessary amendments will be made in The Insolvency and Bankruptcy Code, 2016 (IBC), SARFAESI Act, 2002, TDS and Capital gain provisions in the Income Tax Act 1961. Government may constitute special National Company Law Tribunal (NCLT) benches or might give priority to Bad Bank cases in the existing structure itself which will ensure speedy and concrete disposal of cases. A change in the legal system will give considerable confidence to the investors to acquire delinquent assets and a time bound resolution process will keep the organization as an ongoing entity, which could save the employment, creditors and shareholders at large.

**What's the magnitude of the situation which demands creation of Bad Bank?** As per the reports from credit rating agency ICRA, Gross NPA of the Scheduled commercial banks (SCB) will move up to 14 -15% of the advances by the end of Mar 2021 from the existing 8.60% clocked during the end of last FY. RBI's Financial Stability Report, Jul 2020 (RBFSR) also mentions about an estimated NPA of around 14.70% by end of Mar 21. Lion's share of the existing NPAs are pocketed by Public sector banks (9.7% for PSBs, 4.6% for private banks (PVB) and 2.5% for foreign banks (FB)) as on end of Sep 20. If we understand the trend of NPAs in India, we could observe that NPAs have started touching the 5% mark from FY 2015 onwards, a detailed analysis of the reason for such a spike in the year will end up on the structural changes enforced by the RBI in NPA recognition and



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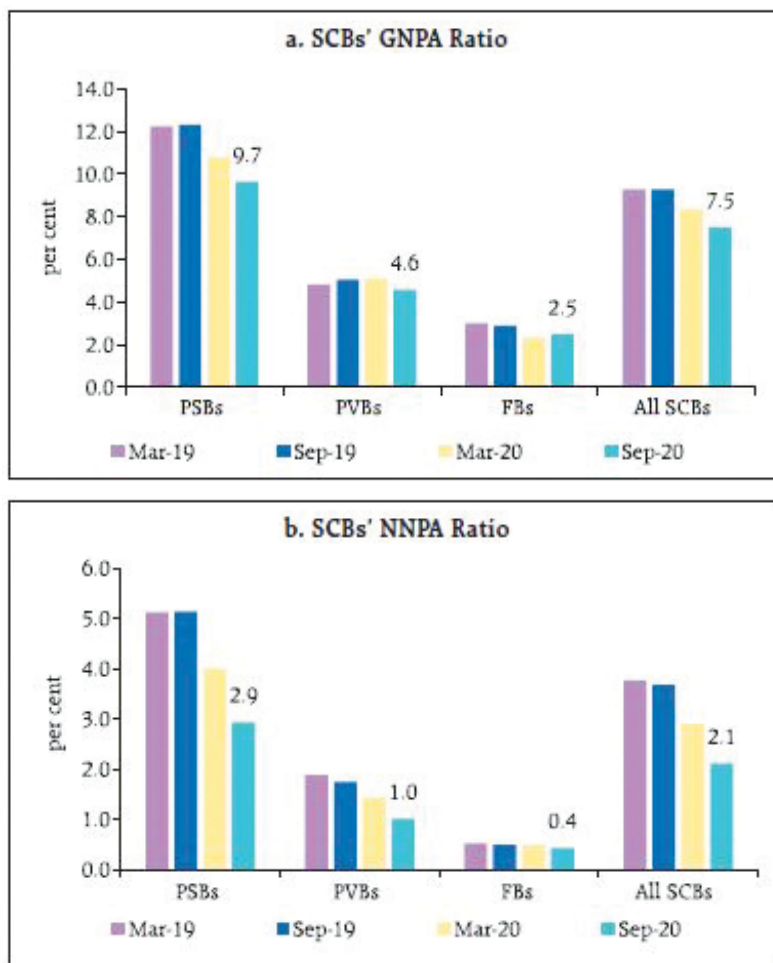
provisioning requirements. The NPAs which were obscure or managed by the Banks through various types of rescheduling or restructuring methods came to light and from that period and it never went down 5% till closure of FY 20. Comparison chart (Figure 1) given will show the real picture of NPAs of PSBs, Private Banks and Foreign banks. It is quite evident that PSBs have more than double the NPAs that of Private and Foreign banks in most of the reporting quarter ends.

A quick decision making on a delinquent account, whether to take any legal recourse or to go for a One Time Settlement (OTS) will have far reaching impact on resolution of the NPAs and this opportunity is substantially or completely not available to PSBs due to the threat of future litigations and existing government regulations. Reasons like excess funding on projects, competitive financing without analyzing the viability of the project, highly leveraged financing or inadequate contribution from promoters, unexpected cost overruns etc. are also solid reasons for existing NPA burden

but a time bound recovery efforts will have a better chance of higher realization when compared with delayed decision making.

delinquencies. PCR chart shown in Figure 2 highlights that PVBs and FBs are better provisioned than PSBs by around 9% to 13%. Capital Adequacy Ratio (CAR) or Capital to Risk

**Figure 1**



Source: RBI Financial stability report, Jan 2021

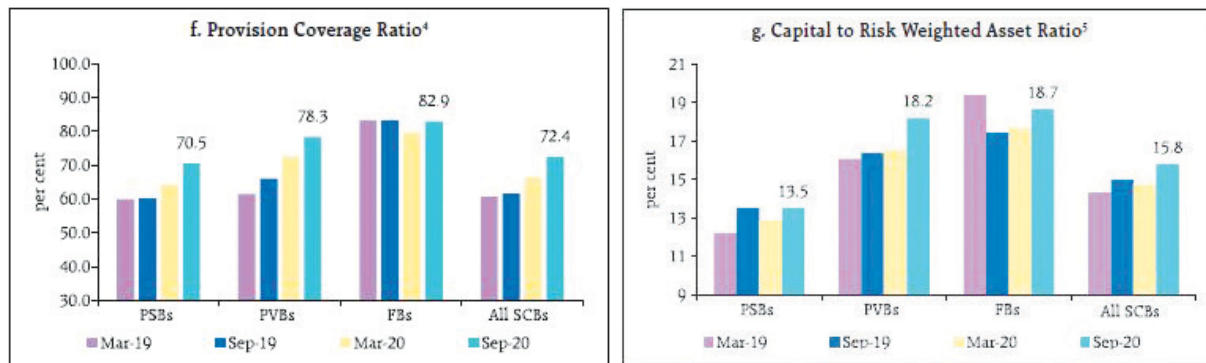


A rough estimate from RBIFSR and ICRA is that around 5% - 6% of the standard or performing loans will turn as bad loans by the end of current FY.

Chart clearly shows that Gross NPA (GNPA) of PSBs are double than that of PVBs and when it comes to Net NPA (NNPA) it almost touching three times. Provision coverage ratio (PCR) indicates the extent of funds, banks have earmarked to cover the loan losses hence higher the PCR banks are better insulated on possible

Weighted Assets Ratio (CRAR) is the ratio of banks capital to its risk weighted assets. Various risk types like Credit, Market and Operational risks are considered. The higher the CRAR of a bank the better capitalized it is. In this parameter too, PVBs and FBs are around 5% better than PSBs.

Figure 2



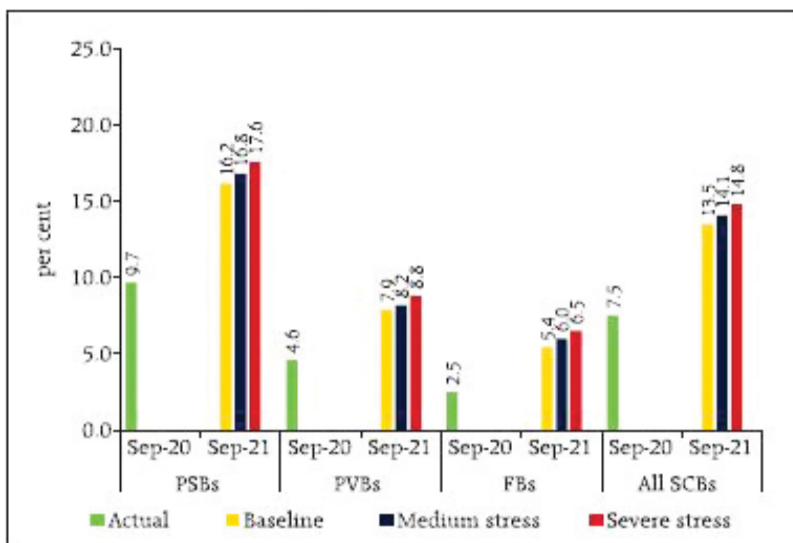
Source: RBI Financial stability report, Jan 2021

A rough estimate from RBFSR and ICRA is that around 5% - 6% of the standard or performing loans will turn as bad loans by the end of current FY (Figure 3). Predominant contributor to such an increase will be PSBs over PVBs and FBs hence swift and dedicated actions are required before the volcano of NPA erupts. In that context, forming of Bad Bank will be a big booster to the economy and will positively help the outlook on India's GDP.

**How do Bad Bank perform across the world?** Official concept of Bad Bank was pioneered in Mellon Bank, Pittsburgh, USA in 1988. Post 2007-08 financial crisis many of the European countries adopted different varieties of Bad Banks. Some of the countries who have experienced some forms of Bad Bank in earlier years are Finland (1990), Sweden (1992), France (1994), Austria (2009), UK (2010), Spain (2012), Portugal (2014) etc. Performance analysis of the Bad Bank was remarkable

because of multiple reasons like professionalism, Government support or backing, confidence of investors, concentrated efforts, public awareness, fast track clearance and continuous monitoring of the performance, etc. Asian history of Bad Bank was associated with Indonesian Bank Restructuring Agency (IBRA) in 97-98. India can take inspiration from the successful Korean model of Bad Bank operation. Korea Asset Management Corporation (KAMCO) which has managed sticky assets of around 27% of the GDP and successfully brought down the default ratio from 17% in 1997 to 2.3% in year 2002.

Figure 3



Source: RBI Financial stability report, Jan 2021

**What is the Indian situation and how could Bad Bank helps to overcome this?** If we consider the published GNPA of IDBI Bank (27.53%), Central Bank of India (18.92%), UCO bank (16.77%), Union Bank of India (14.15%) for the year ending Mar 20, it is much above the global standard of 5%. So from the existing scenario it is evident that some urgent and oriented efforts should be taken to clean the balance sheet of these banks and to recover from the delinquent

accounts at the earliest before the RBIFSR estimated standard loans turns to NPAs. If the existing situation is not tackled on war footing basis, PSBs will not have any room to accommodate the spill over from standard loans and marketability of the assets will be limited because of the pandemic related market situations.

To sum up, considering the post Covid scenario, formation of Bad Bank with backing by the government will enhance the management and recovery of NPAs of PSBs. As observed, support from government, capital contributions and professional management will help to sail through the assessed crisis. Fast tracking of legal mechanism will be a boon for existing ARCs and Bad Banks to taste the success quickly.

Stringent enforceability of punishments should be there for NPAs arising out of funds diversion, fraud and willful mismanagement else Bad Bank will be only a receiving entity and couldn't do any constructive contribution towards overall management of NPAs. In order to control the NPA menace, accountability should be ensured with lending team also else Bad Bank will only function as a transferee of bad loans without having any ability to contain the further flow into its existing portfolio. Provision for a proper feedback mechanism should be provided in Bad Bank rules so that existing errors could be avoided in future and repeating the lacunas should be dealt seriously. Bad bank rules have to answer varieties of other questions like

[a] What will be the criteria for transfer of NPAs?

[b] How the pricing will be done?

[c] What will be the Standard Operating Procedure?

[d] How the Government funded and government promoted schemes will be treated?

[e] Will there be any Equity contribution from the government etc.?

Let's hope that rules and regulations for the Bad Banks will be published soon and they will get operative quickly and all these questions will be answered.

### Role of CA in the Bad Banks and resolution process?

Chartered Accountant is having the opportunity to be a part in each and every step of resolution process. CAs will get the assignments from Bad Banks, Government, defaulted company, creditors, investors, etc. To highlight a few major areas where CAs may contribute are:

- Insolvency Resolution Professional (IRP) as per The Insolvency and Bankruptcy Code, 2016 (IBC).
- Financial Analyst to find out the internal and external worthiness of the project, expected cash flow, utilization and diversion of funds if any by the promoters or management, marketability of the project, Impairment, Receivable and Payables management, preparation of books of accounts, various viability audits etc.
- Statutory services like management of dues in Income tax, GST, Provident Fund and other statutory payments.



From the existing scenario it is evident that some urgent and oriented efforts should be taken to clean the balance sheet of these banks and to recover from the delinquent accounts at the earliest before the RBIFSR estimated standard loans turns to NPAs.

- Compliance services like reporting to statutory authorities like Registrar of Companies (ROC), Securities and Exchange Board of India (SEBI), Stock Exchanges, Direct and Indirect tax departments etc.
- Representation services like appearing for the Bad Banks or client in front of various statutory and quasi-judicial authorities.
- Certification services on qualitative and quantitative aspects of the existing financial position and resolution process.

### References:

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# Sales Compensation Design: A Cross - Functional Challenge



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*This paper examines faulty compensation design in Indian organisations, which does not benefit either the employers or employees, rather impair organisational growth. Author's observations are based on his representation as external member of several compensation committees of different organisations. Such organisations include both manufacturing, and service types and even some departmental undertakings. In most of the organisations pre-decided compensation budget are prepared and then decisions on its strategic allocation are taken, based on multiple factors, like; market comparison, internal pay equity, job evaluation, performance criteria, and overall organisational growth issues. Some companies, however,*

*emphasise on criteria like return to shareholders. The paper illustrates some of the issues that deserve attention when organisations aim for strategic compensation design, creating a win-win model. Also, the paper finally concludes design of sales compensation plan is responsibility of Marketing, HR, and Finance functions. Read on...*

Compensation design practices vary from organisation to organisation, and also across job families, and levels. Variation of compensation across job levels is known in India, and it is often seen critically by international bodies. Pay gap between the least paid and the highest paid in an organisation is very wide in India, creating serious problem for pay inequity. Although at institutional and regulatory level we have several mechanisms to enforce control over this issue, things are yet to get addressed. This paper being more focused on creating win-win compensation design mode; will not discuss these issues of pay inequity.

Among all the compensation design practices, design of sales compensation is considered





complicated and requires more strategic consideration. Here our discussion will focus on design of sales compensation that can successfully address all stakeholders' needs. Some of the challenging issues in sales compensation design are presented below.

Biggest challenge faced by organisations is effective design of sales compensation. Sales performance is the lifeline for organisations, as a good performing sales team can ensure uninterrupted cash flow. When cash flow is maintained, organisations do not struggle for operating capital. Many departmental undertakings, despite high market demand and order bookings for their products and services, had to become sick for poor cash flow. We can attribute this to poor sales management practices. Some of these undertakings had to go for distress sales by the government divesting their stake. We will not go into such details here, but at least examine how faulty sales compensation design can adversely affect the cash flow of the organisations.

## Theories of sales compensation

Sales compensation design is different from any other types of compensation design, as here we emphasize on compensation payouts based on contribution margin. Salespeople get minimum fixed compensation component, and the rest part of their compensation is aligned with their performance. Organisations select various incentive systems to make a tradeoff between competitive compensation and retention of talent. A typical employment contract for a salesperson will have mention on fixed component and average

incentive payouts. Average incentive payouts do not indicate guaranteed component, rather it indicates average incentives that are earned by salespersons of the organisations. However, if an individual salesperson is performing better than average, he/she can earn even more, and such increased incentive payouts to him/her do not strain company's compensation budget, as payments are made from the contribution margin. This can be understood with examples, presented later.

For designing sales compensation managers need to understand the peculiarities of the sales task that is different from other organisational activities. Sales compensation design includes a series of decisions to objectively reward the sales persons, based on the achievement of individuals, groups and of organisation. Separate sales compensation plans are required to control cost, achieve of goals and objectives, and face competition. Sales force in an organisation plays important role in improving the both top line and bottom line financial performance of the organisation.

In designing sales compensation, organisation focuses on identification of realistic and challenging sales goals, translating sales goals into measurable objectives, and in designing the sales compensation plan that is competitive and motivational. Obviously, such process requires basic understanding of sales jobs, understanding of organisational sales goals and objectives, basic understanding of all controllable and measurable elements of the sales function, determination of various levels in sales compensation, methods, etc. After consideration of all these aspects, it is necessary



**Organisations select various incentive systems to make a tradeoff between competitive compensation and retention of talent.**

to go for pilot testing of initial compensation plan, and carry out corrections, wherever necessary, and finally rolling out of the compensation plan.

Various components of sales compensation are; base salary (fixed), short-term incentives (aligned with short-term goals), long-term incentives (linked with annual target achievement), incentives in the form of sales commissions, and various perquisites to support sales function. For mutual interest, organisation prefers contribution-based sales compensation strategy, as it benefits the organisation by relating the compensation to the operating costs of the organisation. Such practices benefit sales personnel to earn with no limits or a payment ceiling, without straining the organisation's compensation budget. Also organisations can drive the culture of performance, and at the same time cost efficiency, avoiding payment to those who underperforms. But designing an effective contribution-based sales compensation plan is not so easy. It requires strategic focus, as it helps on the one hand coverage of organisational expenses, both fixed and variable, and at the same time consideration of built-in profit. Among others, it considers decisions on commission levels, and selection of suitable accelerators and

decelerators. Although we have some industry thumb rules for sales compensation practices, it varies in terms of specific organisational needs. Industry thumb rules are based on the organisational practices. In sales compensation, we find the general industry practices as presented in Figure-1 below:

and customer retention, and introduce new products and services. In the maturity phase, organisations re-evaluate themselves, focusing on price curtailment by efficient price management to stay competitive in the market. Gradually organisations achieve optimisation by strategic

Again, compensation payouts to salespeople require adjustment with appropriate accelerators and decelerators. Sales compensation metrics can be profit-based, revenue or quota-based, balanced (both profit and revenue), and team-based. But its selection is the prerogative of the top management, as changing sales

| Performance               | Below threshold (%) | Target (100% of goal) (%) | Excellence (%) | Above excellence            |
|---------------------------|---------------------|---------------------------|----------------|-----------------------------|
| Percentage of sales Force | 10-15               | Above 55, below 45        | 10-15          | Same fraction of excellence |
| Amount to pay             | 10%-50              | 100                       | 200-300        | No cap (strategic decision) |

**Figure-1: Industry Thumb Rule**

Ideally, sales compensation plans are designed to encourage behaviours that support business strategy. More than 90 percent of companies change their sales compensation plans annually. At different phases of growth, and so also for different verticals, organisations may go for different sales compensation plan, primarily to achieve business goals. For example, in the introduction phase (which is also known as start-up phase), organisations design sales compensation plan for achieving top-line (sales revenue) growth. In the growth phase, organisations emphasize on revenue management, focus on new market development

market segment, new market development, and with new value proposition. This entire journey of organisations, unless reinforced by appropriate sales compensation plan, it will experience difficulty. At every stage, compensation metrics would be different as phase-wise selling objectives also change. For example, in the first or start-up phase, organisations need to emphasize on persuasive selling, which requires aggressive variable compensation in the form of incentives and commission. Here incentives and commission are based on sales revenue, and the payouts are from contribution margin. In the second phase, focus being on volume growth, sales incentives and commission are linked with the sales volume. In the third phase, cost of sales may be added as an additional metrics. Finally, in the optimisation phase, focus being on new value propositions, new market penetration, segmented growth; new metrics are developed for achieving such selling objectives. Developing new KPIs (key performance indicators) or new metrics, matching with organisational needs can only make sales compensation plan effective.

objectives, strategies, and phases of organisation can potentially alter the sales compensation plan. While selecting KPIs or sales compensation metrics, it is also important to be strategic in quota setting. Sales potentialities vary territory-wise; hence same KSOs (key sales objectives) or KRAs (key result areas) may not be right. For example, in some market territories, market share of the company may be higher, where salesperson may be at ease in achieving assigned KSOs or KRAs. While in an unrepresented or underrepresented market territory salesperson may face the challenge in achieving the results, hence in such cases, KSOs and KRAs need calibration pacing with market situation.

