



VOLUME 70 | NO. 8 | PAGES -132 | FEBRUARY 2022 | ₹100

THE CHARTERED ACCOUNTANT

JOURNAL OF THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

Aligning the Profession
with the Digital Era

COUNCIL
YEAR
2021-22



DIGITAL
ERA

ICAI - SET UP BY AN ACT OF PARLIAMENT

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, Indraprastha Marg, New Delhi 110 002. 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.

Visit https://www.icai.org/post.html?post_id=2557 for detailed guidelines and formats of declaration of originality and assignment of copyright.



The Institute of Chartered Accountants of India

Aligning the Profession with the Digital Era

Accounting has been the lexicon of business to carry out its operations efficiently. The accounting profession has evolved with the development of mankind from simple recording to double entry system, in fact supporting and shaping the development of economies across the globe. The profession has been very dexterous, responsive and adaptable to transform itself to the changing times from industrial revolution to Industry 4.0 where a paradigm shift is occurring as the dawn of digital era begins.

Technology is not only disrupting but also enabling innovation across the industry and organizations, as it fast-tracks our speed of operations. Technology is the power of progress, and the accounting profession must harness its prowess to ride the revolution. Primarily, technology is changing the traditional way of businesses like the emergence of Block Chain, Artificial Intelligence, Data Analytics, Internet of Things and Robotic Process Automation which necessitates our profession to enhance its cognitive ability to reimagine, realign and reboot itself to continuously play its role in building the financial reporting chain to not only navigate the risk emerging with digital economy but also nurture innovation for value creation by supporting new businesses.

The incorporation of technology to traditional accounting knowledge has magnified the power and capacity of the profession, creating a shift freeing up time from mundane tasks and improving analytical and decision-making capacity of professionals as seen with Robotic Process Automation (RPA). Traditional knowledge of accounting fortified by software and digital data management has improved efficiency of working with large volumes of financial data, assessment, audit, taxation among other functions. Even before the global pandemic compelled workforces to adopt digital strategies of working, technology was already a crucial part of accounting. The pandemic has helped amplify this seamless functioning, this ceaseless human effort, and activity to

continue onwards despite being isolated in our homes.

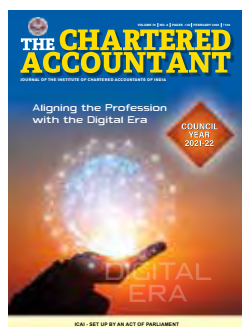
Beyond this macro vision, the real transition to aligning the profession with the digital era begins with various initiatives to build the capacity and competence in emerging technologies not only of profession, but all stakeholders. The true potential is realised when all the stakeholders work together to adopt technology across the value chain to create synergy. At ICAI, we strive to bring in on-board all the stakeholders to be part of this technology revolution by through knowledge dissemination amongst stakeholders. To meet the challenges of the future the ICAI is bringing Forensic Accounting and Investigation Standards and has put in place an innovative learning system in form of Digital Learning Hub to promote e-learning. At the ICAI, we are continuously striving to build our knowledge and capacity for the future by bringing Digital Competency Maturity Model to adopt technology and concept papers about Block Chain, Artificial Intelligence and Robotic Process Automation. Further, the Chartered Accountancy course is being reviewed to imbibe the emerging technologies to build future ready profession.

The knowledge, expertise and experience of professionals in all fields is being further enhanced with the help of digital tools. Taking a realistic look at the world around us shows the simple truth that almost all human functions will evolve to the next level and specialization will be the new normal powered by technology as mundane tasks would be automated. While steps are being taken, a multi-stakeholder vision and plan is required to align with the Digital Era. A comprehensive plan will enable the nation and profession to raise the bar by understanding the demands and resources required to build the pathway of growth for the profession and the nation.

-Editorial Board ICAI: Partner in Nation Building

Contents

FEBRUARY 2022
IN THIS ISSUE...



VOICE

- 911** Editorial
- *Aligning the Profession with the Digital Era*
- 914** From the President

MEMBERS

- 918** Photographs
- 924** Know Your Ethics
- 927** Opinion - *Accounting treatment in the Company's standalone financial statements for the Corporate Guarantee (Deed of Guarantee) issued by the Company being Parent Company to banks/suppliers/service providers on behalf of its Step-down subsidiary company*
- 1036** Classifieds

UPDATES

- 923** ICAI in Action
- 1016** Accountant's Browser
- 1017** National Update
- 1019** International Update



1020 Legal Update

- *Legal Decisions*
- *Circulars and Notifications*



SIGNIFICANT ACHIEVEMENTS

- 936** Snapshot of Progress
- 942** ICAI 2021-22: Aligning the Profession with the Digital Era

**COUNCIL
YEAR
2021-22**

TAXATION

- 958** Anti - Abuse Tax Provisions on Primary Acquisitions
- *CA. Uttam Padival M.*
- 968** Taxation Aspects of Income of Deceased Person
- *Sonal Sardar*