### **Sales Compensation Design: Challenging task for managers**

Importance of effective sales compensation design has already been highlighted above. Depending on the strategic needs, sales compensation design can be tiered or incremental. Tiered sales compensation plan make provision for higher commission earning with higher levels of sales revenue. For example,



It is necessary to go for pilot testing of initial compensation plan, and carry out corrections, wherever necessary, and finally rolling out of the compensation plan.



Designing an effective contribution-based sales compensation plan is not so easy. It requires strategic focus, as it helps on the one hand coverage of organisational expenses, both fixed and variable, and at the same time consideration of built-in profit.

commission rate for sale of ₹ 5 lakhs would be lower than the commission rate for sales above ₹ 5 lakhs. Some organisations use accelerators and decelerators as multiplier instead of tiered sales compensation. Incremental sales compensation plan uses incremental sales for the purpose of calculation of sales compensation. A base sales level (often organisation use the term threshold level of sales) is assumed while organisation considers average incentive payouts. This level is considered easily achievable; hence salesperson can earn this variable component even with average performance level. Salesperson can earn more incentives, when deliver results over and above the base or threshold sales level. Usually, organisations calculate the sales incentive on incremental sales (increased sales over the base level sales).

Some organisations to ensure they remain performance driven, often enforce claw back provision on salespeople. Claw back denotes recovery of the incentives paid in preceding

year when performance level in succeeding year falls. However, when performance achievement cannot be attributed to drives or initiatives of the salespeople, like in impending pandemic situation; enforcement of claw back provision should be avoided. In such a situation, organisation can think of embracing performance engineering to calibrate the performance criteria, i.e., review of KRAs, KSOs, or KPAs, and then come out with new set of KPIs. Like in pandemic situation, organisations can make use of their salespeople to contribute to market intelligence, changing expectations of customers, innovative product design, etc. This can ensure retention of salespeople; else organisations may face the challenge of voluntary attrition.

Another important challenge for sales compensation is selection of appropriate sales metrics. Sales metrics or compensable factors differ from organisation to organisation, and often decided by the strategic level keeping in view the strategic and business needs of the organisation.

We have some common sales metrics, like; sales turnover, cost of sales, lead time for concluding a sales deal, average size of sales deal, conversion rate, new market development, market share percentage, effective sales incentive, etc. Effectiveness of sales incentives is measured in terms of cascading effect of incentives on increased performance of salespeople. But such list of sales metrics may widely vary depending on the organisational needs. Some organisations assign weightage on sales performance in terms of their creative or innovative pursuit in designing new products or services, in framing strategies to fight with competitors, etc.

Rather than having multiple sales metrics or compensable factors, it is desirable to have four to five metrics that can best address organisational business and strategic needs.

Some of the industry thumb rules for sales compensation plan are:

- Pay three times more incentives to top 20 percent of your sales force to retain talent
- Limit performance measures to minimum for successful tracking of performance
- Decide on KSOs that can ensure at least achievement of threshold level of performance by two third of the sales force
- Salespeople who deliver higher performance, their earning should be capped at above market rate
- Salespeople who under perform should earn less than market average

Strategically organisations calibrate their sales compensation plan time to time by quota setting, performance engineering, territory mapping, potentiality assessment of aggressive sales performer, etc.

## Understanding sales compensation based on payout calculation

For any sales compensation plan, it is already mentioned that payouts are from



Depending on the strategic needs, sales compensation design can be tiered or incremental.

contribution margin, and such payouts again depend on variation to margin, i.e., the difference between variable revenue and variable cost. From the problem below we can understand how variation to margin increases along with the tiered commission structure. With 30% contribution margin, and tiered commission rate, for different sales figure, salespersons are able to earn higher, and at the same time with increased variation to margin, organisation can cater for different expenses and make surplus. This problem can be better understood with the following example:

Let us assume a sales representative has target earnings of ₹ 150,000 for the year. This includes a fixed component of ₹ 1,00,000/- and a variable component of ₹ 50,000/-.

The company earns a 30% margin on the sales revenue. The company has tiered commission rate for different levels of performance in terms of sales figure. In table below, we have showed the details, including variation to margin in the last column (see figure 2).

From the figure we can see how the salesperson's contribution to sales revenue and subsequent variable compensation payouts begin to impact variance to margin. At ₹ 5,00,000 in sales revenue and a 5% commission rate, the leftover gross margin is ₹ 25K. Based on the remaining expenses for most companies, this will not allow the company to "breakeven." Two options to mitigate this:

- Lower the commission rate to improve the margin.
- Set a "minimum expectation" in which the representative produces enough to pay for the cost.

classifying their performance in strategic, financial, and tactical types. Here organisations require to develop their own measurement criteria for each of these categories, and also pre-decide weights for each category

| Sales Revenue | Margin (30%) = Net Sales | Commission Rate | Payout | Variation to Margin (difference between variable revenue and variable cost) |
|---------------|--------------------------|-----------------|--------|---|
| 500000        | 150000                   | 5%              | 25000  | 25000   |
| 750000        | 225000                   | 6.7%            | 50250  | 74750   |
| 1000000       | 300000                   | 7.5%            | 75000  | 125000  |
| 1500000       | 450000                   | 10%             | 150000 | 200000  |

**Figure-2: Sales compensation based on payout calculation**

Correlating sales representative's sales revenue to cost is critical in this model. Hence decision on the rate of sales commission is critical here. It is important to determine breakeven point of sales productivity minus cost of the sales representative, setting a minimum performance standard and raising payouts accordingly. This will shift the focus of sales representative from quota attainment to commissions earned, and hence can make the sales compensation design effective.

Variation to margin is the difference between variable revenue and variable cost.

In many organisations, we have systems of assigning weights to different nature of contributions made by salesperson, based on which compensation payouts are determined. For example, a tentative checklist for measurement of effectiveness of salespersons can be drawn

and subcategories. For example, under strategic category there are number of sub-categories. From organisation point of view decide what are those, then measure the performance of the salesperson using a scale. If it is a 5-point scale, when scores of salespersons are less than three, then put them in underperformer category, and limit their incentive payouts to minimum. But when such performance, as per your scale is more than three, then depending on your grading put them in higher incentive tier. Likewise, we have to do for all categories. Sales Head, HR Head, and Finance Head here must work as a team first identifying categories and sub-categories, and then deciding on the tiered, or incremental incentive payouts. They can also pre-decide accelerators or decelerators to simplify the process of incentive payouts. In all such cases, however, we have considered annual sales cycle,



and final incentive payouts at the end of the sales cycle. But when sales cycle is less than a year, say, monthly or quarterly, then more strategic thoughts on accelerators and decelerators are required, else it may affect the cash flow of the company. This is particularly important for consumer durable companies, automobile companies, or even for capital goods companies. Salesperson to avoid the threat of reduced incentive earnings, may carryforward the poor sales in one sales cycle to next sales cycle. This can get them more incentive payouts for multiplier effect with higher accelerators (as sales performance of two cycles are added together). This is known as 'hokey stick effect', as data (in our case incentive payouts) rise and fall sharply for multiplication with accelerators or decelerators.

Accelerator/multiplier/bump can also be explained using a sliding scale model. These are intended for upward and

downward adjustment of commission percentage. Let us assume target gross margin percentage of a company is 30 percent and the target sales commission percentage is 10 percent of gross margin. In a sliding scale model, the commission percentage would be adjusted upward if the gross margin for a transaction is higher than 30 percent and downward if the gross margin is lower than 30 percent. Some of the incentives offered in sales compensation plan, in addition to fixed rate of commission are; new business development, team selling, cross-selling, sales of specific products, increases in customer satisfaction, etc. In figure-3 sliding scale is explained.

compensation in alignment with strategic and business needs of the organisations. Sales compensation plan requires time to time calibration with the market conditions with performance engineering approach, else wrongly organisation can adjudge a salesperson as under performer, and correspondingly decrease his/her earnings. In the reverse case also, organisations need to consider upward revision of sales goals, when market is booming. Wrong sales compensation design can adversely affect cash flow of the organisation, primarily for underperformance of the salespeople for poor earning potentiality. While

| Margin | Base Commission | Multiplier (including accelerator and decelerator) | Net Commission |
|--------|-----------------|--|----------------|
| 40%    | 10%             | 1.5  | 15%            |
| 35%    | 10%             | 1.25   | 12.5%          |
| 30%    | 10%             | 1.00   | 10%            |
| 25%    | 10%             | 0.75   | 7.5%           |

**Figure-3: Sliding Scale**

## Conclusion

Sales compensation design is the most daunting task for any organisation. While effective sales compensation plan can drive sales performance, ensure cash flow, motivate, and retain salespeople on the one hand, on the other hand it can also ensure organisational growth and sustainability. Organisations can optimize sales compensation costs and at the same time can achieve higher sales performance when a cross-functional team decides on various parameters of sales

organisational practices vary, in deciding the KSOs it is important to focus on four to five KPIs, which can be decided with inputs from cross-functional team represented by Marketing, HR, and Finance functional heads. It is always advisable to pilot test the sales compensation plan, carry out the corrections, required if any, and then implement it. Depending on the changing business needs, organisations need to calibrate its sales compensation plan. ■■■



Salesperson to avoid the threat of reduced incentive earnings, may carryforward the poor sales in one sales cycle to next sales cycle. This can get them more incentive payouts for multiplier effect with higher accelerators (as sales performance of two cycles are added together).

# Empowering Local Bodies - Way ahead for Chartered Accountants

***Finance Commissions, one after another have laid emphasis on creating an eco-system for proper maintenance of accounts and their audit by local bodies. Consequent to the recommendations of Fifteenth Finance Commission availability of annual accounts for the previous year and audited accounts for the year preceding previous year in the public domain online is an entry level condition for qualifying for any grant for Local Bodies. Chartered Accountants can support them in key aspects of their functioning and enabling them to become eligible for the grants in the times to come. Read on...***

Finance Commission, a constitutional body, prescribes recommendations for allocation of funds amongst Central and State Government (s) including Local-Self Government. Local-Self Government (also known as local bodies) plays a major role in providing infrastructural facilities and basic services to the citizens, e.g., supply of water & electricity, education, health, transport, etc., and also take care of planning, development and administration of villages, towns or cities.

The final report of Fifteenth

Finance Commission (XV FC, chaired by Mr. N. K. Singh) along with recommendations for the five year period (2021-26) was placed in the Parliament in February 2020. XV FC has prescribed various recommendations to enhance the resource cover, promote timely availability of accounts online and further empower Local Self Government (both Urban Local Bodies (ULBs) and Rural Local Bodies (RLBs)). Successive FCs have recommended enhanced grants to LBs, as detailed below:

| Finance Commission | Grant Allocated to LBs (₹ in crore) |        |          |
|--------------------|-------------------------------------|--------|----------|
|                    | ULBs                                | RLBs   | Total    |
| X                  | 1000                                | 4381   | 5381     |
| XI                 | 2000                                | 8000   | 10000    |
| XII                | 5000                                | 20000  | 25000    |
| XIII               | 23111                               | 64408  | 87,519   |
| XIV                | 87144                               | 200292 | 2,87,436 |
| 2020-21            |                                     |        | 90,000   |
| XV                 |                                     |        | 4,36,361 |



Contributed by Secretariat, Committee on Public & Government Financial Management

# Local Bodies

The actual amount disbursed, however, is generally lesser as the local governments fail to meet the **conditions attached** to the performance grants by the Commissions/concerned Union Ministries, as displayed hereunder:

| Grants  | RLBs             |          |               | ULBs             |          |               | Total            |          |               |
|---------|------------------|----------|---------------|------------------|----------|---------------|------------------|----------|---------------|
|         | Recomm-<br>ended | Released | %<br>Released | Recomm-<br>ended | Released | %<br>Released | Recomm-<br>ended | Released | %<br>Released |
| FC-X    | 4381             | 3576     | 81.6          | 1000             | 834      | 83.4          | 5381             | 4410     | 81.96         |
| FC-XI   | 8000             | 6602     | 82.5          | 2000             | 1752     | 87.6          | 10000            | 8354     | 83.54         |
| FC-XII  | 20000            | 18927    | 94.6          | 5000             | 4470     | 89.4          | 25000            | 23397    | 93.59         |
| FC-XIII | 64408            | 58257    | 90.7          | 23111            | 18980    | 82.1          | 87,519           | 77237    | 88.25         |
| FC-XIV  | 200292           | 179241   | 89.6          | 87144            | 74259    | 85.2          | 2,87,436         | 253500   | 88.19         |

## Basic and Performance Grants: Conditions attached

There are two major problems with the accounts of local governments in India: (a) the lack of timely accounts, including audited accounts,

on a timely basis and (b) the classification of their accounts to make them amenable to consolidation with Union and State Governments' accounts.

FCs understand that for any part of the government using

tax-payers' money, availability of accounts (including audited accounts) in the public domain on a timely basis is a primary requirement for good governance. They have tried to tackle (a) by following initiatives/recommendations:

|         | Recommendation   |
|---------|--|
| FC-X    | State Governments should prepare suitable schemes and issue detailed guidelines for the utilisation of grants. The local governments were required to raise matching contributions for this purpose.   |
| FC-XI   | First charge on the grants should be maintenance of accounts and audit, followed by the development of a financial database.   |
| FC-XII  | RLBs and ULBs were expected to give high priority to expenditure for the creation of databases on their finances and maintenance of accounts through the use of technology and management systems.   |
| FC-XIII | Six conditions for rural local bodies and nine conditions for urban local bodies to access the performance grant. All these conditions had to be met in each of the award years.   |
| FC-XIV  | For gram panchayats, the ratio between the unconditional basic and conditional performance grant was 90:10 and for municipalities the ratio was 80:20. To be eligible for performance grants, the local governments would have to show an increase in own source of revenue and also submit audited annual accounts.   |
| FC-XV   | <p>For 2020-21, no performance conditions were imposed for their release.</p> <p>For later years, FC has mandated availability of annual accounts for the previous year and audited accounts for the year preceding previous year in the public domain online as an <b>entry level condition for qualifying for any grant</b> for LBs. Accounts comprise the balance sheet, income and expenditure statement, cash flow statement and notes to accounts. Annual accounts of a particular year need to be made available in public domain online by 15<sup>th</sup> May of every subsequent year.</p> <p>In 2021-22 &amp; 2022-23, States can avail full amount of grants in that year only if at least 25 per cent of LBs fulfil the said conditions. From 2023-24 onwards, the grants to be released to the States will be computed on the basis of grants due to only those LBs who will comply the aforesaid condition of making available accounts in the public domain online</p> |

For (b) i.e. consolidation of accounts, the efforts made are mentioned below:

|         | Recommendation  |
|---------|---|
| FC-XI   | The Comptroller and Auditor General (CAG) should be entrusted with the responsibility of exercising control and supervision over the maintenance of accounts and audit of all tiers of rural and urban local bodies, and that its <b>audit report should be placed before a Committee of the State legislature.</b>   |
| FC-XII  | The <b>compilation of disaggregated data</b> in the formats suggested by the CAG is necessary for State FCs to be able to assess the income and expenditure requirements of the local governments. Priority should be given to the creation of a database and maintenance of accounts through the <b>use of modern technology and management systems.</b>   |
| FC-XIII | While the <b>CAG should provide technical guidance and supervision</b> , a major portion of the actual auditing would have to be undertaken by the local fund audit departments. Hence, all State Governments should <b>strengthen their local fund audit departments</b> appropriately through both capacity building of existing manpower as well as augmentation of personnel.   |
| FC-XIV  | Accounts prepared by the local governments should distinctly capture income from own taxes, assigned taxes, grants from the State, FC grants and grants for any agency functions assigned by the Union and State Governments. In addition, it also recommended that <b>technical guidance and support arrangements by the CAG should be continued</b> and <b>States should facilitate local bodies to compile accounts</b> and have them audited in time. |
| FC-XV   | <b>Availability of annual accounts for the previous year and audited accounts for the year preceding previous year in the public domain online as an entry level condition</b> for qualifying for any grant for LBs.  |

### Additional entry level condition for receiving grant by ULBs

#### 1. Notification of minimum floor rates for property tax

In the direction of augmenting revenue of ULBs, XV FC also recommended an additional entry level condition for ULBs to mandatorily notify minimum floor rates for property tax by the relevant State (by suitably amending the relevant State Municipal and Municipal Corporation Acts) from 2022-23.

In order to avail grant from 2023-24 onwards, after notification of the property tax floor rates, ULBs have to meet one more condition as well that the property

tax collection should be consistently improved in tandem with the growth rate of State's own Gross State Domestic Product (GSDP) in the most recent five years.

ULBs can avail the grants only if it has complied with entry level condition (related to accounts) as well as additional entry level condition(s) (related to property tax).

#### 2. Constitution of State Finance Commission (SFC)

The Constitution of the India requires that the SFCs to be constituted at prescribed intervals and submit its recommendations to the

Finance Commissions. However, only a few States constituted SFCs in time and even those did not submit their recommendations to FC. Wherever constituted, SFCs face significant challenges in the form of poor administrative support, inadequate resources for their smooth functioning and the delayed placement of action taken reports before State legislatures.

XV FC recommended that all States must constitute SFCs, act upon their recommendations and lay the explanatory memorandum as to the action taken thereon before the State legislature on or before March 2024. After



March 2024, no grants will be released to a State that has not complied with the Constitutional provisions in respect of the SFC. XV FC also authorised the Ministry of Panchayati Raj to certify the compliance of all Constitutional provisions by a State in this respect before the release of their share of grants for 2024-25 and 2025-26. Grants will be released to RLBs in two equal instalments each year in June and October after ascertaining the entry level benchmarks and other prescribed requirements.

## Role of professionals/ Chartered Accountants

- Chartered Accountants (CAs) may support Local Bodies in **building capacity of accounts/ finance staff of local bodies** and strengthen them internally to comply with the conditions prescribed by FC related to timely availability of accounts in public domain online by providing them required **guidance/ trainings** on

various aspects such as preparation of accounts as per applicable accounting framework in accordance with changing operative environment, online accounting platform, generation of financial reports, etc.