INTERNATIONAL TAXATION

- 975** Selection of Overseas AE as Tested Party
- *CA. Rajat Sambhaji Powar*



COMMERCIAL LAWS

- 981** Competition Act 2002 and Opportunities Thereunder
- *CA. Nand Kishore Tulsyan*





LAW

988 Principles of Natural Justice in Various Laws

- CA. Abhishek Raja



TECHNOLOGY

996 Adoption of Digital Payment Wallets in India: Key Success Factors in the Journey towards Cashless Economy

- Prof. Anuradha Jain, Dr. Harpreet Singh and Dr. D. D. Chaturvedi



REPORT - ICAI VIRTUAL INTERNATIONAL CONFERENCE 2022

1001 Accountants Creating a Digital and Sustainable Economy



ICAI NEWS

1034 Campus for Newly Qualified Chartered Accountants (NQCAs), February-March 2022

1035 Extension of last date for complying with the mandatory CPE hours' requirements for the Calendar Year 2021 either in physical/offline mode or in virtual mode through VCM/DLH

ICAI IN MEDIA

1037 Glimpses of December-January, 2021-22

- Public Relations Committee of ICAI

EDITOR

CA. NIHAR N. JAMBUSARIA,
President

JOINT EDITOR

CA. (DR.) DEBASHIS MITRA
Vice-President

MEMBERS

CA. PRAFULLA P. CHHAJED
CA. NANDKISHORE C. HEGDE
CA. CHANDRASHEKHAR V. CHITALE
CA. SHRINIWAS Y. JOSHI
CA. ANIKET S. TALATI
CA. DAYANIWAS SHARMA
CA. PRASANNA KUMAR D.
CA. RAJENDRA KUMAR P.
CA. MANU AGRAWAL
CA. ANUJ GOYAL
CA. KEMISHA SONI
CA. SATISH KUMAR GUPTA
CA. ATUL KUMAR GUPTA
CA. PRAMOD JAIN
CA. (DR.) SANJEEV KUMAR SINGHAL
CA. CHARANJOT SINGH NANDA
DR. P.C. JAIN
CA. DILIP RODI
CA. MUKESH SINGH KUSHWAH

ASSISTANT SECRETARY

KUNAL SHARMA

ICAI EDITORIAL SUPPORT

DR. NEETU SINGH

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

ICAI Bhawan, Post Box No.7100, Indraprastha Marg,
New Delhi-110002, Tel: +91 (11) 39893989.
E-mail: eboard@icai.in, Website: www.icai.org

SUBSCRIPTION RATES

Inland subscribers : ₹1,000 per annum
Overseas : \$170 per annum
(subscribers by air mail)

For Overseas Members/Subscribers

• Air Mail Surcharge : ₹ 2,100 per annum
CA Students : ₹ 1,400 for 3.5 years
: ₹ 400 per annum
Other students & faculties : ₹ 600 per annum

CLASSIFIEDS:

Minimum ₹ 2,000/- for the first twenty five words or part thereof and ₹ 500/- for five words or part thereof over and above first twenty five words.
Please contact: The Journal Section at ICAI Bhawan, Indraprastha Marg, New Delhi 110 002 or call at +91-11-30110452 or e-mail at eboard@icai.in

EDITORIAL SUPPORT & DESIGN

SAP Print Solutions Private Limited.
28A, Lakshmi Industrial Estate, S.N. Path, Lower Parel (W),
Mumbai - 400 013 Tel : 022 - 40741000

ICAI RESERVES THE RIGHT TO REJECT ADVERTISEMENTS.

Printed and published by Mr. Rakesh Kumar Sehgal on behalf of
The Institute of Chartered Accountants of India (ICAI)

Editor – CA. Nihar N. Jambusaria

Published at The Institute of Chartered Accountants of India, I. P. Marg, New Delhi - 110002 and printed at SAP Print Solutions Private Limited, Plot No-3 and Plot No-30 Sector II, The Vasai Taluka Industrial Co-op Estate Ltd., Gaurapada, Vasai (E), District : Palghar - 401208

The views and opinions expressed or implied in THE CHARTERED ACCOUNTANT are those of the authors and do not necessarily reflect those of ICAI. Unsolicited articles and transparencies are sent in at the owner's risk and the publisher accepts no liability for loss or damage. Material in this publication may not be reproduced, whether in part or in whole, without the consent of ICAI.

DISCLAIMER: The ICAI is not in any way responsible for the result of any action taken on the basis of the advertisements published in the Journal. The members, however, may bear in mind the provisions of the Code of Ethics while responding to the advertisements.

TOTAL CIRCULATION : 85,564

Total No. of Pages: 132 including Covers

E-Journal circulation (Soft copy): 3,53,185



CA. Nihar N. Jambusaria
President, ICAI

My Dear Professional Colleagues,

As the completion of the Council Year 2021-22 approaches, we look back at this incredible journey of the Council Year. It has been a great honour and privilege to fortify the legacy of my alma mater as the 69th President of ICAI as we have continued to move forward and progress despite the challenges from the pandemic and its ripple effects. The experience of leading the institute in these troubled waters has been a catalyst in realising my own capacity to continue to evolve, find innovative ways and go on to excel in my duty for the profession and nation. ***“Strength does not come from physical capacity, It comes from an indomitable will.”– Mahatma Gandhi***

This memorable journey was possible due to the untiring support from the Council members, colleagues from the regional councils, branches, study chapters, study circles, foreign chapters, and representative offices and each one of you, who have contributed their time and hard work to the Institute and its activities. As I look back, I am lucky to have an

amazing team of my Council colleagues and officers of the Institute. With the able support of CA. (Dr.) Debashis Mitra Vice-President, ICAI, the Institute has steered on its pursuit of excellence by reimagining and realigning the profession with the digital era.

I reminisce the words of our Past President CA. Y H Malegam, *“Society expects the profession to be not merely the ‘conscience-keeper’ of the business world but also a direct contributory to the welfare of society in general and commerce and industry in particular.”* ICAI is a strong partner in national development and has continued this stride by collaborating with government, institutes, and other bodies to help them in formulating policies which will strengthen the economy. The pandemic has driven us towards harnessing the power of technology at much faster pace and embracing the digital era in our professional pursuits. ICAI’s Action Plan 2021-2022 has borne fruits in ushering the new developments,

placed tools for integration and paving the way for future growth.

Analysing the current situation, we figured out that it is the golden hour to work with other stakeholders as part of Team India for building the New India with a collective spirit of **“Together everyone achieves more”**. We at ICAI focused on multipronged strategies to lay the groundwork for the future by preparing the profession future ready, and simultaneously supporting economic development. Many initiatives have been undertaken to support various stakeholders, stimulate economic growth and enhance the profession in order to achieve our mission.

To realise the vision of self-reliant India, ICAI has undertaken a variety of initiatives aimed at empowering the MSMEs and Startups, being an important driver of economic growth, like commemorating International MSME Day on 27th June, 2021. To enhance their competence and improve their visibility amongst the business community, the ICAI this year launched ICAI MSME Exchange, MSME Portal, Startup Portal, and Incubation centres with an intent to nurture them

From the President

and to attract investments, adopting technology to innovate and putting in place an ecosystem that would foster growth for value creation to build around Make in India, Digital India, and Startup India.

Building the profession for the future necessitated to grow the profession beyond national borders, and it gives me immense satisfaction to inform that we are able to enhance our presence to 47 countries from 43 and across 73 global cities through opening of 14 Chapters and Representative offices even in the constrained environment. Another important milestone achieved that we were able to forge new alliances with ASEAN and institutions in Russia, Azerbaijan, Poland and Qatar, in addition to renewal of ties with CPA Australia and ICA Australia and New Zealand promoting intellectual development, advancing the interests of our respective members and positively contributing to the development of the global accountancy profession.

Harnessing the full potential of our demographic dividend and moving towards a financially inclusive society, ICAI has launched the noble initiative to educate the Indian masses about the basics of Taxation, Insurance, Banking, and various other important subject areas of finance through the financial and tax literacy drive – *VitiyaGyan Abhiyaan*, which aims to create awareness amongst masses in their own 12 vernacular languages and is indeed an incredible way whereby ICAI can continue to play a pivotal role in the development of the nation.

An important area of our work this year has been promoting sustainable economic development, and to strengthen the sustainability reporting in the country. To this effect, the Institute has launched the Sustainability Reporting Maturity Model (SRMM) Version 1.0. In the time to come, the SRMM would form the foundation for benchmarking of sustainability reporting for Indian corporates. Our members will play an important role in helping the organizations to increase their level of preparedness on the sustainability parameters. We have also institutionalized the Sustainability Awards to promote best practices and encourage businesses to adopt sustainability reporting.

ICAI, the largest intermediary in the direct tax ecosystem of the country, provided inputs to CBDT and Infosys in resolving IT portal glitches which will

make compliance simple and citizen friendly. The ICAI has remained at the forefront in providing grassroot insights to the government, collated, analysed, and complimented with the experience of experts. During the year, the Institute invited suggestions for widening the tax base, increasing tax revenues, checking tax avoidance, reducing/minimizing litigations and removing administrative and procedural difficulties were submitted to the Government in the form of Pre-budget Memorandum.

Being a knowledge driven profession, it is paramount for the profession to maintain high standards of excellence. The Institute has taken numerous steps for capacity building of its members and students. The Digital Learning Hub was revamped and continuously updated for latest knowledge dissemination amongst the members. New Certificate courses were launched for skill development and to provide new avenues of practice. The Institute also constituted Committee for Review of Education and Training (CRET) for realigning the existing course structure with the digital era to nurture the best professionals.