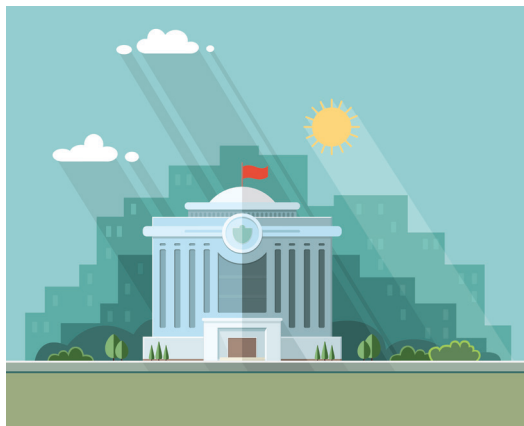
- CAs may support local bodies in **auditing the accounts of local bodies/** its programmes/ funds so as to strengthen control mechanism, ensuring that the resources or public funds are being utilised efficiently and effectively and the financial statements depict true and fair view of state of affairs (financial position and financial performance) of local bodies. Few states (such as Chhattisgarh, Madhya Pradesh, Rajasthan, Sikkim, etc.) are also engaging CAs for preparation of accounts, audit and certification of accounts. CAs may also support in budgeting and efficient & smooth functioning of day to day operations of local bodies.

- CAs may **guide local bodies in implementing ongoing accounting reforms** (such as migration of accounts of ULBs from cash to accrual accounting system), sustain new system (where accrual accounting has already been

implemented in local bodies), improve financial reporting and public financial management of local bodies that will help them in better service delivery and decision making thereby reaping benefits of accounting reforms.

- CAs may also support State Authorities (Urban Development Department or Department of Municipal Administration) in suitably amending their respective States Municipal/ Municipality Acts (required if any) so as to incorporate relevant legal mandate to enable them for smooth implementation of accounting reforms, etc. Here, it may be mentioned that in case of RLBs, 40% untied grant (of XV FC) which can be used by them for felt needs under the 29 subjects enshrined in the Eleventh Schedule, except for salaries and other establishment costs; **the expenditure required for auditing of accounts by external agencies approved by the State Government, may be borne from this grant.**

Involvement of Chartered Accountants at the lowest tier of the Government will enable Local Bodies in fulfilling the entry level conditions of the XV FC for the grants timely qualifying them to obtain the grants for their developmental initiatives. ■■■



## IBBI Tightens Reporting Framework to Monitor Delays

The Insolvency and Bankruptcy Board of India (IBBI), to get a better handle on the delays in completion of activities under the Corporate Insolvency Resolution Process (CIRP), has now introduced reporting mechanisms to address this issue. Responsibilities have been cast on the interim resolution professional/ resolution professional (IRP/RP) to report within three days to IBBI their failure to complete specified activities under such a process. The activities for which reporting has been made mandatory include failure to make public announcement as per prescribed timelines and failure to complete CIRP within 180 days from the insolvency commencement date. There is also now an obligation to report to the Board on continuing basis every 30 days till its completion. The said failure and continuing failures are required to be reported to the Board in Form CIRP-7. From time to time, IBBI has been taking steps to ensure that CIRPs get completed in a time bound manner. The Insolvency and Bankruptcy Code requires a CIRP to be completed in 180 days.

Meanwhile, IBBI has amended Form C – which was required to be submitted by the financial creditors to the IRP/RP to stake their claims against the corporate debtors – to include the claims under the corporate guarantees issued by the corporate debtors. Also, an obligation has been cast on the financial creditors to report to IRP/RP satisfaction of such claims, whether in full or in part, from any source. Further, the IBBI has introduced a new form namely ‘CIRP-7’; if the activity mentioned in the regulation is not completed within the specified timelines.

(Source: <https://www.thehindubusinessline.com/>)

## MCA notifies the commencement date on which Section 23(i) of the Companies (Amendment) Act, 2017 will come into force

The Ministry of Corporate Affairs (MCA) notified the commencement date on which Section 23(i) of the Companies (Amendment)

Act, 2017 will come into force. The date on which the Section 23(i) of the Companies (Amendment) Act, 2017 will come into force is 5 March, 2021. Section 23(i) seeks to amend section 92 of the Companies Act, 2013 wherein the words “indicating their names, addresses, countries of incorporation, registration and percentage of shareholding held by them” were omitted. After the proviso, the proviso “Provided further that the Central Government may prescribe abridged form of annual return for “One Person Company, small company and such other class or classes of companies as may be prescribed” shall be inserted.

(Source: <https://www.taxscan.in/>)

## MCA: 324 Companies filed for Bankruptcy in Three Years up to 2020

As per data by NCLT, 8,330 applications in the year 2018; 12,091 applications in the year 2019 and 5,282 in the year 2020 were filed under the IBC. Anurag Singh Thakur, Union Minister of State for Finance & Corporate Affairs stated that as per data provided by the National Company Law Tribunal (NCLT), 149 in the year 2018, 103 in the year 2019 and 72 in the year 2020 making a total of 324 companies which have filed for bankruptcy during the aforesaid three years period. Giving more details, the Minister stated, as per data provided by the NCLT, 8,330 applications in the year 2018, 12,091 in the year 2019 and 5,282 in the year 2020 were filed under the IBC. Therefore, it appears that number of applications have not increased over the last three years. As per the Companies Act 2013, companies are required to hold Annual General Meeting (AGM) within six months from the end of financial year. Therefore, financial statements and board report containing disclosure about CSR, are to be filed in MCA21 data base within 30 days of the AGM. Thus, for the current financial year no filing has been made by CSR mandated companies.

(Source: Bottom of Form <https://www.indiaonline.com/>)

# International Update

## IFAC Convenes Leadership of Global Accountancy Profession to Progress Sustainability Agenda

The International Federation of Accountants (IFAC) recently convened over 150 chief executives and senior leaders of professional accountancy organizations around the world, together with its Board of Directors, to discuss critical issues relevant to the future of the accountancy profession. A key focus of the meetings was hearing from key stakeholders on the future of corporate and sustainability-related reporting, and how these fit into the broader context of sustainable business and finance, where professional accountants will need to play a pivotal leadership role based on their core competencies and ethical codes. IFAC recently issued a letter to its member organizations outlining its corporate and sustainability-related reporting agenda.

(Source: <https://www.ifac.org/>)

## IFAC Supports IFRS Foundation's Work on Sustainability

IFAC supports next steps and strategic direction recently announced by the IFRS Foundation in its ongoing consideration of whether to establish a new Sustainability Standards Board (SSB) alongside the IASB and under the existing governance structure of the IFRS Foundation. IFAC welcomes the engagement of IOSCO in this important initiative, as outlined in the IFRS Trustee statement as well as in IOSCO's February 24 media release.

IFAC supports that new SSB should focus on information material to decisions of investors and other providers of capital and that the new board would initially focus its efforts on climate-related reporting, while also working toward meeting the information needs of investors on other ESG (environmental, social and governance) matters. Also, that a building blocks approach facilitates both the use of existing standards and frameworks (including TCFD) and the flexibility for coordination on reporting requirements that capture wider sustainability impacts, as IFAC articulated in its Way Forward roadmap.

(Source: <https://www.ifac.org/>)

## IFAC and IESBA Reach Key Milestone in Delivering Ethics and Independence Resource

IFAC recently completed its inaugural series—*Exploring the IESBA Code*—a unique, educational resource developed in collaboration with the staff of the International Ethics Standards Board for Accountants (IESBA). Launched in November 2019, each installment of the series highlights important concepts and topics in the *International Code of Ethics for Professional Accountants (including International Independence Standards)*.

The final installment, released recently, explains the “building blocks” structure of the Code and its interconnected nature. This installment is intended to help readers better understand how to use and navigate the Code so that they can quickly identify and access the ethics and independence standards and guidance relevant to them. Other topics covered in the series include: the fundamental principles, the conceptual framework, auditor independence, conflicts of interest, inducements, non-compliance with laws and regulations (NOCLAR), pressure, and the role and mindset expected of the professional accountant with a focus on bias.

(Source: <https://www.ifac.org/news>)

## ASB Discusses Covid-19-related Rent Concessions at Supplementary March 2021 Board meeting

A supplementary International Accounting Standards Board meeting was held on 10 March 2021 to redeliberate the proposals in the February 2021 Exposure Draft *Covid-19-Related Rent Concessions beyond 30 June 2021* (Proposed Amendment to IFRS 16). A full summary of the Board's supplementary meeting is available in the Supplementary IASB Update March 2021—covid-19-related rent concessions.

(Source: <https://www.ifrs.org/>)

## Climate Change Disclosure Comments Sought by SEC

Securities and Exchange Commission (SEC) asked the public to comment on its disclosure rules and guidance related to climate change disclosures as the commission's staff undergoes a review of those rules. The request for comments reflects an increased focus on climate-related disclosures. The SEC is making the push as some investors are showing increased interest in disclosures on climate change and ESG issues. Comments are sought by June 13.

(Source: <https://www.ifrs.org/>)

## PCAOB –Improving Communications with Audit Committees

The PCAOB has greatly improved communications with audit committees in recent years, but taking the further step of including corporate financial executives in inspection discussions would assure that all relevant parties are fully informed. Perhaps many or even most of those conversations would not raise issues requiring direct management attention. There may be good reasons for management not to participate in certain cases. But allowing management to participate would ensure full transparency of this process and that its benefits are realized by all relevant stakeholders.

(Source: <https://www.accountingtoday.com/>)

## IESBA Releases Additional Guidance on its Proposed Definition of a Public Interest Entity

The IESBA recently released a new staff publication providing additional context to the Board's recently proposed revisions to the definition of a public interest entity (PIE). This staff publication supplements the guidance material in the explanatory memorandum of the Exposure Draft *Proposed Revisions to the Definitions of Listed Entity and Public Interest Entity in the Code* (PIE ED), which was released in January. This staff publication will assist local regulators, national standard setters or other relevant local bodies in considering and planning adoption of the revised PIE definition when finalized and issued by the IESBA. The IESBA recognizes that there may be refinements to the proposals as a result of the comments received on exposure. In addition to the staff publication, the IESBA will provide two opportunities on March 25 and 29 for stakeholders to attend a webinar to learn more about the proposals in the PIE ED. Register for either one of the webinars <https://www.ethicsboard.org/news-events/2021-02/iesba-hold-global-webinars-its-proposals-redefine-public-interest-entity-pie>. Visit IESBA website to download the staff publication.

(Source: <https://www.ethicsboard.org/>)

## IRBA Refocuses Strategy to Enhance Audit Quality

South Africa's Independent Regulatory Board for Auditors (IRBA) has refocussed its strategy with

the aim of enhancing audit quality and to address gaps in the audit profession and the broader financial reporting ecosystem. The South African audit profession has faced a number of challenges in recent years following several high-profile corporate and audit failures. IRBA addressed its new strategy in a letter to the National Treasury, in which it highlighted that, despite the challenges of recent years, there is broad consensus that auditors remain a key stakeholder in protecting the interests of the investing public and are an important contributor in attracting 'much needed' investments into the country.

(Source: <https://www.internationalaccountingbulletin.com/>)

## Sponsored Content: Dynamic Leader Sought for IESBA Chair

A global search is on for a highly qualified individual to be the next Chair of the International Ethics Standards Board for Accountants (IESBA). An executive with significant and senior experience is sought for who will be well recognized within the professional and regulatory communities. Candidates from a wide range of relevant backgrounds, including but not limited to regulatory, business, investor, corporate governance, the accountancy and legal professions, and academia, are encouraged to apply. The IESBA Chair is a full-time executive position with an initial appointment for a three-year term that could be renewed for a total tenure of nine years. The official start date is January 1, 2022 with the transition period starting as early as September 2021. Extensive international travel is expected for this position to ensure effective collaboration with all key stakeholders and to promote IESBA and its work.

An essential element of the IESBA Chair's role is to ensure that the activities of the IESBA maintain a public interest focus while developing high-quality ethics, including independence, standards for the global accountancy profession. The IESBA Chair must be independent from the audit profession and exercise his/her duties without any undue professional, political or economic influence. To learn more about this opportunity, please review the complete job description at IFAC website and apply by April 30, 2021.

(Source: <https://www.internationalaccountingbulletin.com/>)



## ACCOUNTANT'S BROWSER

### "PROFESSIONAL NEWS & VIEWS PUBLISHED ELSEWHERE"

*Index of some useful articles taken from Periodicals received for the reference of Faculty/Students & Members of the Institute.*

#### 1. Accountancy

CPA exam gets refresh after practice analysis: Material with greater emphasis on business processes and data analytics will be tested beginning July 1 by Ken Tysiac. *Journal of Accountancy*, January 2021, pp.30-33.

Ind AS/IGAAP- interpretation & practical application : Accounting for cross holding by Dolphy D'souza. *Bombay Chartered Accountant Journal*, Vol.52-B/5, February 2021, pp.75-76.

#### 2. Auditing

Advice from the experts: Defending audit claims by Deborah K. Rood. *Journal of Accountancy*, January 2021, pp.12-13.

Long form audit report for banks gets even longer by Zubin F. Billimoria. *Bombay Chartered Accountant Journal*, Vol.52-B/5, February 2021, pp.15-21.

#### 3. Economics

Effective exchange rate indices of the Indian rupee. *R.B.I. Bulletin*, Vol.75/01, January 2021, pp.35-47.

Market structure, institutional quality and bank capital ratios: Evidence from developing countries by Oyebola Fatima Etudaiye-Muhtar and Zayyad Abdul-Baki. *European Journal of Management and Business Economics*, Vol.30/1, 2021, pp.92-102.

Rural economic growth and emerging pattern of rural towns by Niti Mehta. *Economic & political weekly*, Vol.56/5, 30, January 2021, pp.44-51.

#### 4. Investment

SEBI and green investing bonds green and blue, let's give them their due by Pradeep Ramakrishnan and Richa Agarwal. *Chartered Secretary*, Vol.51/02, February 2021, pp.60-63.

Spillover effects in the financial year cycle for Indian markets by Parul Bhatia. *Asian Journal of Accounting Research*, Vol.6/1, 2021, pp.38-54

#### 5. Law

Role of Independent directors-Bhishma way or Jatayu Way by Sudhakar Saraswatula. *Chartered Secretary*, Vol.51/02, February 2021, pp.99-104.

#### 6. Management

Building a truly effective D&I initiative: Establishing a strong diversity and inclusion program takes time effort and above all commitment from top leadership by Amanda Abrams. *Journal of Accountancy*, January 2021, pp.20-23.

Corporate governance in India-Concept, compliance and the way forward by Raju Iyer and Rakesh Shankar Ravisankar. *Chartered Secretary*, Vol.51/02, February 2021, pp.83-86.

#### 7. Taxation and Finance

Taxability of private trusts income-Some issues by Rakesh Gupta. *Bombay Chartered Accountant Journal*, Vol.52-B/5, February 2021, pp.11-13.

**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](mailto:library@icai.in).**

# Legal Decisions

## Income Tax



**LD/69/121, [Delhi High Court: ITA 1007/2019], Principal Commissioner of Income Tax Vs. M/s Cinestaan Entertainment Pvt. Ltd., 01/03/2021**

Addition of ₹ 90.95 crores was made under section 56(2)(viib) after rejecting a share valuation report submitted by the assessee. ITAT had deleted the said addition against which the Revenue had preferred an appeal before the Delhi High Court. High Court dismissed Revenue's appeal thereby accepting assessee's share valuation report based on DCF method. High Court held that there was no substantial question of law arising from the appeal and observed that Revenue's approach of challenging the projections when not met with the performance to reject the valuation of shares lacks material foundation and is irrational. High Court noted that shares were subscribed by the third party investors and if they have seen certain potential and accepted this valuation, "then Appellant-Revenue cannot question their wisdom. High Court declined to interfere in the matter urged by Revenue.

**LD/69/122, [I.T.A. No. 70 of 2015], V.S. Chandrashekar Vs. Assistant Commissioner of Income Tax, 02/02/2021**

Section 50C is not applicable to sale of 'rights or interests in land'. Assessee only held 'rights' in property pursuant to purchase agreement entered with vendor in 2005 (whereby assessee certain consideration but neither the possession of the land) nor a Power of Attorney was executed in favour of assessee) and thereafter said 'rights' were merely sold. As per High Court Section 50C uses 'land' instead of the term 'immovable property' as used in explanation 1 to Section 2(47) and wherever the legislature intended to expand the meaning of land to include rights/ interests in land, it had said so specifically. High Court however remitted ITAT to decide afresh on issue of chargeability of income from sale of rights in land as 'business income' or 'capital gains'.

**LD/69/123, [I.T.A. No. 1923/Bang/2018], Jt. Commissioner of Income Tax Vs. M/s United Spirits Limited, 5/02/2021**

Assessee company sold certain shares held in its subsidiary incorporated at British Virgin Islands, which were shown under investments in the financial statements of the assessee. AO held the sale to be an income from business rather than income under the head of Capital Gains. CIT(A) ruled in favour of assessee which order was upheld by the ITAT. ITAT referred to office memorandum dated December 13, 2005 laying down guidelines for distinction between shares held as stock-in-trade or investment and Circular No.6/2016 dated February 29, 2016 wherein emphasis is given on treatment done by the assessee in the books for determining treatment of income from sale of shares.

**LD/69/124, [Delhi High Court: I.T.A. 23/2021], PCIT (Central) – 3 Vs. Anand Kumar Jain, 12/02/2021**

Delhi High Court held that standalone statement of a person other than the assessee recorded under section 132(4) would not constitute incriminating material for assessment under section 153A. Revenue had framed assessment order under section 153A on the assessee based on statement of another person who had stated that he had provided accommodation entries to the assessee. As per the Court, such statement forms the foundation of the assessment, but alone cannot justify the additions made by the AO. Revenue had found no incriminating material during search on premises of the assessee. High Court ruled in assessee's favour.

**LD/69/125, [I.T.A. No. 918/Del/2010], ACIT Vs. EEL Hotels & Investments Ltd., 16/02/2021**

Sum paid by the assessee to terminate the operator-cum-management agreement with ITC Ltd. and for acquiring operating rights of the hotel held to be revenue expenditure. ITC Ltd. had entered into an agreement with assessee for possession, control, and management of a hotel property owned by assessee, which was terminated due to prolonged litigation and commercial expediency. ITAT held that it was not a case where the assessee was acquiring for the first time something which it did not otherwise own or possess. It was, thus, a change in the method of earning profits from the hotel and not a transfer of any asset.

Contributed by CA. Sahil Garud, GST & Indirect Taxes Committee (CA. Mandar Telang), Disciplinary Directorate and ICAI's Editorial Board Secretariat. For details please visit Editorial Page webpage at <https://www.icai.org/post/editorial-board>. Readers are invited to send their comments on the selection of cases and their utility at [ebboard@icai.in](mailto:ebboard@icai.in). For full judgement write to [ebboard@icai.in](mailto:ebboard@icai.in).

# Legal Update

## ***LD/69/126, [I.T.A. No. 405/Bang/2020], Shri Krishnappa Jayaramaiah Vs. Income Tax Officer 22/02/2021,***

Assessee along with his legal heirs sold property and claimed deduction under section 54F by investing the sale proceeds in a residential property, purchased in the name of his widowed daughter. AO denied Section 54F benefit stating that it could be claimed only in the name of the assessee. ITAT observed that the widowed daughter has no source of income and is dependent on assessee. ITAT stated that since the provisions permit economic growth has to be interpreted liberally, restriction on it too has to be construed so. ITAT ruled in favour of assessee.