During the year, one of the areas that remained very high on the agenda of the Institute is to extend a helping hand to our members and students during the time of crisis. In this direction, there were several initiatives taken in the interest of members and students by the Institute. Besides providing relaxation of various timelines in filing of Statutory Forms with the ICAI, and waiving condonation fee, we have provided financial support through the CABF Corona Financial Medical Assistance Scheme and disbursed about Rs. 10 crores to more than 800 beneficiaries. Further, ICAI granted exemption of CA Course fee, for students whose parents or either of the parents passed away due to the pandemic. The University Grants Commission (UGC) has granted the academic equivalence to the Chartered Accountancy qualification with its Post Graduate degree.

Towards capacity building initiatives, the Ministry of Corporate Affairs (MCA) had approved Multi-Disciplinary Partnership (MDP) guidelines of the ICAI. This will pave the way for CA firms to partner with members of other professions in offering varied services under one roof. This will encourage Indian firms to aggregate and emerge bigger at the global arena.

From the President

ICAI has also formed a group to strengthen its role as a consultative body through public advocacy on emerging regulations, laws, topics of corporate and economic interest and monitor and advocate on legislative matters that affect the accounting profession and the public at large.

In the responsible exercise of nation building, the ICAI, through all the above initiatives is making an effort to develop competent professionals to deliver world class services and for the betterment of the overall profession. A detailed list of various activities undertaken and tasks accomplished is published separately in inside pages. In addition to the above, let me share some latest and recent developments at the Institute over the last month:

Hon'ble Vice President of India lays foundation stone at ICAI Bhawan, Ernakulam

It was a great honour and privilege for the Institute that the foundation stone of the new state-of-the-art building of ICAI Bhawan at Ernakulam and inauguration of two-day National Conference of CAs on 3rd and 4th January 2022 organized by PDC was done by the august hands of Hon'ble Vice-President of India, Shri. M. Venkaiah Naidu. Shri. Arif Mohammed Khan, Hon'ble Governor of Kerala, Shri. V. Muraleedharan, Hon'ble Union Minister of State for External Affairs and Parliamentary Affairs and Shri. P. Rajeev, Hon'ble Minister for Industries, Law and Coir, Kerala also joined as Special Guests for the occasion. The event also had the presence of CA. Thomas Chazhikadan, Member of Parliament, Shri. Hibi Eden, Member of Parliament, Kottayam and Adv. M. Anil Kumar, Mayor of Kochi and Mr. M A Yusuffali, CMD Lulu Group International. The Hon'ble Vice-President of India praised the Ernakulam branch of ICAI for its excellent service rendered over the last 54 years and hoped that the proposed building would cater to the academic and professional needs of the students in the region. He lauded the role of Chartered Accountants in the economic advancement of the nation and made a clarion call to improve financial literacy in the country.

ICAI International Conference

The ICAI International Conference "Accountants Creating a Digital and Sustainable Economy" was held

virtually from 20th–22nd January 2022. The Conference has seen participation of more than 3000 delegates who attended the event through a specially created virtual platform providing best in class experience. Over 80 eminent speakers both of the national as well as international eminence from government, Industry, Private sector and Accounting Profession addressed the elite gathering of members, academicians, researchers and policy makers from across the globe in more than 15 sessions. The Conference was inaugurated by Shri Nitin Gadkari, Hon'ble Union Minister of Road Transport & Highways as Chief Guest and Mr. Alan Johnson, President, International Federation of Accountants as Guest of Honour. I am thankful to the speakers, stakeholders and members for making the International Conference highly successful.

Round Table Meet with RBI

A Round Table Meet was held with Reserve Bank of India (RBI) on 24th December 2021 virtually. The said meeting was chaired by Shri M K Jain, Deputy Governor RBI and was also attended by Shri Rohit Jain, Executive Director, Shri S C Murmu, Executive Director and other top executives of RBI. A detailed presentation was made by ICAI on issues pertaining to the broader expectations of the profession from RBI. Further, the DG and ED assured that the Statutory audit fee of Banks is under active consideration and the final decision will be taken shortly.

ICAI Convocation 2021-22

As I pen down this message, I always find it pleasing to interact with the young talent entering the profession. The ICAI Convocation 2021-22, was held adhering to the Covid protocols at Chennai, Kolkata, Mumbai and Ahmedabad to award Membership Certificates as well as Merit Certificates respectively to newly enrolled Members and Rank Holders. In the Convocation, more than 6,000 Members and Rank Holders were awarded certificates. I compliment all the distinguished guests for their gracious presence and for blessing the young talent at the Convocations. My heartfelt best wishes to the young members who have missed/are missing the Convocation at Pune, Hyderabad, Kanpur, Jaipur, Indore, and New Delhi due to the Covid Restrictions. I must acknowledge that Youth is the power, and I am elated to see that the future of the profession is in very bright hands.

From the President

Concluding Remarks

As the Council year is coming to an end, I would like to express my sincere thanks to my colleagues on the Council and in particular, to the members nominated by the Government for the consideration and ready co-operation extended to me during the year for working towards the development of the profession. I wish to express my heartfelt gratitude to my distinguished colleague CA. (Dr.) Debashis Mitra, Vice-President ICAI, for being an excellent partner and great support in this journey. As I pass on the mantle of leadership on the able shoulders of the new President, I am confident that he will continue to light the path ahead and take it further with his erudite academic capacity, vigour, and enthusiasm in serving the accounting profession.

I wish to take this opportunity of acknowledging the co-operation and guidance I received from the esteemed past-Presidents, senior members of the profession, representatives at Regional Councils, Branches, foreign Chapters, Representative offices, and distinguished members of the profession co-opted to serve various committees of the Council. I would also like to mention the warmth and generosity which I was fortunate to receive from members and students of the Institute whenever I had the opportunity of meeting them in different parts of the country.

I express my gratitude to our Hon'ble ministers and senior functionaries at various ministries for their guidance and foresight on many important matters, motivation and unflinching support extended to the Institute in its endeavours. I am especially thankful to Shri Om Birla, Hon'ble Speaker of Lok Sabha, Smt. Nirmala Sitharaman, Hon'ble Minister for Finance and Corporate Affairs, Shri Piyush Goyal, Hon'ble Minister of Commerce & Industry, Consumer Affairs, Food & Public Distribution and Textiles, Shri Anurag Singh Thakur, Hon'ble Minister of Information and Broadcasting (then Hon'ble MOS Finance), Dr. Bhagwat Kishanrao Karad, Hon'ble Minister of State for Finance, Shri Parshottam Rupala, Hon'ble Union Minister of Fisheries, Animal Husbandry and Dairying, Shri Narayan Rane, Hon'ble Union Minister for Micro, Small and Medium Enterprises, Shri Arjun Ram Meghwal, Hon'ble Minister of State for Parliamentary Affairs and Ministry of Culture, Shri Uddhav Thackeray, Hon'ble Chief Minister of

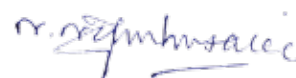
Maharashtra, Hon'ble Members of Parliament Shri Suresh P Prabhu, Shri Arun Singh, Shri Thomas Chazhikadan, Smt. Navneet Rana, Shri Hibi Eden, Shri Subhash Chandra Baheria, Revenue Secretary Shri Tarun Bajaj and RBI Governor Shri Shaktikanta Das. During the year, we are blessed with the excellent guidance and support in all our endeavours from Shri Rajesh Verma, Secretary, Ministry of Corporate Affairs, and Shri Manoj Pandey, Joint Secretary, MCA for which I will always remain grateful.

I would also like to record my appreciation of the services and co-operation of the members and the staff of the Institute led by CA. (Dr.) Jai Kumar Batra, Secretary, ICAI who have worked with all sincerity and have extended unstinted support in effectively implementing the various initiatives of the institute during the year. Lastly, I pay my deepest gratitude to the almighty and my teachers for their blessings and guidance to steer the profession to newer heights in these tumultuous times. I am especially thankful to my family and friends for supporting me throughout this journey with their patience and being pillars of strength.

In this last message as the President of ICAI, I wish to convey that this has been one of the most enriching experiences of my life working and interacting with members, students, stakeholders, and other distinguished professionals in the Institute and beyond where they continue to impact the functioning of the world at large. The past two years have been challenging but looking back we have also become resilient and stronger. This is the lesson that we take forward, that no matter what, we remain true to ourselves, dedicated to our purpose and work in such a manner that our work defines us in a way that requires no introduction.

I take my leave with satisfaction and gratitude for this fulfilling tenure and wish each one of you the best on this purposeful journey ahead.

All good wishes, stay safe.



CA. Nihar N. Jambusaria
President, ICAI
New Delhi, 27th January, 2022

Photographs



Hon'ble Vice President of India, Shri. M. Venkaiah Naidu, unveiling a plaque to mark the laying of the foundation for new ICAI Bhawan in Ernakulam. Also present were Shri. Arif Mohammed Khan, Hon'ble, Governor of Kerala, Shri. V. Muraliedharan, Hon'ble Union Minister of State for External Affairs and Parliamentary Affairs and Shri. P. Rajeev, Hon'ble Minister for Industries, Law and Coir, Govt. of Kerala, CA. Thomas Chazhikadan, Member of Parliament, Shri. Hibi Eden, Hon'ble Member of Parliament, Kottayam and Adv. M. Anil Kumar, Hon'ble Mayor of Kochi with CA. Nihar N. Jambusaria, President, ICAI and CA. Babu Abraham Kallivayalil, Central Council Member (03.01.2022).

ICAI President CA Nihar N. Jambusaria, felicitating Shri. M. Venkaiah Naidu, Hon'ble Vice President of India, during foundation stone laying ceremony of ICAI Bhawan, Ernakulam. Also seen in the picture is CA. Babu Abraham Kallivayalil, Central Council Member and Chairman PDC (03.01.2022).