## ***LD/69/127, [I.T.A. No. 4801/Del/2016], Energy Infratech Pvt. Ltd. Vs. DCIT, 23/02/2021***

Assessee, engaged in engineering consultancy and power generation, has a subsidiary in USA – Energy Infratech Inc. (EII) engaged in procuring consultancy assignments for assessee on commission basis or on reimbursement of actual expenses. Disallowance was made by AO on the grounds that EII claims concerned amount as deduction while filing its income-tax return in the US and also that the payments are covered by Section 9(1)(i) and 9(1)(vii) and accordingly attracts withholding obligations under section 194H. CIT(A) departed from AO's reasoning and upheld the disallowance on some other grounds. ITAT held that the assessee enjoys the right of 'Limited Finality' against the assessment order where CIT(A) departs from the reasoning provided by the AO for disallowing an item. ITAT remitted the matter back to AO for allowing the assessee to make submissions on reasoning adopted by CIT(A).

## ***LD/69/128, [I.T.A. No. 316/Del/2019], Rockland Diagnostics Vs. Income Tax Officer, 25/02/2021,***

Revenue held to be not justified in rejecting assessee-company's share-valuation report under DCF method merely on the ground that the projected results did not match the actual results. DCF Method of valuation was disregarded by the Revenue and the entire share premium of ₹1.07 crore was added by invoking Section 56(2)(viib). Apart from stating that year-wise projected results do not match with the actual results, Revenue

has not pointed out any specific inaccuracies or shortcomings. Separately, ROC fees paid held to be a preliminarily expenditure within the meaning of Section 35D. ITAT ruled in favour of the assessee.

## ***LD/69/129, [I.T.A. No. 3667/Del/2017], DCIT Vs. Azalea Infrastructure Pvt. Ltd., 28/02/2021***

Short term capital loss (STCL) arising from the forfeiture of money paid against share warrants issued by IndiaBulls Power Ltd, allowed by ITAT. Assessee claimed that it acted as a conduit for transfer of funds as capital receipt in the hands of Indiabulls Power Ltd. within the group companies. ITAT noted Revenue's explanation that money was converted as free reserve in the hands of Indiabulls Power Ltd. by way of transfer from Indiabulls Infrastructure Ltd through another company and then into four different entities of the same group (including the assessee-company herein) which chose not to subscribe to the shares of IndiaBulls Power Ltd. and collectively incurred a joint loss of ₹ 304.50 crores booked as reserve and surplus by Indiabulls Power Ltd. ITAT held that it is not the assessee who is to be taxed in its hands, as the real beneficiary is India bulls Power Ltd. Thus, forfeiture of convertible warrant resulting into extinguishment of assessee's right was held as transfer under section 2(47), based on which the claim of STCL was allowed.

## ***LD/69/130, I.T.A. No. 1086/JP/2019, Special Judge Court SC/ST Vs. ITO (TDS), 28/02/2021***

ITAT upheld levy of late fees u/s 234E for delayed filing of TDS returns for AY 14-15, i.e. for the period prior to the machinery provision for Sec. 234E coming into effect. ITAT however however, restricts levy only from June 1, 2015 (i.e. the date of Sec. 200A amendment enabling Sec. 234E fee collection) to the date of actual filing of TDS return (October 2017). ITAT held that where the TDS statements have been filed after 01.6.2015 and processing thereof happens and intimation issued thereafter, the Assessing Officer is well within his jurisdiction to levy fees under section 234E. However relying on co-ordinate bench ruling in Uttam Chand Gangwal, ITAT deletes fees for the period prior to June 1, 2015.



## GST

**LD/69/131, [2021-TIOL-442-HC-MP-GST], Robbins Tunnelling and Trenchless Technology (India) Pvt Ltd Vs. The State of MP and Others, [04-02-2021]**

Where the movement of goods is otherwise supported by proper documents, a clerical/procedural mistake in the preparation of the E-way Bill should not attract tax and penalty and would qualify for a minor penalty under CBIC Circular No. CBEC/20/16/03/2017-GST dated 14-9-2018.

On consideration of the submissions made and on the relevant provisions of the GST Act, the Hon'ble Court found that the respondents are not justified in rejecting the appeal of the petitioner on the ground that the mistake committed while generating the E-way bill, was not a clerical error or a small mistake. Accordingly, the respondents were directed to consider the case of the petitioner for the imposition of a minor penalty, treating it to be a clerical mistake, as per Circular, dated 14-9-2018 No. CBEC/20/16/03/2017-GST issued by the Ministry of Finance.

## SERVICE TAX

**LD/69/132, [2021-TIOL-159-CESTAT-DEL-LB], Kafila Hospitality and Travels Pvt. Ltd. Vs. Commissioner Service Tax, New Delhi, 18/03/2021**

Larger Bench of Hon'ble Delhi CESTAT held that the air travel agent is promoting its own business and is not promoting the business of the airlines and that the air travel agent is not promoting the business of the CRS Companies. It also held that the classification of the service would fall under "air travel agent" service and not "BAS" in terms of the provisions of section 65A of the Finance Act. It further held that the incentives paid for achieving the targets are not leviable to service tax.

## EXCISE

**LD/69/133, [2021-TIOL-619-HC-MAD-CX], M/s Paramount Vijetha Holdings Vs. (1) The Customs, Excise & Service Tax Settlement Commission (2) The Commissioner of Central Tax, 04/03/2021**

If the appellant is the assessee in the State of Karnataka and the office of the Settlement Commission passing the impugned order is located in Madras, the appropriate Court for the purpose of entertaining the writ jurisdiction would be the High Court of Karnataka and not the High court of Madras.

## Disciplinary Case



**Mis-match in the figures of annual progress report (APR) of the Company certified by the Respondent for the year 2009-10 as compared to the revised APR of the said period certified by another professional -- Held, Respondent is Guilty of professional misconduct falling within the meaning Clause (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.**

### Held:

In the instant case, the charge against the Respondent relates to reporting of Net Foreign Exchange earning in the APR as required under Chapter VI

of the DGFT. The Committee noted that despite of the availability of the audited Balance Sheet, the Respondent issued the certificate in question based on compilation of certain figures being certified by another professional. The Committee further observed that the Respondent did stock valuation on "Cost Basis" as against the methodology already prescribed in AS-2 and therefore, it resulted into variation in the value of the stock in relation to the APR being issued. This action on the part of the Respondent also resulted into non-compliance with the requirements of the applicable Accounting Standard as well. Therefore, the Committee while looking the matter, documents on record and the conduct of the Respondent, was of the opinion that the Respondent was grossly negligent while issuing the certificate in question. In view of above noted facts, the Committee was of the opinion that the Respondent guilty of professional misconduct falling within the meaning Clause (7) of Part I of First Schedule to the Chartered Accountants Act, 1949.



## Circulars/Notifications

*Given below are summarised important Circulars and Notifications issued by the CBDT, CBIC-GST, MCA, SEBI and FEMA since the publication of the last issue of the journal, 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. Suggestions on this column can be submitted at [eboard@icai.in](mailto:eboard@icai.in)*

### DIRECT TAXES



#### I. NOTIFICATIONS

**1. Tolerance limit of 1% in case of wholesale trade and 3% in other cases notified for the purpose of computation of arm's length price under third proviso to section 92C(2) read with proviso to Rule 10CA(7) - Notification No. 83/2020, dated 19-10-2020**

The Central Government has, notified that where the variation between the arm's length price determined under section 92C and the price at which the international transaction or specified domestic transaction has actually been undertaken does not exceed one percent of the latter in respect of wholesale trading and three percent of the latter in all other cases, the price at which the international transaction or specified domestic transaction has actually been undertaken shall be deemed to be the arm's length price for Assessment Year 2020-2021.

Refer: [https://www.incometaxindia.gov.in/communications/notification/notification\\_83\\_2020.pdf](https://www.incometaxindia.gov.in/communications/notification/notification_83_2020.pdf)

**2. Rule 67 pertaining to investment of fund moneys amended vide the Income-tax (23<sup>rd</sup> Amendment) Rules, 2020 w.e.f. AY 2021-22 – Notification No. 84/2020, dated 22-10-2020**

Vide this Notification, CBDT has amended Rule 67 of the Income-tax rules, 1962 and has provided that in the fifth, eighth and eleventh proviso, for the letters "AA", the letter "A" shall be substituted.

Refer: [https://www.incometaxindia.gov.in/communications/notification/notification\\_84\\_2020.pdf](https://www.incometaxindia.gov.in/communications/notification/notification_84_2020.pdf)

**3. Payment Date Extended for Vivad se Vishwas Scheme to 31.03.2021 – Notification No. 85/2020, dated 27-10-2020**

Vide this Notification, the Government has further extended the date for making payment without additional amount from 31.12.2020 to 31.03.2021. The last date for making declaration under the

Scheme has also been notified as 31.12.2020. In other words, the declaration under the Vivad se Vishwas Scheme shall be required to be furnished latest by 31.12.2020, however, only in respect of said declarations made by 31.12.2020 the payment without additional amount can now be made up to 31.03.2021.

Refer: [https://www.incometaxindia.gov.in/communications/notification/notification\\_85\\_2020.pdf](https://www.incometaxindia.gov.in/communications/notification/notification_85_2020.pdf)

**4. Central Government amends the Equalisation levy Rules, 2016 – Notification No. 87/2020, dated 28-10-2020**

The Equalisation levy Rules, 2016 have been substantially amended vide the Equalisation levy (Amendment) Rules, 2020 w.e.f. 28.10.2020. Relevant Form No. 1, 3 and 4 have also been substituted.

Refer: [https://www.incometaxindia.gov.in/communications/notification/notification\\_87\\_2020.pdf](https://www.incometaxindia.gov.in/communications/notification/notification_87_2020.pdf)

**5. Central Government specified the sovereign wealth fund, namely, the MIC Redwood 1 RSC Limited, Abu Dhabi, United Arab Emirates, as the specified person for the purposes of section 10(23FE) – Notification No. 89/2020, dated 02-11-2020**

MIC Redwood 1 RSC Limited, Abu Dhabi, UAE has been specified in respect of the investment made by it in India on or after the date of publication of this notification in the Official Gazette but on or before 31.03.2024 subject to the fulfilment of the conditions specified therein.

Refer: [https://www.incometaxindia.gov.in/communications/notification/notification\\_no\\_89\\_2020.pdf](https://www.incometaxindia.gov.in/communications/notification/notification_no_89_2020.pdf)

#### II. CIRCULARS

**1. Clarifications in respect of the Direct Tax Vivad se Vishwas Act, 2020 - Circular No. 18/2020, dated 28-10-2020**

Vide this Circular, the CBDT has clarified that where a declarant files a declaration under

(Matter on Direct and Indirect Taxes, is contributed by Direct Taxes Committee, GST & Indirect Taxes Committee and Corporate Laws and Corporate Governance Committee of ICAI respectively. FEMA updates by CA. Manoj Shah, CA Hinesh Doshi and CA. Sudha G. Bhushan)

Vivad se Vishwas on or before 31.12.2020, the designated authority, while issuing the certificate under section 5(1) of the Vivad se Vishwas, shall allow the declarant to make payment without additional amount on or before 31.03.2021. This has been done to mitigate undue hardship and remove difficulty that may be caused by the earlier requirement of payment within 15 days from the date of receipt of certificate from the designated authority.

Refer: [https://www.incometaxindia.gov.in/communications/circular/circular\\_18\\_2020.pdf](https://www.incometaxindia.gov.in/communications/circular/circular_18_2020.pdf)

## **2. Condonation of delay under section 119(2)(b) in filing of Form No. 10BB for AY 2016-17 and subsequent years - Circular No. 19/2020, dated 03-11-2020**

Vide this Circular, the CBDT has *inter alia* directed that in all the cases of belated applications in filing of Form No. 10BB for years prior to AY. 2018-19, the CIT are authorised to admit such applications for condonation of delay u/s 119(2)(b). The CIT will while entertaining such applications regarding filing Form No. 10BB shall satisfy themselves that the applicant was prevented by reasonable cause from filing such application within the stipulated time. Further, all such applications shall be disposed of by 31.03.2021.

Refer: [https://www.incometaxindia.gov.in/communications/circular/circular\\_19\\_2020.pdf](https://www.incometaxindia.gov.in/communications/circular/circular_19_2020.pdf)

## **III. PRESS RELEASES/INSTRUCTIONS/OFFICE MEMORANDUM/ORDER**

### **1. Order for exercising power of intrusive or coercive action for recovery of tax demand by Assessing Officers (AO) or Tax Recovery Officers (TRO) – Order u/s 119, dated 16-10-2020**

Vide this Order, CBDT has directed that any AO or TRO, who are authorised under the Income-tax Act, 1961 to carry out the functions related to recovery of arrear or 'current tax demand', may carry out these functions as per Provisions of Chapter XVII and the Second Schedule of the Income -tax Act, Income Tax Rules, Manuals and Guidelines issued earlier in this regard. However, while taking intrusive and coercive action for recovery of taxes, specified guidelines as per this Order should be kept in mind. Further, a Corrigendum dated 19.10.2020 is also issued in this regard.

Refer: [https://www.incometaxindia.gov.in/Lists/Latest%20News/Attachments/422/Order\\_US119\\_ITA\\_for\\_exercising\\_power\\_intrusive\\_coercive\\_action\\_16\\_10\\_20.pdf](https://www.incometaxindia.gov.in/Lists/Latest%20News/Attachments/422/Order_US119_ITA_for_exercising_power_intrusive_coercive_action_16_10_20.pdf)

### **2. Order for exercising power of survey u/s 133A and in pursuance of The Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 – Order u/s 119, dated 19-10-2020**

Vide this Order, CBDT has issued guidelines for exercising power of survey u/s 133A of the Income-tax Act, 1961 and in pursuance of The Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020. The guidelines have been issued to: (a) TDS Charges, (b) Central Charges, (c) International Taxation division, (d) NeAC/NFAC Units, (e) Exemption Charge, and (f) I&CI Charge.

Refer: [https://www.incometaxindia.gov.in/Lists/Latest%20News/Attachments/424/Order\\_us\\_119\\_ITAct\\_1961\\_Misc\\_20\\_10\\_20.pdf](https://www.incometaxindia.gov.in/Lists/Latest%20News/Attachments/424/Order_us_119_ITAct_1961_Misc_20_10_20.pdf)

### **3. of due date of furnishing of Income Tax Returns and Audit Reports – Press Release, dated 24-10-2020**

Vide this Press Release, the CBDT has extended the due date to file ITR Forms and Audit Reports for AY 2020-21. The due dates have been *inter alia* extended to 31.01.2021 and 31.12.2020 for various specified cases of tax payers.

Refer: [https://www.incometaxindia.gov.in/Lists/Press%20Releases/Attachments/864/PressRelease\\_Extension\\_of\\_due\\_date\\_of\\_furnishing\\_of\\_IITR\\_and\\_Audit\\_Reports\\_24\\_10\\_20.pdf](https://www.incometaxindia.gov.in/Lists/Press%20Releases/Attachments/864/PressRelease_Extension_of_due_date_of_furnishing_of_IITR_and_Audit_Reports_24_10_20.pdf)

### **4. Income-tax Exemption for payment of deemed LTC fare for non-Central Government employees – Press Release, dated 29-10-2020**

In order to provide the benefits to other employees (i.e. non-Central Government employees) who are not covered, it has been decided by the Government to provide similar income-tax exemption for the payment of cash equivalent of LTC fare to the non-Central Government employees also. Accordingly, the payment of cash allowance, subject to maximum of ₹ 36,000 per person as Deemed LTC fare per person (Round Trip) to non-Central Government employees, shall be allowed income-tax exemption subject to fulfilment of conditions as specified in this Press Release.

Refer: <https://www.incometaxindia.gov.in/Lists/Press%20Releases/Attachments/870/Press-Release-IT-Exemption-for-payment-of-deemed-LTC-dated-29-10-2020.pdf>

### **5. Income Tax relief for Real-estate Developers and Home Buyers – Press Release, dated 13-11-2020**

Government has decided to increase the safe harbour from 10% to 20% u/s 43CA for the period

from 12.11.2020 to 30.06.2021 in respect of only primary sale of residential units of value up to ₹ 2 crore. Consequential relief by increasing the safe harbour from 10% to 20% shall also be allowed to buyers of these residential units under section 56(2)(x) for the said period. Therefore, for these transactions, circle rate shall be deemed as sale/purchase consideration only if the variation between the agreement value and the circle rate is more than 20%.

Refer: [https://www.incometaxindia.gov.in/Lists/Press%20Releases/Attachments/876/PressRelease\\_IT\\_relief\\_for\\_Real\\_estate\\_Developers\\_and\\_Home\\_Buyers\\_13\\_11\\_20.pdf](https://www.incometaxindia.gov.in/Lists/Press%20Releases/Attachments/876/PressRelease_IT_relief_for_Real_estate_Developers_and_Home_Buyers_13_11_20.pdf)



## GST

### Due Date for filing of Annual Return & Reconciliation Statement for the FY 2018-19 extended upto 31<sup>st</sup> December, 2020

CBIC vide Notification No. 80/2020- CT dt 28<sup>th</sup> October, 2020 has **extended** the time limit for furnishing of the Annual Return in Form GSTR-9 and Reconciliation Statement in Form GSTR- 9C specified under section 44 of the CGST Act read with Rule 80 of the CGST Rules, electronically through the common portal, for the financial year 2018-2019 till the 31<sup>st</sup> December, 2020.

### Amendment in section 39 of the CGST Act, 2017

The Central Government vide Notification No. 81/2020- CT dt 10<sup>th</sup> November, 2020 has appointed the **10<sup>th</sup> day of November, 2020**, as the date on which the provisions of Section 97 of the Finance (No. 2) Act, 2019 (23 of 2019) shall come into force.