ICAI President CA. Nihar N. Jambusaria alongwith CA. Babu Abraham Kallivayalil, Chairman PDC, CA. M P Vijay Kumar, Central Council Member, CA. Satish Kumar Gupta, Central Council Member, CA. R Balakrishnan, Past President ICAI, CA. K Raghu, Past President ICAI, CA. Manoj Fadnis, Past President ICAI and CA. K. Jalapathi, Chairman, SIRC of ICAI at the National Conference organized by Professional Development Committee at Ernakulam (03.01.2022).



ICAI President CA Nihar N. Jambusaria alongwith the Central Council Members, ICAI launching FRRB portal and other publications at the Council meeting held at Bhubaneswar (09.01.2022).

Photographs



ICAI President CA. Nihar N. Jambusaria with Shri P K Gupta Jury Chairman and CMD NBCC (India) Ltd. at the Jury Meet for ICAI Awards for Excellence in Financial Reporting: 2020-21 held at ICAI Bhawan, New Delhi. Also seen in the picture are CA. Anuj Goyal, Central Council Member and Chairman, Research Committee and distinguished Jury members (11.01.2022).

ICAI President CA. Nihar N. Jambusaria felicitating Shri P K Gupta Jury Chairman and CMD NBCC (India) Ltd. at the Jury Meet for ICAI Awards for Excellence in Financial Reporting: 2020-21 held at ICAI Bhawan, New Delhi. Also seen in the picture CA. Anuj Goyal, Central Council Member and Chairman, Research Committee (11.01.2022).



ICAI President CA. Nihar N. Jambusaria seen with newly qualified Chartered Accountants at the ICAI Convocation 2021-22 at Mumbai. Also seen in the picture are CA. Dhiraj Kumar Khandelwal, Central Council Member, ICAI, CA. Durgesh Kumar Kabra, Central Council Member, ICAI and CA. Manish Gadia, Chairman WIRC (29.12.2021).

ICAI President CA. Nihar N. Jambusaria felicitating CA. Ranganathan Subramanian, President & CFO, Edelweiss Financial Services at Mumbai. Also seen in the picture are CA. Dhiraj Kumar Khandelwal, Central Council Member, ICAI, CA. Durgesh Kumar Kabra, Central Council Member, ICAI and CA. Manish Gadia, Chairman WIRC (29.12.2021).



ICAI Vice-President CA. (Dr.) Debashis Mitra with Chief Guest CA. Deepak Kumar Kedia, IPS, Law & Order Assam Police and Guest of Honour CA. Rajendra Kumar Pansari, Senior President, Essel Mining & Industries Ltd. and Chief Executive Officer - Pilani Investment & Industries Corporation Ltd. felicitating newly qualified Chartered Accountants, at ICAI Convocation 2021-22 held on 29th and 30th December, 2021 at Kolkata. Also seen in the picture are CA. Ranjeet Kumar Agarwal, Central Council Member, ICAI, CA. Sushil Kumar Goyal, Central Council Member, ICAI and CA. Sunil Kumar Sahoo, Chairman EIRC.

Photographs



ICAI Vice-President CA.(Dr.) Debashis Mitra alongwith CA. Subodh K Agrawal, Past President ICAI felicitating newly qualified Chartered Accountants, at ICAI Convocation 2021-22 held on 29th and 30th December, 2021 at Kolkata. Also seen in the picture are CA. Ranjeet Kumar Agarwal, Central Council Member, ICAI, CA. Sushil Kumar Goyal, Central Council Member, ICAI and CA. Sunil Kumar Sahoo, Chairman EIRC.

CA. R. Kirlosh Kumar, IAS Secretary, Labour Welfare and Skill Development, Govt. of Tamil Nadu at the ICAI Convocation 2021-22 held on 27th and 28th December, 2021 at Chennai. Also seen in the picture are CA. Rajendra Kumar P, Central Council Member, ICAI, CA. G Sekar, Central Council Member, ICAI, CA. M P Vijay Kumar, Central Council Member, ICAI, CA. Sripriya K, designated Central Council Member of 25th Council of ICAI and CA. K. Jalapathi, Chairman, SIRC of ICAI.



ICAI President CA. Nihar N. Jambusaria at the program organised by the Jamnagar Branch of WIRC of ICAI. Also present were CA. Jay Chhaira, Central Council Member ICAI, CA. Aniket Talati, Central Council Member ICAI, CA. Vishal Doshi, designated Central Council Member of the 25th Council of ICAI and CA. Manish Gadia, Chairman WIRC (24.12.2021).

ICAI President CA. Nihar N. Jambusaria attending program at the Rajkot Branch of WIRC of ICAI. Also present were CA. Jay Chhaira, Central Council Member ICAI, CA. Aniket Talati, Central Council Member ICAI, CA. Vishal Doshi, designated Central Council Member of the 25th Council of ICAI, CA. Manish Gadia, Chairman WIRC (25.12.2021).



ICAI President CA. Nihar N. Jambusaria attending program at the Solapur Branch of WIRC of ICAI. Also present were CA. Mangesh Kinare, designated Central Council Member of the 25th Council of ICAI and CA. Manish Gadia, Chairman WIRC (27.12.2021).

Photographs



ICAI President CA. Nihar N. Jambusaria with the members at the Solapur Branch of WIRC of ICAI. Also present were CA. Mangesh Kinare, designated Central Council Member of the 25th Council of ICAI and CA. Manish Gadia, Chairman WIRC (27.12.2021).

ICAI President CA. Nihar N. Jambusaria attending program at Latur Branch of WIRC of ICAI. Also present were CA. Mangesh Kinare, designated Central Council Member of the 25th Council of ICAI and CA. Manish Gadia, Chairman WIRC (27.12.2021).



Shri Jagdishbhai Vishwakarma (Panchal), Hon'ble Minister of State for Cottage Industries, Govt. of Gujarat at the ICAI Convocation 2021-22 at Ahmedabad. Also seen in the picture are CA. Aniket Talati, Central Council Member, ICAI, CA. Jay Chhaira, Central Council Member, ICAI, CA. Purushottam Khandelwal, designated Central Council Member of the 25th Council of ICAI, CA. Jainik Vakil, Chairman, Revenue Committee, Amdavad Municipal Corporation and CA. Harit Dhariwal, Chairman Ahmedabad Branch (03.01.2022).

ICAI President CA. Nihar N. Jambusaria with Vice President CA. (Dr.) Debashis Mitra at the inauguration of ICAI International Conference 2022 at Mumbai in the presence of CA. Prafulla P Chhajed, Past President ICAI, CA. Atul Kumar Gupta Past President ICAI, CA.(Dr.) Jai Kumar Batra, Secretary, ICAI and CA. Manish Gadia, Chairman, WIRC (20.01.2022).



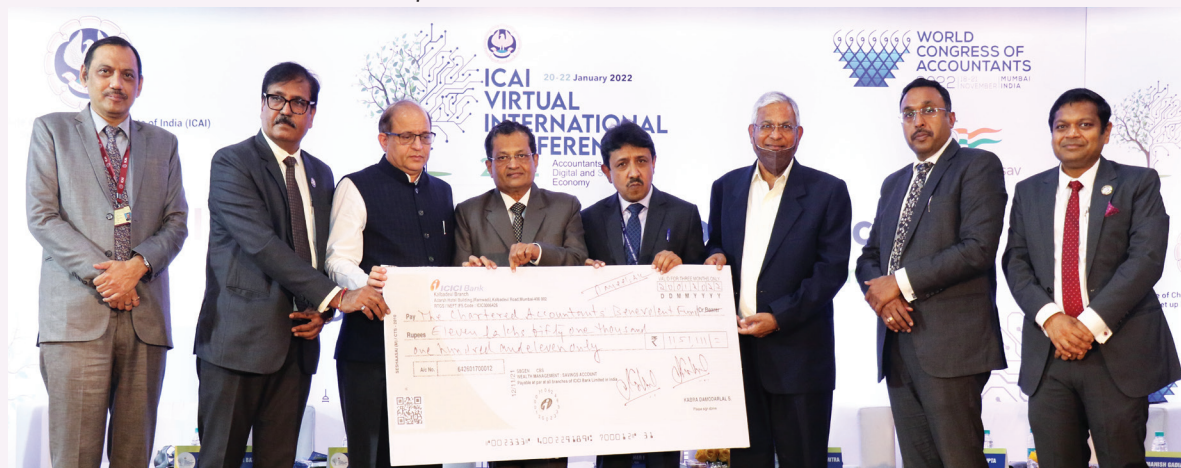
Photographs



ICAI President CA. Nihar N. Jambusaria and Vice President CA. (Dr.) Debashis Mitra at the ICAI International Conference 2022 at Mumbai alongwith members of the 24th Central Council and designated members of the 25th Central Council of the ICAI (20.01.2022)

Voluntary Contributed ₹11,51,111/- to the Chartered Accountants' Benevolent Fund (CABF)

The Chartered Accountants' Benevolent Fund (CABF) was established in December, 1962 with the objective to provide financial assistance for maintenance, and other similar purposes to needy members of our Institute, their wives, widows, children and dependent parent(s). In these challenging pandemic times, hundreds of our members have lost their battle and many are struggling hard to pass through this difficult time. The impact is deep and has certainly shattered their dreams. The Institute through the CABF has tried to help our members in distress. Rising to the occasion CA. Damodar S Kabra has made a generous contribution of ₹11,51,111 to the CA Benevolent Fund during the ICAI International Conference 2022 held from 20-22 January, 2022.