### Thirteenth amendment (2020) to the CGST Rules, 2017

The Central Government vide Notification No.82/2020-CT dt 10<sup>th</sup> November, 2020 has made following amendments in the **Central Goods & Services Tax Rules, 2017** :

1. Substitution of Rules 59, 60 and 61 w.e.f. from the 1<sup>st</sup> day of January 2021
2. Insertion of Sub-Rule (6) to Rule 61- Form and manner of submission of monthly return
3. Insertion of Rule 61A- Manner of opting for furnishing quarterly return
4. Amendment in Rule 62- Form and manner of submission of statement and return

### 5. Amendment in Form GSTR-1 and insertion of Form GSTR-2B

#### Due date for filing of FORM GSTR1-

The Central Government vide Notification No.83/2020-CT dt 10<sup>th</sup> November, 2020 has notified the due dates for filing of Form-GSTR-1 w.e.f. 1<sup>st</sup> January, 2021 as under:-

| Sl. No. | Form GSTR-1   | Due Date  |
|---------|---|---|
| 1.      | For Monthly Return Filers   | 11 <sup>th</sup> day of the month succeeding such tax period  |
| 2.      | For the class of registered persons required to furnish return for every quarter under proviso to sub-section (1) of section 39 of the said Act | 13 <sup>th</sup> day of the month succeeding such tax period. |

### Notification of Class of Persons under Proviso to Section 39(1)

CBIC vide Notification No.84/2020-CT dt 10<sup>th</sup> November,2020 has notified the registered persons, other than a person referred to in section 14 of the IGST Act, 2017, having an aggregate turnover of up to ₹ 5 crore in the preceding financial year, and who have opted to furnish a return for every quarter, under rule 61A(1) as the class of persons who shall, furnish a return for every quarter from January, 2021 onwards, and pay the tax due every month in accordance with the proviso to section 39(7) of the CGST Act, namely: -

- (i) the return for the preceding month, as due on the date of exercising such option, has been furnished:
- (ii) where such option has been exercised once, they shall continue to furnish the return as per the selected option for future tax periods, unless they revise the same.
  - A registered person whose aggregate turnover crosses Rs. 5 crore during a quarter in a financial year shall not be eligible for furnishing of return on quarterly basis from the first month of the succeeding quarter.

- For the registered person falling in the class specified in column (2) of the Table below, who have furnished the return for the tax period October, 2020 on or before 30<sup>th</sup> November, 2020, it shall be deemed that they have opted under sub-rule (1) of rule 61A of the said rules for the monthly or quarterly furnishing of return as mentioned in column (3) of the said Table:-

TABLE

| Sl. No. | Class of registered person   | Deemed Option    |
|---------|--|------------------|
| (1)     | (2)  | (3)              |
| 1.      | Registered persons having aggregate turnover of up to 1.5 crore rupees, who have furnished <b>FORM GSTR-1</b> on quarterly basis in the current financial year | Quarterly return |
| 2.      | Registered persons having aggregate turnover of up to 1.5 crore rupees, who have furnished <b>FORM GSTR-1</b> on monthly basis in the current financial year   | Monthly return   |
| 3.      | Registered persons having aggregate turnover more than 1.5 crore rupees and up to 5 crore rupees in the preceding financial year                               | Quarterly return |

- The registered persons referred to in column (2) of the said Table, may change the default option electronically, on the common portal, during the period from 5<sup>th</sup> day of December, 2020 to 31<sup>st</sup> day of January, 2021.

Further, CBIC vide [Circular No.143/13/2020- GST dt 10<sup>th</sup> November, 2020](#) has issued few clarifications regarding **Quarterly Return Monthly Payment (QRMP) Scheme**.

**Notification of special procedure for making payment of 35% as tax liability in first two month**

CBIC vide Notification No.85/2020-CT dated 10<sup>th</sup> November, 2020 has notified the registered persons under proviso to section 39 (1) of the CGST Act, who have opted to furnish a return for every quarter or part thereof, as the class of persons who may, in first month or second month or both months of the quarter, w.e.f. 1<sup>st</sup> January, 2021, follow the special procedure such that the said persons may pay the tax due under proviso to section 39 (7) of the said Act, by way of making a deposit of an amount in the electronic cash ledger equivalent to, -

- 35 % of the tax liability paid by debiting the electronic cash ledger in the return for the preceding quarter where the return is furnished quarterly; or
- the tax liability paid by debiting the electronic cash ledger in the return for the last month of the immediately preceding quarter where the return is furnished monthly:

*Provided that no such amount may be required to be deposited-*

- for the first month of the quarter, where the balance in the electronic cash ledger or electronic credit ledger is adequate for the tax liability for the said month or where there is nil tax liability;
- for the second month of the quarter, where the balance in the electronic cash ledger or electronic credit ledger is adequate for the cumulative tax liability for the first and the second month of the quarter or where there is nil tax liability:

*Provided further that registered person shall not be eligible for the said special procedure unless he has furnished the return for a complete tax period preceding such month.*

*Explanation- For the purpose of this notification, the expression "a complete tax period" means a tax period in which the person is registered from the first day of the tax period till the last day of the tax period.*

**Rescindment of Notification 76/2020-CT dt 15.08.2020**

The Central Government vide [Notification No.86/2020-CT dt 10<sup>th</sup> November, 2020](#) has rescinded Notification 76/2020-CT dt 15.08.2020 wherein the due dates of furnishing the return in FORM GSTR-3B for October, 2020 to March, 2021 was prescribed.



## Extension of due date for furnishing of FORM ITC-04 for the period July- September 2020 till 30<sup>th</sup> November, 2020

The CBIC vide [Notification No.87/2020-CT dt 10<sup>th</sup> November,2020](#) has extended the time limit for furnishing the declaration in **FORM GST ITC-04**, in respect of goods dispatched to a job worker or received from a job worker, during the **period from July, 2020 to September, 2020 till the 30<sup>th</sup> day of November, 2020**.

This notification shall be deemed to have come into force with effect from the 25<sup>th</sup> day of October, 2020.

## Implementation of e-invoicing for the taxpayers having aggregate turnover exceeding Rs. 100 Cr from 1<sup>st</sup> January 2021

The Central Government vide [Notification No.88/2020-CT dt 10<sup>th</sup> November, 2020](#) has amended Notification No-13/2020- CT, dt 21<sup>st</sup> March, 2020 to **implement e-invoicing for the taxpayers having aggregate turnover exceeding Rs. 100 Crores from 1<sup>st</sup> January 2021** instead of ₹500 Crores.

## CUSTOMS

### Contactless delivery of international courier consignments

CBIC vide [Circular No. 47/2020-Customs dt 20<sup>th</sup> October, 2020](#) has decided to allow the delivery of international courier shipments, based on the OTP validation as follows:

- (i) Consignee gets OTP on their mobile number which has been registered with the authorised courier. The authorised courier should exercise due diligence to ensure that the mobile number belongs to the consignee at the time of registering the phone number.
- (ii) At the time of delivery, the authorised courier electronically validates the OTP from the consignee.
- (ii) Upon successful validation, the shipment is delivered as per the instructions of the consignee. In case of failure to validate the OTP, the consignment will not be delivered.

The OTP based validation will be an alternative means of obtaining proof of delivery to the existing procedure of taking physical signatures.



## Companies (Prospectus and allotment of securities) Rules 2020

The Ministry of Corporate Affairs via notification dated 16<sup>th</sup> October 2020 notified that Central Government has amended the Companies (Prospectus and allotment of securities) Rules, 2014, wherein in Rule 14, a proviso shall be inserted which states that “provided also that in case of offer or invitation of any securities to qualified institutional buyers, it shall be sufficient if the company passes a previous special resolution only once in a year for all the allotments to such buyers during the year.”

Refer: [http://www.mca.gov.in/Ministry/pdf/SecuritiesAmendmentRules\\_16102020.pdf](http://www.mca.gov.in/Ministry/pdf/SecuritiesAmendmentRules_16102020.pdf)

## Special measures under the Companies Act 2013 and LLP Act 2008 in view of COVID-19 outbreak

In continuation to the Ministry's General Circulars No. 11/2020 dated 24<sup>th</sup> March, 2020 it has been further clarified via Circular no. 36/2020 dated 20<sup>th</sup> October, 2020 that the non-compliance of minimum residency in India for a period of at least 182 days by at least one director of every company, under section 149 of the CA-1 3 shall not be treated as a non-compliance for the financial year 2019-20 and 2020-21 as well.

Refer: [http://www.mca.gov.in/Ministry/pdf/GeneralCircularNo.36\\_20102020.pdf](http://www.mca.gov.in/Ministry/pdf/GeneralCircularNo.36_20102020.pdf)

## Publication of notice under section 75 of the Limited Liability Partnership Act, 2008 read with Rule 37(2) of Limited Liability Partnership Rules, 2009

The Ministry of Corporate Affairs have issued a notice dated 28<sup>th</sup> October, 2020 which contains the list of 137 LLPs which have made an application along with the consent of all the partners for striking off/removal of its/their names from the Registrar of LLPs either on the grounds that they are not carrying on the business or operation for a period of one year or more.

Refer: [http://www.mca.gov.in/Ministry/pdf/NoticeLLP\\_28102020.pdf](http://www.mca.gov.in/Ministry/pdf/NoticeLLP_28102020.pdf)

## Sensitizing general Public about Nidhi Companies

In order to make regulatory regime for Nidhi Companies more effective and also to accomplish the objectives of transparency and investor friendliness in corporate environment of the country, the Central Government has amended the provisions of the Companies Act, 2013 and Nidhi Rules w.e.f 15<sup>th</sup> August, 2019 requires that

Companies have to apply to the Central Government for updation/declaration of their status as Nidhi Company.

In this regard, stakeholders have been advised to verify/ensure that the Nidhi Company in which they are planning to become member has been declared under the amended provisions as per the Companies Act, 2013.

Refer: [http://www.mca.gov.in/Ministry/pdf/NoticeNidhi\\_26102020.PDF](http://www.mca.gov.in/Ministry/pdf/NoticeNidhi_26102020.PDF)

## Extension of LLP Settlement Scheme, 2020

In continuation to the Ministry's General Circulars No. 13/2020 dated 30<sup>th</sup> March, 2020 and 31/2020 dated 28<sup>th</sup> September, 2020, the timeline for filing belated documents due for filing till 31<sup>st</sup> August 2020 has been extended to 30<sup>th</sup> November 2020 vide circular no 37/2020 dated 09<sup>th</sup> November, 2020. Accordingly, extension is also available for furnishing of financial statement for the F.Y. 2019-20.

Also, the statement of account and solvency for the financial year 2019-2020 which has been signed beyond the period of six months from the end of financial year but not later than 30<sup>th</sup> November, 2020, will not be deemed as non-compliance.

Refer: [http://www.mca.gov.in/Ministry/pdf/GeneralCircularNo.37\\_09112020.pdf](http://www.mca.gov.in/Ministry/pdf/GeneralCircularNo.37_09112020.pdf)

## • Companies (Specification of definitions details) Second Amendment Rules, 2021

Pursuant to the amendment brought out by the Companies (Amendment) Act, 2020 in Section 2(52) of the Companies Act, 2013 i.e. Definition of Listed Company, the Ministry of Corporate Affairs has inserted Rule 2A in the Companies (Specification of Definitions Details) Rules, 2014 to specify the classes of companies which are not considered as Listed Companies w.e.f. 1<sup>st</sup> April 2021.

An announcement in this regard, has also been hosted on the ICAI website. Link for the same has been given below: <https://resource.cdn.icai.org/63194clgc51148.pdf>

## • Planning to extend provisions of Companies Act, 2013 to LLP Act, 2008

The Ministry of Corporate Affairs has issued an announcement on 19<sup>th</sup> February, 2021 regarding planning of extension of few of the provisions of the Companies Act, 2013 with some modifications and adaptations, to the

LLP Act, 2008 vide its power drawn from Section 67(1) of the LLP Act, 2008.

The said provisions which are planned to be extended to LLP Act, 2008 are as follows:

- Register of significant beneficial owners in a company- [Section 90(1) to 90(11)]
- Disqualifications for Appointment of Director- [Section 164(1) & 164(2)]
- Number of Directorships- [Section 165(1), 165(3) to 165(6)]
- Vacation of Office of Director- [Section 167(1) to 167(3)]
- Power to Call for Information, Inspect Books and Conduct Inquiries- [Section 206(5)]
- Conduct of Inspection and Inquiry- [Section 207(3)]
- Appeal to Tribunal- [Section 252(1) to 252(3)]
- Offences to be Non-cognizable- [Section 439(1) to 439(4)]

An announcement in this regard, has also been hosted on the ICAI website. Link for the same has been given below: <https://resource.cdn.icai.org/63195clgc51149.pdf>

## • Commencement notification dated 05 March 2021

The Central Government has notified the provisions of clause (i) of section 23 of the Companies (Amendment) Act, 2017 w.e.f. 05<sup>th</sup> March 2021 i.e. the provisions of sections 92(1) of the Companies Act, 2013 relating to Annual Return.

An announcement in this regard, has also been hosted on the ICAI website. Link for the same has been given below: <https://www.icai.org/post/announcement-regarding-commencement-notification-of-the-provisions>

## • Companies (Management and Administration) Amendment Rules, 2021

The Central Government has amended the provisions of the Companies (Management and Administration) Rules, 2014 w.e.f. 05.03.2021.

Accordingly, w.e.f. 05.03.2021 every company, except OPC and small company, shall file its annual return in Form No- MGT-7 whereas OPC and small company shall file their annual return from FY 2020-21 in Form no- MGT-7A.

Further, the requirement of attaching the extract of the annual return with the Board's Report shall be in Form No. MGT-9 has been omitted in Rule 12 of the said rules.

Furthermore, in Rule 20, explanation-II has been inserted defining the terms- agency, cut-off date, cyber security, electronic voting system, remote e-voting, secured system, voting by electronic means.

An announcement in this regard, has also been hosted on the ICAI website. Link for the same has been given below: <https://www.icai.org/post/announcement-regarding-amendment-in-companies>

## • Companies (Incorporation) Third Amendment Rules, 2021

Ministry of Corporate Affairs has issued a notification on 05<sup>th</sup> March 2021, introducing Aadhar authentication facility for GSTIN Registration in Form INC-35 AGILE-PRO.

An announcement in this regard, has also been hosted on the ICAI website. Link for the same has been given below: <https://www.icai.org/post/announcement-regarding-introduction-of-aadhar-authentication>



## Schemes of Arrangement by Listed Entities and Relaxation under Sub-rule (7) of Rule 19 of the Securities Contracts (Regulation) Rules, 1957

SEBI vide Circular No. CFD/DIL3/CIR/2017/21 dated March 10, 2017 has laid down the framework for Schemes of Arrangement by listed entities and relaxation under Rule 19(7) of the Securities Contracts (Regulation) Rules, 1957.

Further vide circular no SEBI/HO/CFD/DIL1/CIR/P/2020/215 dated 3<sup>rd</sup> November 2020, the process for filing the draft schemes with the stock exchanges has been further streamlined. Therefore, certain amendments have been made to the aforesaid circular dated 10<sup>th</sup> March and the amendments so introduced have been provided in the annexure to this circular.

These amendments are aimed at ensuring that the recognised stock exchanges refer draft schemes to SEBI only upon being fully convinced that the listed entity is in compliance with SEBI Act, Rules, Regulations and circulars issued thereunder.

Furthermore, this Circular shall be applicable for all the schemes filed with the stock exchanges after November 17, 2020. The amendment indicated at Para 7 of the Annexure shall be applicable for all listed entities seeking listing and/or trading approval from the stock exchanges after November 3, 2020.

Refer: [https://www.sebi.gov.in/legal/circulars/nov-2020/schemes-of-arrangement-by-listed-entities-and-ii-relaxation-under-sub-rule-7-of-rule-19-of-the-securities-contracts-regulation-rules-1957\\_48064.html](https://www.sebi.gov.in/legal/circulars/nov-2020/schemes-of-arrangement-by-listed-entities-and-ii-relaxation-under-sub-rule-7-of-rule-19-of-the-securities-contracts-regulation-rules-1957_48064.html)

## SEBI extends the Settlement Scheme 2020

The Securities and Exchange Board of India (SEBI) on October 31, 2020 has issued a Public Notice in reference to its earlier Public Notice dated July 27, 2020 wherein SEBI has introduced the Settlement Scheme 2020 (the Scheme) which proposes to provide a onetime settlement opportunity to those entities that have executed trade reversals in the stock options segment of BSE during the period from April 01, 2014 to September 30, 2015.

The period of the Scheme commenced on August 01, 2020 and was to end on October 31, 2020. However, in view of the large scale disruption caused by Covid-19 pandemic, competent authority in the current Public Notice, extended such period of the Scheme till **December 31, 2020**.

Refer: [https://www.sebi.gov.in/media/public-notice/oct-2020/public-notice-in-respect-of-extension-of-the-sebi-settlement-scheme-2020\\_48049.html](https://www.sebi.gov.in/media/public-notice/oct-2020/public-notice-in-respect-of-extension-of-the-sebi-settlement-scheme-2020_48049.html)

## Non-compliance with provisions related to continuous disclosures

SEBI vide Circular No. SEBI/HO/DDHS/DDHS/CIR/P/2020/231 dated 13<sup>th</sup> November 2020, has laid down a similar uniform structure for imposing fines for non-compliance with continuous disclosure requirements by issuers of listed Non-Convertible Debt Securities and/ or NCRPS and/ or Commercial Papers as specified in Annexure I and Annexure II of this circular respectively.

However, the Stock Exchanges may deviate from the above, if found necessary, only after recording reasons in writing.

Refer: [https://www.sebi.gov.in/legal/circulars/nov-2020/non-compliance-with-provisions-related-to-continuous-disclosures\\_48171.html](https://www.sebi.gov.in/legal/circulars/nov-2020/non-compliance-with-provisions-related-to-continuous-disclosures_48171.html)

## • Extension of facility for conducting meeting(s) of unitholders of REITs and

### InvITs through Video Conferencing (VC) or through other audio-visual means (OAVM)

Securities and Exchange Board of India vide circular dated 26.02.2021 has extended the facility to conduct meetings of unit holders, through VC or OAVM for REITs/ InvITs as under:

- a) Annual meetings of unit holders in terms of Regulation 22(3) of SEBI (Real Estate Investment Trusts) Regulations, 2014 and Regulation 22(3)(a) of SEBI (Infrastructure Investment Trusts) Regulations, 2014, (which becomes due in the calendar year 2021) to be conducted till December 31, 2021.
- b) For meetings other than annual meeting of unit holders till June 30, 2021

REITs/ InvITs are required to comply with the procedure prescribed in Annexure-I of SEBI circular no. SEBI/HO/DDHS/DDHS/CIR/P/2020/102 dated June 22, 2020.

Refer: <https://www.sebi.gov.in/legal/circulars/feb-2021/extension-of-facility-for-conducting-meeting-s-of-unitholders-of-reits-and-invits-through-video-conferencing-vc-or-through-other-audio-visual-means-oavm-49307.html>



### Export Data Processing and Monitoring System (EDPMS) Module for 'Caution / De-Caution Listing of Exporters' – Review

#### A.P. (DIR Series) Circular No. 03 dated October 09, 2020

In connection with Para 4 of Statement on Development and Regulatory Policies issued on October 09, 2020, RBI has decided to withdraw the existing Paras 3(1)(i) and 3(1)(ii) of A.P. DIR Circular No. 74 dated May 26, 2016 on Module for 'Caution/De-Caution Listing of Exporters' in EDPMS. The said paras are withdrawn with a intent to make system more exporter friendly and equitable.

As per revised procedure, an exporter would be caution-listed by RBI based on recommendations of AD Bank concerned, depending upon the exporters track record with AD Bank and investigative agencies. The AD Bank would make recommendations in this regard to the Regional Office concerned of the Foreign Exchange Department of RBI in case the exporter has come to adverse notice of

Enforcement Directorate (ED)/Central Bureau of Investigation (CBI)/Directorate of Revenue Intelligence (DRI)/any such other law enforcement agency and/or exporter is not traceable and/or is not making sincere efforts to realize the exports proceeds.

AD Bank would also made recommendations to the Regional office of the RBI for de-caution listing an exporter as per the laid procedure.

The procedural aspects of handling shipping documents of caution-listed exporters by the AD Banks as outlined in para 3.2 of circular *ibid*, remain unchanged.

Master Direction 16/2015 dated January 1, 2016 is updated to reflect the above changes.

### Consolidated FDI Policy Circular of 2020

#### DPIIT File Number 5(2)/2020-FDI Policy dated October 15, 2020

DPIIT has issued Consolidated FDI Policy Circular 2020 which amends the Consolidated FDI Policy Circular of 2017.

The present consolidation subsumes and supersedes all Press Notes/Press Releases/Clarifications/Circulars issued by the DPIIT, which were in force as on October 15, 2020 and reflects the FDI Policy as on October 15, 2020. This Circular accordingly will take effect from October 15, 2020 and will remain in force until superseded in totality or in part thereof. Reference to any statute or legislation made in this Circular shall include modifications, amendments or re-enactments thereof.

Notwithstanding the rescission of earlier Press Notes/Press Releases/Clarifications/Circulars, anything done or any action taken or purported to have been done or taken under the rescinded Press Notes/Press Releases/Clarifications/Circulars prior to October 15, 2020, shall, in so far as it is not inconsistent with those Press Notes/Press Releases/Clarifications/Circulars, and applicable provisions under the FEMA and Rules/Regulations thereunder, be deemed to have been done or taken under the corresponding provisions of this circular and shall be valid and effective.

Detailed FDI Policy Circular of 2020 can be accessed at following link –

[https://dipp.gov.in/sites/default/files/FDI-PolicyCircular-2020-29October2020\\_1.pdf](https://dipp.gov.in/sites/default/files/FDI-PolicyCircular-2020-29October2020_1.pdf)





RESEARCH COMMITTEE  
THE INSTITUTE OF CHARTERED  
ACCOUNTANTS OF INDIA  
(Setup by an Act of Parliament)

# ICAI - DOCTORAL SCHOLARSHIP SCHEME 2021

Last Date for submission of application:  
**15<sup>th</sup> JUNE 2021**



## ABOUT THE SCHOLARSHIP

Doctoral scholarship will be awarded to members of the Institute who are registered as Ph.D. Scholars in UGC recognized Indian Universities/ Deemed Universities/ Colleges, IIMs having University/ IIMs approved Ph.D. Programme to pursue and complete their Doctoral Research in Auditing, Taxation, Commerce, Management and Accounting Discipline. The candidates must have confirmed Ph.D. Registration at any of the institutions mentioned above on the last date of application.

## ELIGIBILITY CRITERIA

- Member of the ICAI.
- Minimum of 75% marks in 10th and 12th standard.
- Candidate should not be more than 40 years of age on the last date of application.
- NET/SLET and M.Phil. from a recognized university will carry weightage in the assessment of research proposal.
- Candidates who have already availed any other doctoral fellowship awards are not eligible to apply.

## HOW TO APPLY

- Applications are invited through ICAI website, ICAI journal, Mass email to members and should be received before 15th June 2021.
- The application along with research proposal, abstract (3000 and 300 words respectively) along with all the enclosures must be sent to Research Committee at the given address before the last date mentioned in the advertisement duly signed and stamped by the Ph.D. Registered institution.

## PROCEDURE FOR THE AWARD OF SCHOLARSHIP

- Applications are initially scrutinized by the Research Committee Secretariat.
- Thereafter, Shortlisting Committee will short-list region wise meritorious proposals from the eligible applications.
- Such candidates may also be invited for a presentation before Shortlisting Committee.
- The recommendations of the Shortlisting Committee will then be placed before the Research Committee for its final approval.

## SCHOLARSHIP

The scholarship of Rs 50,000 per month for maximum period of 36 months will be given to maximum 5 scholars annually.

## CONTINGENCY GRANT

Yearly grant not exceeding Rs. 50000/- per year.

## SCHOLARSHIP TOPICS

The following topics are suggested:

1. Human Resource Accounting
2. Simplification of Human Resource Laws
3. Government Sector Accounting
4. Integrated Reporting
5. International Taxation Laws
6. Water Audit

The Research Committee will decide the suitability of the topics from time to time.



For further details please write to:  
**Secretary, Research Committee**  
**The Institute of Chartered Accountants of India (ICAI)**  
(Set up by an Act of Parliament)

ICAI Bhawan, 8th Floor, Administrative Building, A-29, Sector-62, Noida-20 1309  
Tel.: 0120-387 6877; Email: [doctoral.research@icai.in](mailto:doctoral.research@icai.in), website: [www.icai.org](http://www.icai.org)

Scan for weblink



<https://www.icai.org/post/research-committee>

## World's Largest Cross Border Competition in Research Arena

### Introduction

The Institute of Chartered Accountants of India (ICAI) is a statutory body established under the Chartered Accountants Act, 1949 for regulating the profession of Chartered Accountants in India. ICAI is the second largest accounting body in the whole world with a strong tradition of service to the public interest and to the Indian economy.

The Research Committee of the Institute of Chartered Accountants of India is one of the oldest technical committees set up in 1955 with a view to undertake research activities to improve the quality of services rendered by the profession.

### Objective

The objective of ICAI International Research Awards 2021 is to recognise the research community across the globe and their contribution in fostering innovation and value creation in the areas of Accounting, Auditing, Finance, Economics and Taxation in order to enhance the research activities in the concerned areas and contribute towards development of society and economy.

## The International Research Awards Aspires To Build Global Research Community

### Nomination Process and General Guidelines

1. An individual can submit published research paper at ([ira.icai.org](http://ira.icai.org)).
2. The research paper should be nominated online by nominating agency in the form of Research Institution/Agency, Educational Institutions, Corporates, and Individual. Self Nomination is not allowed.
3. Nomination will be accepted only between invite open dates to close date.
4. Nominating agency has to submit nomination form for each recommendation.
5. One Research Paper is to be nominated in one category only.
6. Nomination must contain consent of Author and contact details of Author and Nominating Entity.
7. The awardee may be asked to present their Research Paper for the benefit of larger audience.
8. Decisions of the Panel of Judges (Jury) in all the matters relating to the Competition will be final.
9. Selection of awardees in specified categories are made through software, review by subject matter experts and then by eminent Jury.

Organised by Research Committee of ICAI



For further information please write at [ira@icai.in](mailto:ira@icai.in) or visit our website [ira.icai.org](http://ira.icai.org)  
Secretary, Research Committee  
The Institute of Chartered Accountants of India  
ICAI Bhawan, Post Box No. 7100, Indraprastha  
Marg, New Delhi-110002



# 2021

**ICAI  
INTERNATIONAL  
RESEARCH  
AWARDS 2021**  
[ira.icai.org](http://ira.icai.org)

**31st MAY, 2021**  
Last Date for Submission of  
Published Research Paper

Accounting

Finance

Taxation

Economics

Auditing

### Coverage of the Awards

The areas/scope of the awards would be to identify the topics of international and societal importance where accounting profession can leverage its due role.

The award will be given in five broad categories:



Scan for Web Link <https://ira.icai.org/>

### Eligibility Criteria of the Awards

1. An Individual undertaking research in the mentioned coverage areas.
2. Participant could be from any country as jurisdiction is international.
3. The research work should be published.



RESEARCH COMMITTEE  
THE INSTITUTE OF CHARTERED  
ACCOUNTANTS OF INDIA  
(Setup by an Act of Parliament)

**Maximum:  
Rs. 10 Lakhs  
per study**

# ICAI - RESEARCH PROJECT SCHEME 2021



## THRUST AREAS

1. Impact of CSR on society
2. Sustainability and Integrated Reporting
3. Financial and Tax Literacy
4. Human Resource Laws
5. Forensic Accounting/Auditing and Investigation Standards
6. Blockchain & Cryptocurrencies
7. Others contemporary areas pertaining to profession.

## THE ELIGIBILITY CRITERIA

Projects will be supported to the extent that they are strategic in nature, have a strong research dimension, inter alia, by involving qualified research scholars such as:

- a. The applicant must be a member of the Institute of Chartered Accountants of India with a research aptitude having at least 10 years post-qualification experience either in the practice of the profession or as an employee with a reputed manufacturing/service organisation; or
- b. An experienced research scholar with Ph.D. or faculty of a recognized University/ Institute of a high repute.

Applications from persons having an experience less than as stated above might also be considered on the basis of merit.

## MONITORING

The Research Committee would monitor the implementation and progress of the research

projects approved under this project facility. The applicant (researcher) may, at any point of time during the project, be requested to provide the details of work done/remaining, the draft of the project/publication, etc, so that Research Committee may evaluate the implementation and progress. If Research Committee feels that the project is not being carried out as mentioned in the research proposal or the progress made by the researcher is not satisfactory, the Research Committee may consider withdrawal of the project from the researcher. In such a case, the work already completed would be the property of ICAI.

## DURATION

The duration of research project should not exceed 6 months from the date the project proposal is approved by Research Committee of ICAI unless a longer period is otherwise justified

## EXPECTED OUTPUTS OF THE RESEARCH PROJECT

- Research Report/Paper/Publication
- Dissemination of best practices and launching/implementation of the results, policy-oriented seminars, workshops and exchanges.
- Capacity building of the members of the profession and of the targeted beneficiaries as may be agreed in the project.

## COPYRIGHT, PATENT, ETC.

Any copyright or intellectual property right or patent, etc. arising out of the research work done would vest with ICAI. The ICAI would, however, duly acknowledge the researcher.



For further details please write to:  
**Secretary, Research Committee**  
**The Institute of Chartered Accountants of India (ICAI)**  
(Set up by an Act of Parliament)

ICAI Bhawan, 8th Floor, Administrative Building, A-29, Sector-62, Noida-20 1309  
Tel.: 0120-387 6877; Email: [research.project@icai.in](mailto:research.project@icai.in), website: [www.icai.org](http://www.icai.org)

Scan for weblink



<https://www.icai.org/post/research-committee>



## New Publication – Sustainability Reporting Maturity Model (SRMM) Version 1.0



Sustainability Reporting Standards Board of the Institute of Chartered Accountants of India has developed “Sustainability Reporting Maturity Model (SRMM) Version 1.0” with an objective to bring out a comprehensive scoring tool based

on “Report of the Committee on Business Responsibility Reporting” issued by the Committee on Business Responsibility Reporting constituted by the Ministry of Corporate Affairs (MCA) in August, 2020 to strengthen the sustainability reporting in the country. Business Responsibility and Sustainability Reporting (BRSR) Scoring mechanism comprises of total 300 scores, by completing the scoring of all three sections and

nine principles of the BRSR. Level 1, Level 2, Level 3 and Level 4 of Sustainability Maturity of corporates have been defined based on total range of scores obtained by a corporate in a financial year as per the BRSR scoring mechanism.

SRMM Version 1.0 is an innovative solution which offers the possibility for each corporate complying with BRSR to individually assess its position vis a vis various sustainability reporting maturity levels and achieve its vision of sustainable business. This model would allow the rating agencies and assurance providers to compare the sustainable nature of the Indian companies with other international companies. This Model would also help the businesses to trace a strategic path for improvements in their sustainability dimensions thereby creating value, promoting superior performance and achieving their vision of sustainable business. SRMM Version 1.0 is available on ICAI website at <https://resource.cdn.icai.org/63191srsb51141.pdf>.

## Invitation for Expression of Interest from Experts/Resource Person on Sustainability Reporting

The Institute of Chartered Accountants of India (ICAI), expanding its role as partner in nation building, has established Sustainability Reporting Standards Board (SRSB) in 2020 with the objectives to develop reporting metrics for Sustainable Development Goals, benchmarking sustainability disclosures, strengthening assurance frameworks for Non-Financial Information (NFI), and capacity building of the profession in this emerging area.

As part of its initiatives, SRSB has planned to develop publications on the following topics:

- Guide to Assurance of Sustainability Reporting
- Assessing Environment, Social and Governance (ESG) related risks
- Board's Role with respect to Sustainability

- Case Studies on Business Responsibility and Sustainability Reporting (BRSR)
- Case Studies on Integrated Reporting
- Study on Climate Related Disclosures by Indian Companies

Interested experts/resource persons are requested to share their resume and brief synopsis of around 1,000 words on the topic chosen/ case study to be developed via email at [srsb@icai.in](mailto:srsb@icai.in) latest by **April 20, 2021**. The Board will evaluate the responses and the shortlisted ones will be contacted for further discussion.

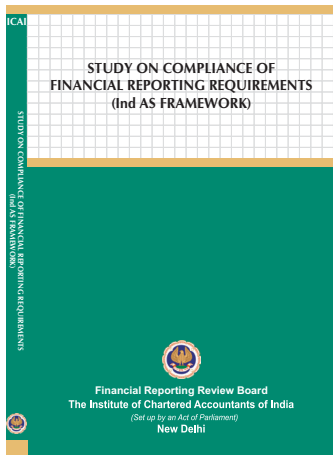
We look forward to your active participation in this initiative.

**Chairman**

**Sustainability Reporting Standards Board,  
The Institute of Chartered Accountants of India**



## Study on Compliance with Financial Reporting Requirement (Ind AS Framework)



The Financial Reporting Review Board has recently released the 'Study on Compliance with Financial Reporting Requirement (IND AS Framework)' with an objective to educate the preparers of financial statements, auditor and other members about

the compliance with various financial reporting requirements thus paving the way for enhancing the quality of the financial statements as well as quality of services rendered by the members.

### Significant features of this publication are:

- This publication contains pertinent observations of the Board in context of Ind AS, Standards on Auditing, applicable Guidance Notes as well as other relevant Laws and Statutes.
- For easy reference, the observations have been classified elements of financial statements wise viz, Observations related to 'Assets', 'Equity',

'Liabilities', 'Components of Profit and Loss', 'Statement of Cash Flows', 'Other Disclosures', 'Auditor's Report' and 'CARO' which should be complied with while preparing the financial statements or expressing opinion thereupon.

- The publication is written in simple and easy to understand language alongwith reference to various reporting requirements.
- Contains graphical presentation on 'Deficiencies Observed: At a Glance'. It exhibits level/ percentage of non-compliances observed in all the Indian Accounting Standards (Ind AS). It also contains pie chart 'Deficiency observed: Elements of Financial Statements' shows percentage of non-compliances observed in each element of financial statements.

**Price: Rs. 350**

### Ordering Information

The publication can be purchased directly from the ICAI Central Distribution System (CDS Portal) by signing up and placing order on online store through following link: <https://icai-cds.org/>

To order by post, requisition may be sent to the Postal Sales Department of the ICAI at [postalsales@icai.in](mailto:postalsales@icai.in).

## Classifieds

**5844** Mumbai base FCA /DISA holding CoP having 20 years in Internal Audit and Practice also 15 years with private / MNC Bank seeks partnership / opening branch. Contact: +91 9821522952; [shah1961@rediffmail.com](mailto:shah1961@rediffmail.com)

**5845** We are 53 years old CA firm having H.O. at Delhi and branches at 8 places are looking for 10 or more years old proprietor firm at Kanpur, Lucknow, Bhopal and Chennai for

merger. Interested firms can send proposal with profile at: [jk.sarawgi@jksco.in](mailto:jk.sarawgi@jksco.in), Mobile – 9871599182

**5846** A sixteen year old CA firm presently having offices in Guwahati, Mumbai, Kolkata, Jaipur and Ahmedabad is looking for new partners in – Chennai, Hyderabad, Bangalore, Trivandrum. New CAs who want to enter in practice may apply at e-mail [cahgnco@gmail.com](mailto:cahgnco@gmail.com), 8638110228



## Campus for Newly Qualified Chartered Accountants (NQCAs) April- May, 2021

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 organizations looking for 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 organisation, irrespective of its size, standing in the market and boundary of its business, can take part in this placement programme being held at several centres across the country during April- May, 2021.

| Campus Interview Schedule: |   |  |
|----------------------------|---|--|
| No.                        | Centre  | Dates  |
| 1.                         | Mumbai  | 3 <sup>rd</sup> , 4 <sup>th</sup> , 5 <sup>th</sup> , 6 <sup>th</sup> , 7 <sup>th</sup> & 8 <sup>th</sup> May, 2021  |
| 2.                         | New Delhi   | 4 <sup>th</sup> , 5 <sup>th</sup> , 6 <sup>th</sup> , 7 <sup>th</sup> , 8 <sup>th</sup> & 10 <sup>th</sup> May, 2021 |
| 3.                         | Bengaluru   | 5 <sup>th</sup> , 6 <sup>th</sup> , 7 <sup>th</sup> , 8 <sup>th</sup> & 10 <sup>th</sup> May, 2021                   |
| 4.                         | Chennai   | 6 <sup>th</sup> , 7 <sup>th</sup> , 8 <sup>th</sup> , 10 <sup>th</sup> & 11 <sup>th</sup> May, 2021                  |
| 5.                         | Kolkata   | 7 <sup>th</sup> , 8 <sup>th</sup> , 10 <sup>th</sup> , 11 <sup>th</sup> & 12 <sup>th</sup> May, 2021                 |
| 6.                         | Ahmedabad, Hyderabad, Jaipur & Pune                 | 10 <sup>th</sup> , 11 <sup>th</sup> & 12 <sup>th</sup> May, 2021   |
| 7.                         | Durgapur, Ernakulam, Nagpur, Rajkot & Visakhapatnam | 1 <sup>st</sup> June, 2021   |
| 8.                         | Kanpur  | 2 <sup>nd</sup> & 3 <sup>rd</sup> June, 2021   |
| 9.                         | Noida & Thane                                       | 4 <sup>th</sup> & 5 <sup>th</sup> June, 2021   |
| 10.                        | Bhubaneswar, Chandigarh, Coimbatore & Indore        | 7 <sup>th</sup> & 8 <sup>th</sup> June, 2021   |

**Invitation to Candidates:** The above Campus is meant for the candidates, who would be passing the CA Final examination held in Jan-Feb, 21 and also for others who have qualified earlier and are fulfilling the criteria mentioned in the Announcement.

**Organizations** 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, and Email: [campus@icai.in](mailto:campus@icai.in), Tel No. (011)30110555 and to register log on to <https://cmib.icai.org/>.

**Candidates** may email at [cajob@icai.in](mailto:cajob@icai.in), Tel No. (011)30110491/550 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) 30110555 | E-mail: [campus@icai.in](mailto:campus@icai.in)

## Result of Chartered Accountants Final (New Scheme) Examination held in January - 2021

The Result of Chartered Accountants Final (New Scheme) Examination was declared recently.



The details of percentage of candidates passed in the above said examination are given below:

|     | Group(s)    | No. of Candidates appeared | No. of Candidates passed | % of Pass |
|-----|-------------|----------------------------|--------------------------|-----------|
| I   | Group-I     | 18297                      | 1198                     | 6.55      |
| II  | Group-II    | 18896                      | 3409                     | 18.04     |
| III | Both Groups | 9868                       | 592                      | 6         |

Consequent to declaration of result as mentioned above, 1270 candidates qualified as Chartered Accountants.

The details of top three rank holders on the all India basis for the Final (New Scheme) Examination held in January - 2021 with the marks secured by them are also given herewith.

## Toppers of Chartered Accountants Final (New Scheme) Examination, January - 2021

|       | ALL INDIA TOPPER<br>FIRST RANK   | ALL INDIA<br>SECOND RANK   |
|-------|--|--|
|       |  |  |
| Name  | Bhramar Jain   | Vaibhav Hariharan  |
| City  | Raipur   | Dombivali  |
| Marks | 611/800  | 601/800  |
| %     | 76.38  | 75.13  |

## Result of Chartered Accountants Final (Old Scheme) Examination held in January - 2021

The Result of Chartered Accountants Final (Old Scheme) Examination was declared recently.




The details of percentage of candidates passed in the above said examination are given below:

|     | Group(s)    | No. of Candidates appeared | No. of Candidates passed | % of Pass |
|-----|-------------|----------------------------|--------------------------|-----------|
| I   | Group-I     | 8686                       | 416                      | 4.79      |
| II  | Group-II    | 13215                      | 1614                     | 12.21     |
| III | Both Groups | 3116                       | 44                       | 1.41      |

Consequent to declaration of result as mentioned above, 1412 candidates qualified as Chartered Accountants.

The details of top three rank holders on the all India basis for the Final (Old Scheme) Examination held in January - 2021 with the marks secured by them are also given herewith.

## Toppers of Chartered Accountants Final (Old Scheme) Examination, January - 2021

|              | ALL INDIA TOPPER<br>FIRST RANK  | ALL INDIA<br>SECOND RANK  | ALL INDIA<br>THIRD RANK   |
|--------------|---|---|---|
|              |  |  |  |
| <b>Name</b>  | <b>Bishal Timsina</b>   | <b>Noothula Naveen</b>  | <b>Mohammed Shabeeb P</b>   |
| <b>City</b>  | Chennai   | Karimnagar  | Malappuram  |
| <b>Marks</b> | 479/800   | 468/800   | 460/800   |
| <b>%</b>     | 59.88   | 58.50   | 57.50   |

## Result of Chartered Accountants Foundation Examination held in January - 2021

The result of the Foundation Examination held in January 2021 was declared recently. The details of percentage of candidates passed in the above said examination are given below:

| GENDER | No. of Candidates<br>appeared | No. of Candidates<br>passed | % of<br>Pass | No. of Exam<br>Centres |
|--------|-------------------------------|-----------------------------|--------------|------------------------|
| MALE   | 17126                         | 4267                        | 24.91        | 502                    |
| FEMALE | 10682                         | 2655                        | 24.85        |                        |
| TOTAL  | 27808                         | 6922                        | 24.89        |                        |

## Result of Chartered Accountants Intermediate (New) Examinations held in January – 2021




The result of the Chartered Accountants Intermediate (New) Examination was declared recently. The details of percentage of candidates passed in the above said examinations are given below:

|            | Candidates applied for | No. of candidates<br>appeared | No. of<br>candidates<br>passed | % of Pass |
|------------|------------------------|-------------------------------|--------------------------------|-----------|
| <b>I</b>   | <b>Group-I</b>         | 26496                         | 3430                           | 12.95 %   |
| <b>II</b>  | <b>Group-II</b>        | 27611                         | 5154                           | 18.67 %   |
| <b>III</b> | <b>Both Groups</b>     | 12046                         | 1184                           | 9.83 %    |

The details of top three rank holders on the all India basis for the INTERMEDIATE (NEW) Examination held in January - 2021 are also given herewith.



## Toppers Of Chartered Accountants Intermediate (New) Examination January - 2021

|              | ALL INDIA TOPPER<br>FIRST RANK  | ALL INDIA<br>SECOND RANK  | ALL INDIA<br>THIRD RANK   |
|--------------|---|---|---|
|              |  |  |  |
| <b>Name</b>  | <b>Girish Aswani</b>  | <b>Naman Maheshwari</b>   | <b>Ayush Gupta</b>  |
| <b>City</b>  | Ajmer   | Jaipur  | Kolkata   |
| <b>Marks</b> | 689/800   | 633/800   | 632/800   |
| <b>%</b>     | 86.13   | 79.13   | 79.00   |

## Result of Chartered Accountants Intermediate (IPC) Examinations held in January – 2021

The result of the Chartered Accountants Intermediate (IPC) Examination was declared recently.

The details of percentage of candidates passed in the above said examinations are given below:

|            | Candidates applied for | No. of candidates<br>appeared | No. of candidates<br>passed | % of Pass |
|------------|------------------------|-------------------------------|-----------------------------|-----------|
| <b>I</b>   | <b>Group-I</b>         | 8215                          | 420                         | 5.11 %    |
| <b>II</b>  | <b>Group-II</b>        | 19807                         | 1575                        | 7.95 %    |
| <b>III</b> | <b>Both Groups</b>     | 3749                          | 14                          | 0.37 %    |

The detail of rank holder on the all India basis for the INTERMEDIATE (IPC) Examination held in January - 2021 is also given herewith.

## Topper Of Intermediate (IPC) – Old Syllabus January 2021 Examination

|              | ALL INDIA TOPPER<br>FIRST RANK  |
|--------------|---|
|              |  |
| <b>Name</b>  | <b>Avilash Gaurav</b>   |
| <b>City</b>  | Guwahati  |
| <b>Marks</b> | 447/700   |
| <b>%</b>     | 63.86   |

*Heartiest  
Congratulations*

# Research Committee of the ICAI Presents ICAI AWARDS FOR EXCELLENCE IN FINANCIAL REPORTING

**LAST DATE FOR  
RECEIPT OF ENTRIES**  
**30TH SEPTEMBER 2021**

*Unique opportunity to participate in  
the Competition for the year 2020-21*

## ➤ OBJECTIVE OF ICAI AWARDS FOR EXCELLENCE IN FINANCIAL REPORTING

To recognise and encourage excellence in preparation and presentation of financial information.

## ➤ PROCESS FOR DECIDING AWARDEES

Selection of awardees in specified categories are made through a robust three tier process:

- Review by Technical Reviewers
- Review of short-listed annual reports by Shield Panel and
- Selection by External Jury consisting of representatives from regulatory bodies, professionals, academicians etc.

## ➤ PROCEDURE FOR PARTICIPATION

- There is **no fee for participation** in the competition.
- Annual Report relating to the financial year ending on any day between April 1, 2020 and March 31, 2021 (both days inclusive) is eligible for participation in this competition.
- Decisions of the Panel of Judges in all the matters relating to the Competition will be final.
- An entity awarded '**Hall of Fame**' may again participate in the competition after the cooling period of three years of receiving the award of 'Hall of Fame'.
- Fill in the Entry Form and submit with requisite documents on or **before September 30, 2021** to Secretary, Research Committee.

*Note: The documents submitted by the entities for the competition will not be utilized for any other purpose.*

## ➤ AWARD CATEGORIES

- Hall of Fame awarded to the entity that has been winning the first prize under the same category continuously **for five years**.
- One Gold Shield in each category for the best entry.
- One Silver Shield in each category for the next best entry.
- Plaques to be awarded to the entities who are following better financial reporting practices as is decided by the Jury.

## ➤ AWARD CATEGORIES OF THE COMPETITION 'ICAI AWARDS FOR EXCELLENCE IN FINANCIAL REPORTING' FOR THE YEAR 2020-21

- |                  |   |   |
|------------------|---|---|
| Category I       | : | Public Sector Banks   |
| Category II      | : | Private Sector Banks (including Foreign Banks)  |
| Category III     | : | Co-operative Banks  |
| Category IV      | : | Life Insurance  |
| Category V       | : | Non-Life Insurance  |
| Category VI      | : | Financial Services Sector (other than Banking and Insurance)  |
| Category VII(a)  | : | Manufacturing and Trading Sector (including entities engaged in processing, mining, plantations, oil and gas enterprises) (Turnover equal to 3000 crores or more) |
| Category VII(b)  | : | Manufacturing and Trading Sector (Turnover equal to and between 500 crores and 3000 crores)   |
| Category VII(c)  | : | Manufacturing and Trading Sector (Turnover less than 500 crores)  |
| Category VIII(a) | : | Service Sector (Other than financial services sector) (Turnover equal to or more than 500 crore)  |
| Category VIII(b) | : | Service Sector (Other than financial services sector) (Turnover less than 500 crores)   |
| Category IX      | : | Not-for-Profit Sector   |
| Category X(a)    | : | Infrastructure and Construction Sector (Turnover equal to or more than 500 crore)   |
| Category X(b)    | : | Infrastructure and Construction Sector (Turnover less than 500 crore)   |
| Category XI      | : | Public Sector Entities  |
| Category XII     | : | Municipal Body  |



For further information please write at [research@icai.in](mailto:research@icai.in) or visit our website [www.icai.org](http://www.icai.org) or Mobile: +918299735462  
Secretary, Research Committee  
The Institute of Chartered Accountants of India, ICAI Bhawan, Post Box No. 7100, Indraprastha Marg, New Delhi-110002



# ICAI in Media

## ICAI in Media : Glimpses of February -March, 2021

**EducationTIMES**  
GET UNTANGLED

February 15, 2021

### ICAI launches international curriculum

The curriculum is launched to achieve internationalisation of higher education as per the NEP

**TIMES NEWS NETWORK**

Over the years, the role of a chartered accountant (CA) has been evolving continually to assume newer responsibilities in a dynamic environment. The causative factors for the change include glob-

alisation leading to an increase in cross border transactions and consequent business complexities, significant developments in Information and Technology and financial scams underlining the need for a stringent regulatory setup.

As a result, the Institute of

Chartered Accountants of India (ICAI) has launched courses in the international affairs policy and international curriculum.

The international curriculum of ICAI is, in line with the stated intent, being designed to attract students and aspirants from develop-

ing nations in the initial stages of economic development, who in turn will contribute to the economic growth of their countries.

The international curriculum has been launched with an aim to achieve internationalisation of higher education.

### Business Standard

#### 'Govt has to balance between ease of doing biz and ensuring compliance'

The Institute of Chartered Accountants of India (ICAI) is gearing up to push small audit firms to become globally competitive with fresh networking guidelines, legislative reforms and technical upades. ICAI's new president NIHAR N JAMBUSARIA, in a conversation with Ruchika Chawdhary, says reducing pendency of complaints is his priority. Edited excerpts:

What will be your main agenda as new ICAI president in the context of Covid stress in the economy and increased expectations from the audit and accounting profession?  
A financial and tax literacy drive in the country, particularly for the micro, small and medium enterprises (MSMEs) – that often make mistakes out of ignorance – will be a big service not just to businessmen but also to those who are auditing the accounts. Post Covid, the expectations of the government and the society from CA have enhanced. We plan to set up a group on public advocacy. At the enactment stage itself, we can point out the hurdles and suggest possible solutions. It will help the government frame laws that are user and economy friendly. Also, the manner in which robotics and data analytics are taking over, our members should be on top of technology as without it they cannot serve clients effectively.

The government is looking to amend various professional Acts to put in place better disciplinary mechanisms. What are the important changes required?  
We are in discussions with the government on the amendments. We are suggesting reforms related to election (of the council members), education and training. I don't think substantial amendments are coming. For instance, we have proposed



"WE PLAN TO SET UP A GROUP ON PUBLIC ADVOCACY. AT THE ENACTMENT STAGE ITSELF, WE CAN POINT OUT THE HURDLES AND SUGGEST POSSIBLE SOLUTIONS"

corporate governance?  
The government has to do some balancing between ease of doing business and ensure compliance with law. By doing away with GST audit, the risk of non-compliance will increase. When GST calculations are verified and certified by an auditor, there is an assurance that the taxpayer has complied with the law. This is a preventive care which is not avoidable.

There is criticism that complaints don't get addressed timely. What is the status of complaints filed with the ICAI? We have a process. When a complaint comes, the director – discipline has to write to the respondent. Even if the funds that the member is not guilty, then also he has to frame a prima facie opinion and put it before the disciplinary committee. He cannot by-pass this process.

What steps would you take to make small audit firms capable of facing global competition from the likes of the Big Four?  
We have just revised networking guidelines and passed multidisciplinary partnership rules. We are also looking at networking guidelines with foreign firms. All these will promote Indian firms and make them grow. We are not only doing it by passing regulations, but also by increasing awareness among the firms. We are making them aware of the benefits of having bigger set ups.

that the industrial training period be increased from 12 to 18 months and students be trained in government departments for more exposure.

**Q&A**

**NIHAR N JAMBUSARIA**  
President, ICAI

There is a lot of stress on ease of doing business with recent proposals such as no mandatory GST audit for companies. How do you think we can balance compliance with

### BusinessLine

#### CA Institute plans financial, tax literacy drive

**KR SRIVATS**

New Delhi, February 23

Financial and tax literacy, advocacy and technology training will be the thrust areas for the CA Institute during his presidency, the new ICAI President Nihar Jambusaria has said.

The CA Institute wants to particularly enhance awareness on finance and tax among the MSMEs (Micro, Small and Medium Enterprises) and general public. Towards this end, the Institute of Chartered Accountants of India (ICAI) will, this year, embark on a nationwide financial and tax literacy drive, Jambusaria said.

"MSMEs are not so literate or having professional guidance on finance and tax matters. So this year we are starting financial and tax literacy drive. It will also help the entire nation and auditors. If they (MSMEs) are financially literate, they themselves will maintain accounts at a certain level, they will be fearful of following certain practices that are not good and if they are tax literate too, they can realise that

tax evasion is not something that anybody can practise nor is it desirable for the country," Jambusaria told *BusinessLine* in his first interaction after assuming charge of the Presidency of ICAI.

The financial literacy drive will be started with micro units and gradually expanded to corporates, if needed. In big corporates, the need is not that much as the professionals they employ are literate on both finance and taxation, he added.

**Public advocacy**

In a post Covid-19 world, the ICAI has also decided to form a public advocacy. "Whenever a law is introduced or amended, chartered accountants in touch with corporates and MSMEs will know where there would be difficulty for them. If at the enactment stage itself those difficulties are removed, then commercial law will help all businessmen," he said. The ICAI also plans to enhance training on technology, including AI and robotic processes, for its members and do hand-holding.



Nihar Jambusaria, President, ICAI

Audit Committees. We are developing testing models for auditors and firms. We are developing audit tools that will be taught to members and given to them so that they perform highest quality of audit."

**Multidisciplinary firms**  
Jambusaria said there is now recognition that multidisciplinary firms are a necessity in the current scenario, especially when services of insolvency professionals and advocates are required.

"This year, we have progressed substantially. In our central council, the ground rules for multidisciplinary partnership firms are already passed. Now we have to frame the guidelines and we will do it on priority basis. Ground rules will be made this year and training will be imparted. It will be a reality and members will be encouraged into multidisciplinary partnerships," he said. He expressed confidence that the multidisciplinary partnerships will help audit entities grow in scale into globally competitive firms.

## Outlook

### ICAI to set up public advocacy cell

23 February 2021 Last Updated at 6:58 Pm | Source: PTI

The Institute of Chartered Accountants of India (ICAI) will set up a public advocacy cell that will provide inputs to the government when a new law or changes to an existing legislation are sought to be implemented.

ICAI President Nihar N Jambusaria, who took over the reins this month, on Tuesday also said the institute is seeking help from its overseas chapters to have an understanding about changes required to attract more investments into the country.

Building capacities of the institute's members in terms of technology, and creating more financial literacy, especially among MSMEs and small enterprises, to curb possible wrong accounting practices are also among the priorities for the institute.

"We will also set up a public advocacy cell. When there are new laws or when existing laws are sought to be amended, we will keep giving our inputs to the government... These kind of inputs in terms of practical aspects will be very helpful," Jambusaria told PTI.

According to him, such inputs can help in having aspects of ease of doing business at the stage of enactment of legislations itself.

Apart from building capacities of its members on technology, he said the institute will work towards promoting financial and tax literacy.

"Wrong practices in accounting are largely happening due to financial illiteracy... we have thought of promoting financial and tax literacy among MSMEs and small enterprises... it will not only help the nation but also auditors. When they audit, there will be better quality of accounts by organisations," he pointed out.

The institute has more than three lakh members.



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New Delhi, March 2, 2021

## Abolition of GST annual audit could save firms up to ₹30k cr

But chartered accountants say that self-certification process may result in complications at a later stage

Rajesh Dey  
@rajeshdey1980  
NEW DELHI

The government's decision to do away with mandatory goods and services tax (GST) annual audit requirements will help at least 10 million firms save as much as ₹30,000 crore annually, besides reducing the compliance burden, two officials with direct knowledge of the matter said on condition of anonymity. However, accountants are against the move.

The Finance Bill, 2021, will amend the law, which will be notified soon after. The basic purpose of the move is to expand the GST base by reducing the compliance burden and help businesses, particularly small firms, save by not paying audit fees to professionals, officials of the revenue officials said.

But Nihar N. Jambusaria, president of the Institute of Chartered Accountants of India (ICAI), begged to differ. "We are of the view that provisions relating to GST audit and certification of reconciliation statement by a chartered accountant (CA) should be retained in the GST law. Audit is an essential compliance (it is a preventive necessity)," he said.

Under Budget 2020-21, the government had announced to remove the mandatory requirement of getting annual accounts audited and the reconciliation statement submitted by specified professionals, such as CAs under the GST regime, the people cited above said. Addition to this effect, was already taken by the GST Council, the apex decision-making body for all things related to GST, in March 2020, but it could not be implemented due to covid-19 and the subsequent lockdown, the second official said.

Experts said self-certification would eliminate the requirement of certification from professionals, ease annual compliance and save costs. Businesses would, however, be required to ensure that the turnover declared in the GST returns reconcile with the audited financial statements, they added.

The basic purpose of the move is to expand the GST base by reducing the compliance burden for firms.

### DIFFERENCE OF OPINION

Audit is not an avoidable compliance, it is a preventive necessity, said ICAI president.

Experts said self-certification would eliminate the requirement of certification from professionals, ease annual compliance and save costs. Businesses would, however, be required to ensure that the turnover declared in the GST returns reconcile with the audited financial statements, they added.

"Currently, the review is done by an independent professional who highlights the mismatches to the taxpayer. In case where taxes are not paid on account of such mismatches, the report is qualified by the professional. The existing process enables the timely identification of gaps. The self-certification process may not identify mismatches on a timely basis, said a tax expert.

Sunil Kumar, the deputy general manager of tax research and advisory firm Taxmann.

He cautioned that the identification of each gap by the authorities at a later stage would involve penalties and interest in addition to the tax payable.

The first official mentioned above said the ICAI has made a representation to the government against the budget proposal.

Jambusaria said the GST regime has been evolving at a fast pace and taxpayers need professional guidance and handholding. "There is a recognition in the government that accounting and GST law."

"GST audit by a CA ensures the maker checker concept, thereby detecting inconsistencies, lapses, errors and ambiguities, if any, in compliance with the provisions of the GST law. Thus, audit ensures compliance," he added.

Jambusaria dismissed the central government's argument that self-certification would be a major saving for businesses.

"From 22 February 2020, 14.4 lakh taxpayers were required to submit GSTB-3C (the annual GST return). Audit should not be seen as an onerous burden, the benefits of which are reaped over a period of time," he added.

## BusinessLine

## CA Institute issues guidance note on accounting norms for e-comm entities

K.R. SRIVATS

New Delhi, March 6

E-commerce entities will now have better guidance on various aspects of revenue and expense recognition for transactions conducted online. The CA Institute has now come up with a "guidance note" on accounting by e-commerce entities, sources said.

The new guidance note is the first comprehensive one guiding various accounting issues unique to e-commerce. A guidance note is mandatory for members of the CA Institute.

The latest ICAI guidance note clarifies on revenue re-

cognition on either 'gross' or 'net basis'. This is critical as e-commerce companies' valuation are linked to the revenues accounted for in their books. Also, the guidance note covers aspects

like 'Right of Return' against goods or services or coupons, giving the right to the customer to exchange the goods or services sold against other goods/ser-

vices.

It also deals with revenue recognition aspects around advertising services, web hosting services, etc. Accounting aspects on financing extended by certain e-commerce entities to customers—for example, a 'buy

now, pay later' or an extended EMI payment scheme have also been covered in the guidance note.

Since many e-tailers sell their products through resellers or consignment agents, the guidance note elaborates also on revenue recognition aspects on this front.



## hindustantimes

## UGC grants Post Graduate Degree status to CAs

By, Hindustan Times, New Delhi  
PUBLISHED ON MAR 16, 2021

In a major decision, the University Grant Commission (UGC) has announced that CA qualification will be equivalent to a Post Graduate (PG) degree.

In an official order, the University Grants Commission (UGC) has granted the status of Post Graduate to individuals with Chartered Accountancy (CA) degree. This will enable CAs to pursue Ph.D. in all the Indian universities. Earlier, only 106 universities, 2 IITs and 7 IIMs used to allow CAs to register for a Ph.D. Programme. This order will also make Chartered Accountants eligible for UGC's National Eligibility Test (NET) and the award of Junior Research Fellowship/ Assistant Professor in all Indian universities.

This decision is the result of request from the Institute of Chartered Accountants of India (ICAI), one of the premier accounting bodies that has achieved global recognition over the years. "This will not only help CAs for pursuing higher studies but will also facilitate the mobility of Indian CAs globally," the institute said in its official Twitter handle.

CA. Nihar N. Jambusaria, President, ICAI said in a press release, "This equivalence to Post Graduate Degree will open up International market for various job avenues for ICAI members, thereby bringing the global acclamation and recognition to India worldwide. Since Chartered Accountancy course will be considered as equivalent to the Post Graduate degree, it will aid CA members, who are aspiring to go overseas for higher studies and/or for seeking professional opportunities abroad."

"Chartered Accountants equipped with comprehensive practical and technical knowledge can make a notable and significant contribution in academics in accountancy and commerce domain. This will act as a catalyst in the research work being undertaken in the sphere

## युवा . रोजगार . अवसर

com

दैनिक भास्कर जयपुर, बुधवार 17 मई 2021

## बड़ा निर्णय: सीए को मिला पीजी का दर्जा, कॉम्पिटिशन देने वाले स्टूडेंट्स को फायदा अब सीए की पढ़ाई करने वाले उम्मीदवारों के दो साल बचेंगे, पीएचडी के लिए खुलेगा रास्ता

निहा एन जंबूसरिया

प्रिन्सिपल, आईसीआई



**सीए** : सीए को विश्वविद्यालय अनुदान आयोग ने पोस्ट ग्रेजुएशन कोर्स के समकक्ष दर्जा दिया है। इस नए फैसले से छात्रों में काफी उत्साह है और इसके द्वारा भी परीक्षा सफलताकम हो सकेगी। यह आयोग का एक बड़ा फैसला है। फिलहाल के साथ इसके अंतर को भी समझना होगा। इंस्टीट्यूट ऑफ चार्टर्ड अकाउंटेंट्स ऑफ इंडिया (आईसीआई) और इंस्टीट्यूट ऑफ कॉन्सल्टिंग एंड इंफॉर्मेशन (आईसीआई) इसके लिए सख्त सख्त से प्रयास कर रहे हैं। आईसीआई छात्रों के हित को देखते हुए यूजीसी ने इसे मंजूरी दी। इसका सबसे बड़ा फायदा यह होगा कि अब सीए व सीएस के छात्र छात्रों के दो साल बच जायेंगे। अभी सीए व सीएस के छात्र बिना मास्टर्स डिग्री कई प्रतियोगी परीक्षा नहीं दे पाते। उन्हें सीए व सीएस के योग्य ही एम्प्लॉय करना होता था। इसके बाद ही छात्र ने सीए व सीएस के लिए योग्य हो पाता था। वहीं पीएचडी के लिए भी उसे अतिरिक्त योग्य होना पड़ता था। अब छात्र सीए व सीएस के बाद सीएस ही नेट और पीएचडी पढ़ाई दे पाएंगे। हालांकि कुछ यूनिवर्सिटीज सीए व सीएस को पहले से ही पीजी के समकक्ष मानती रही है, लेकिन यूजीसी के निर्णय से देश की प्रत्येक यूनिवर्सिटी इसे पीजी के बराबर मानेगी। जैसे देखा जाए तो सीए का द्वारा एम्प्लॉय से काफी बढ़ा है।

**अब छात्र सीए व सीएस के बाद सीएस नेट व पीएचडी पढ़ाई दे पाएंगे। संभव है कि अब पीएचडी में सीए को देखते हुए नए टॉपिक शामिल हो जाएं। हालांकि रिसर्च सुपरवाइजर के सामने चुनौती बढ़ जाएगी क्योंकि उसे अब क्वालिफाइड सीए को पीएचडी करवाना होगा।**



सीए को तुलना में एम्प्लॉय और एडवांस नहीं है। एम्प्लॉय सीए कोर्स का मात्र 20 प्रतिशत पाठ्यक्रम ही कवर कर पाता है। सीए कोर्स कोर्स में 80 प्रतिशत हिस्सा एडवांस्ड स्टेज का पड़ता है। मतलब, यह 80 प्रतिशत हिस्सा, एम्प्लॉय कवर नहीं करता। एक बड़ी बात यह भी है कि जो छात्र छात्र को एम्प्लॉय को फीस व अन्य कामों पर करना पड़ता था, वह अब बच जाएगा। छात्र पूरी तरीके से सीए व

सीएस कोर्स पर फोकस कर पाएंगे। यूजीसी के इस फैसले के बाद अब सीए के उम्मीदवार देश के किसी भी संस्थान से पीएचडी कर सकेंगे। वर्तमान में 106 विश्वविद्यालय, दो आईआईटी और 7 आईआईएम में ही सीए छात्र पीएचडी के लिए पाठ है। वह भी संभव है कि अब पीएचडी में सीए कोर्स को देखते हुए नए टॉपिक शामिल हो जाएं। हालांकि रिसर्च सुपरवाइजर के सामने चुनौती बढ़ जायेगी, क्योंकि उन्हें अब क्वालिफाइड सीए को पीएचडी करवाना होगा। वहीं, स्कॉलर और ग्रांट दोनों को शैक्षणिक योग्यता बेहतर होने से पीएचडी की क्वालिटी में भी सुधार आएगा। यह नया बदलाव देश को शैक्षणिक अर्थव्यवस्था को चुनौती से लड़ने के साथ-साथ वैश्विक चुनौतियों से लड़ने में भी मददगार साबित होगा। यह एक कंपाउंड लॉगिन प्रोसेस है, सीएनए, फुलटा और फिर सीएनए। वहीं इस फैसले को इस योग्य से छुट्टी को जोड़ना चाहिए। वहीं इस फैसले के कारण सीए स्टूडेंट्स के सामने सकारात्मक नैतिकता का भी सारा सुपन जाएगा। वैश्विक स्तर पर जैसा कि काफी अवसर सीए स्टूडेंट्स और संकाय के पास होगा। अब देखना यह होगा कि सीए छात्र इस अवसर का किस प्रकार से लाभ उठाते हैं। सीए को पीएचडी देश को सबसे मुश्किल परीक्षाओं में से एक है। सीए के छात्र अब प्रतियोगी परीक्षाओं में बहुत प्रदर्शन करेंगे, क्योंकि इससे मुश्किल परीक्षा तो वे पहले ही दे चुके होते हैं। दरअसल सीए फुलटा का निवृत्त करने की अधिक नहीं रहता है। अमूमन सीए फुलटा में 10 से 15 प्रतिशत छात्र ही क्वालिफाइड कर पाते हैं। एक अटैम्प्ट में बहुत कम सीए ही इस परीक्षा को पास करते हैं। अब इसमें उनकी कैंडिडेट प्लानिंग भी बेहतर होगी।

of accountancy and commerce and bestow a boost to the growth of business and industry and commerce across all sectors," he further added.

An aspiring Chartered Accountant has to enroll for the Foundation Course offered by ICAI after class 12 board exam.

In the past, The National Recognition Information Centre for the United Kingdom, a renowned UK national agency responsible for providing information and expert opinion on qualifications and skills worldwide, had also recognised CA qualification after thorough evaluation.



## Education TIMES

### PG degree for CA, CS, ICWA courses to further facilitate applied research

#### UGC recognition of the courses will boost overseas prospects

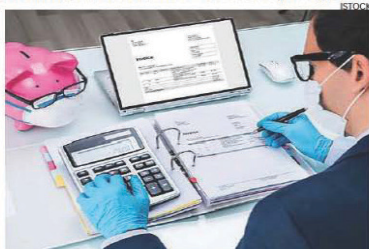
Rajlakshmi Ghosh  
@timesgroup.com

In a recent move, the University Grants Commission (UGC) has granted postgraduate degree status to three professional commerce and accounting courses — CA, CS and ICWA. The aim is to enhance the career prospects of students who qualify for the Chartered Accountancy (CA), Company Secretary (CS) or Cost and Works Accountant (ICWA) examinations both nationally and on a global scale.

"The issue was pending for a long time as the UGC had received requests from the three professional bodies, namely the Institute of Chartered Accountants of India (ICAI), the Institute of Company Secretaries of India (ICSI) and the Institute of Cost Accountants of India (ICAI) to consider the qualifications being awarded by them as equivalent to postgraduate degrees. Since these professional bodies were following a rigorous academic process of training and evaluation, the UGC decided to grant equivalence status. The move will integrate professional education with general education in sync with National Education Policy (NEP) 2020 that emphasises on flexible education," Rajnish Jain, secretary, UGC, tells Education Times.

Several universities and institutes in the past had declared CA, CS, ICWA courses as PG, but the official recognition by UGC will allow students to pursue PhD across all universities. "Earlier, most students would have to complete separate PG courses to do their PhD. There will be no such compulsion now for those looking for a career in academics," Jain adds.

"To encourage better linkages between academia and industry, the practising professionals can integrate their knowledge into the



**The recognition will help aspirants to appear in UGC NET and State Eligibility Test (SET)**

theoretical component of their PhDs to further facilitate applied research."

**Paving the path for CAs**

"The recognition will open the gates for aspirants to appear in the National Eligibility Test (NET) conducted by the UGC and State Eligibility Test (SET). They will also be eligible for Junior Research Fellowship (JRF)/assistant professor in the universities across India," says CA Nihar N Jambusaria, president, ICAI.

The CAs can pursue PhD in all the Indian universities across India as against 106 universities, 2 IITs and 7 IIMs which earlier recognised the chartered accountancy qualification for the specific purpose of registration to PhD programme. The equivalence will also open up various job avenues in the international market for ICAI members. "With the recognition, transcript agencies of different countries would be able to recognise CA qualification, which will aid CA members in education and on the immigration front," Jambusaria says.

**How CS will gain**

The ICSI members post the recognition will have an opportunity to pursue PhD in Commerce and Allied Disciplines, says Nagendra D Rao, president, ICSI. "This will not just leverage the Company Secretary profession across the globe, but will reaffirm the fact that with the increasing focus on good governance, the demand for Company Secretaries, as skilled professionals, is both ubiquitous and inevitable," he adds.

The institute has a full-fledged academic and research wing wherein students and members are encouraged to undertake research in areas such as Corporate Governance; Company Law; CSR; Tax Laws; Securities Laws; Capital Market; Finance etc. "As a result, Company Secretaries are invited as guest faculty in universities/colleges/academic institutes. The new recognition will also give CS members an edge while applying for student visas for pursuing higher education abroad," Rao informs.

Academia apart, the finance professionals will be eligible for appointment to various posts advertised by the UPSC, PSUs, State Public Commissions and other regulatory bodies where the eligibility criteria is a postgraduate degree.

## THE HANS BUSINESS

New Delhi, March 19, 2021

### SUSTAINABILITY

## ICAI develops SRMM model

Chartered accountants' apex body ICAI on Thursday said it has developed the first version of Sustainability Reporting Maturity Model (SRMM). The model is aimed at bringing out a comprehensive scoring tool based on report of the Committee on Business Responsibility Reporting that was constituted by the corporate affairs ministry in August 2020.

## THE TIMES OF INDIA

## ICAI Result 2021: CA final and foundation results released

TOI-Online | Mar 22, 2021, 08.56 AM IST

The Institute of Chartered Accountants of India (ICAI) has released the Chartered Accountants Final Examination (Old course & New Course) and Foundation Examination results on Sunday, 21 March 2021.

The Chartered Accountants Final Examination (Old course & New Course) and Foundation Examination were conducted in the month of January 2021.

Candidates, who appeared for the said examination, can check their result online on the official websites - [icaiaexam.icaai.org](http://icaiaexam.icaai.org), [caresults.icaai.org](http://caresults.icaai.org) and [icaai.nic.in](http://icaai.nic.in). Direct link to check and download the result is provided below for the reference of the candidates:

Direct Link: [https://icaiaexam.icaai.org/icaai\\_results/index.php](https://icaiaexam.icaai.org/icaai_results/index.php)

According to the information the Chartered Accountants Final Examination (Old course & New Course) and Foundation Examination results are likely to be declared on Sunday, the 21<sup>st</sup> March 2021 (evening)/Monday the 22<sup>nd</sup> March 2021.

The ICAI has made arrangements for the candidates of Final Examination (Old course & New Course) and Foundation Examination desirous of having results on their e-mail addresses to register their requests at the website i.e. [icaiaexam.icaai.org](http://icaiaexam.icaai.org) from March 19, 2021. All those registering their requests will be provided their results through e-mail on the e-mail addresses registered as above immediately after the declaration of the result.

Candidates should note that in addition to above, for accessing the result at the above mentioned websites the candidate shall have to enter his/her registration no. or PIN no. along with his/her roll number.

How to check CA Result 2021?

- 1) Visit the ICAI website - <https://www.icaai.org/>
- 2) Look for the "Latest notification" section on the homepage.
- 3) Click on the link "CA Result 2021", enter your registration no. or PIN no. along with roll number.
- 4) Check and download the ICAI CA Final, Foundation Jan.
- 5) Take a print out of the CA Result 2021 for future reference.

**NBT**

नवभारत टाइम्स

Mumbai, March 22, 2021

## ICAI ने 13 FAIS जारी किए

■ एजेंसी: भारतीय सन्दी लेखाकार संस्थान (आईसीआई) ने कहा है कि फॉरेंसिक ऑडिट और जोच मानकों में किसी विशिष्ट स्थिति से निपटने के लिए 'पर्याप्त लचीलापन' है। इससे विवेक संस्थानों द्वारा किए जाने वाले फॉरेंसिक ऑडिट में एकरूपता सुनिश्चित होगी। चार्टर्ड अकाउंटेंट के शीर्ष निकाय आईसीआई ने 13 फॉरेंसिक लेखा एवं जोच मानक (एफएआईएस) जारी किए हैं। इसके अलावा तीन अतिरिक्त अति महत्वपूर्ण दस्तावेज हैं। इन्हें संस्थान के डिजिटल अकाउंटिंग एंड एक्सपर्टिस नोड ने जारी किया है। आईसीआई के अध्यक्ष निहार एन जम्बुसरीया ने पीटिआई-भा से कहा कि आठ और मानदंड अभी पड़वालाइन में हैं। फॉरेंसिक ऑडिट संस्थानों विशेषरूप से बैंकों की वित्तीय सहाय और क्राय प्रोटेक्लिफोय के आकलन में महत्वपूर्ण भूमिका निभाता है। यह पड़े

फॉरेंसिक ऑडिट मानकों में विशिष्ट स्थिति से निपटने को पर्याप्त लचीलापन : आईसीआई



जाने पर कि क्या इन मानकों से बैंकों और अन्य वित्तीय संस्थानों के फॉरेंसिक ऑडिट में एकरूपता सुनिश्चित होगी, जम्बुसरीया ने हां में जवाब दिया। उन्होंने कहा, 'निश्चित रूप से इससे बैंकों और अन्य वित्तीय संस्थानों के फॉरेंसिक

ऑडिट में एकरूपता सुनिश्चित होगी। इससे कुल मिलाकर इस व्यवस्था की गुणवत्ता सुधरेगी।' उन्होंने कहा कि एफएआईएस एक प्रकार की न्यूनतम आवश्यकता है जो कि आईसीआई के सभी सदस्यों पर लागू होगी।



# ARTICLE PLACEMENT & INDUSTRIAL TRAINING PORTAL

It is a one stop destination for the Students, Firms & Companies intend to engage them as Articled Assistants/ Industrial Trainees.



The Institute of Chartered  
Accountants of India



## HIGHLIGHTS OF INDUSTRIAL TRAINING PORTAL

1

User friendly interface  
for students and  
companies both

2

Auto Populated data of  
students & members

3

Regular updation of records &  
integrated with the SSP Portal

4

Reminder mails to all students  
six months prior to their eligibility

## ELIGIBILITY FOR MEMBERS

Industrial Training shall be received  
under a member of the Institute.

An Associate who has been a  
member for a continuous period of  
at least three years is entitled to  
train one & Fellow member can  
train two industrial trainee.

## ELIGIBILITY FOR STUDENTS

Intermediate passed articled  
assistant can serve as an Industrial  
trainee in any of the financial,  
commercial, industrial in the last  
year for a period of min 9 months  
to max 12 months.

Board of Studies-Operations (SSEB)



app@icai.in



<https://app.icai.org/>

Tollfree: 18001211330



#### ABOUT ICAI

The Institute of Chartered Accountants of India (ICAI) was established by an Act of Parliament in 1949 and since inception has proven its mark as an elite institution devoted to uphold the values of transparency, accountability and integrity. It has indeed come a long way, be it in terms of numbers, skills & utilities, recognition from society, or its role in nation building.

#### PROFESSIONAL COMPETENCE

- More than 10 Lakh Members & Students
- 164 Branches & 39 Overseas Chapters
- Promoter of Values, Virtues & Vision of Excellence
- Robust Regulator & Developer of Trusted Professionals
- Sharing Knowledge to Shape Policies
- Trusted Partner with Government Initiatives
- An Educator Par Excellence - Keeping Pace with New Era of E-learning
- Placing Indian CAs at Global Pedestal by entering into Mutual Recognition Agreements (MRAs) with Global Accounting Bodies



## THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

(Set up by an Act of Parliament)  
[www.icai.org](http://www.icai.org)



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