ICAI President CA. Nihar N. Jambusaria with Vice-President CA. (Dr.) Debashis Mitra receiving the contribution towards CABF from CA. Damodar S. Kabra. Also present were CA. Prafulla P Chhajed, Past President, ICAI, CA. Atul Kumar Gupta, Past President, ICAI, CA. Durgesh Kumar Kabra, Central Council Member, ICAI, CA. (Dr.) Jai Kumar Batra, Secretary, ICAI and CA. Manish Gadia, Chairman, WIRC.

ICAI also acknowledges and thankful for the following contributions to the CABF

Name	Amount	Name	Amount
Vishakhapatnam Branch of SIRC	3,43,504	Australian Chapter of the ICAI	1,99,174
Ghaziabad Branch of CIRC	2,01,000	CPE Study Circle of WIRC Borivali (Central)	7,01,000
Jalgaon Branch of WIRC	1,51,000	J B Nagar CPE Study Circle of WIRC	2,50,000

Be part of this Noble Mission – Contribute to CABF

Visit – cabf.icai.org

ICAI in Action

Key developments vis-à-vis accountancy profession for the information of members, students and other stakeholders

Implementation Guide to Standard on Auditing (SA) 210, "Agreeing the Terms of Audit Engagements"

The purpose of this Implementation Guide is to provide practical guidance on implementation of the principles laid down in the Standard on Auditing (SA) 210, "Agreeing the Terms of Audit Engagements".

SA 210 deals with the auditor's responsibilities in agreeing the terms of the audit engagement with management and, where appropriate, those charged with governance. The main objective is establishing whether the preconditions for an audit are present and confirming that there is a common understanding between the auditor and management and, where appropriate, those charged with governance of the terms of the audit engagement.

Read more at: <https://resource.cdn.icai.org/68844aasb-igsa210.pdf>

Implementation Guide to Standard on Auditing (SA) 560, "Subsequent Events"

The purpose of this Implementation Guide is to provide practical guidance on implementation of the principles laid down in Standard on Auditing (SA) 560, "Subsequent Events" (hereinafter referred as "the Standard").

The Standard deals with the auditor's responsibilities relating to subsequent events in an audit of financial statements. It does not deal with matters relating to the auditor's responsibilities for other information obtained after the date of the auditor's report, which are addressed in SA 720(Revised), "The Auditor's Responsibilities Relating to Other Information". However, such other information may bring to light a subsequent event that is within the scope of this SA.

The objectives of the auditor are to: Obtain sufficient appropriate audit evidence about whether events occurring between the date of the financial statements and the date of the auditor's report that require adjustment of, or disclosure in, the financial statements are appropriately reflected in those financial statements; and respond appropriately to facts that become known to the auditor after the date of the auditor's report, that, had they been known to the auditor at that date, may have caused the auditor to amend the auditor's report.

<https://resource.cdn.icai.org/68845aasb-igsa560.pdf>

Exposure Draft of Revised Accounting Standard for Comments

The Indian Accounting Standards (Ind AS), as notified by the Ministry of Corporate Affairs in February 2015, and as amended from time to time are applicable to the specified class of companies as per Ind AS Roadmap. Accounting Standards notified under Companies (Accounting Standards) Rules, 2021 and those issued by the ICAI are applicable to entities to whom Ind AS are not applicable. However, on the basis of the discussions held at various standard setting forums, it has been decided to revise Accounting Standards (AS). Accordingly, ASB is working on the project of revision of these standards which will be applicable to entities to whom Ind AS are not applicable. While formulating these Accounting Standards, the ASB decided to maintain the consistency in the numbering of AS with Ind AS numbering.

In this regard, it may be mentioned that the entire set of revised Accounting Standards will consist of 32 standards which are at various stages of formulation. So far Exposure Drafts of 24 revised standards have been issued. The entire set of revised standards replacing the existing standards will be implemented together from a future date.

In this direction, the Exposure Drafts of following revised AS have been issued by the ASB for comments with the last date being **February 3, 2022**:

1. Exposure Draft of AS 103, *Accounting for Amalgamations* - The downloadable version is available at: <https://resource.cdn.icai.org/68733asb-040122as103.pdf>
2. Exposure Draft of AS 110, *Consolidated and Separate Financial Statements* - The downloadable version is available at: <https://resource.cdn.icai.org/68734asb-040122as110.pdf>
3. Exposure Draft of AS 111, *Financial Reporting of Interest in Joint Ventures* - The downloadable version is available at: <https://resource.cdn.icai.org/68735asb-040122as111.pdf>
4. Exposure Draft of AS 28, *Accounting for Associates and Jointly Controlled Entities* - The downloadable version is available at: <https://resource.cdn.icai.org/68732asb-040122as28.pdf>

<https://www.icai.org/post/ed-of-revised-accounting-standard-for-comments>

Know Your Ethics



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

A. The Council of the Institute has issued Council General Guidelines, 2008, chapter VI of which specifies that a member of the Institute in practice shall be deemed to be guilty of professional misconduct, if he accepts, in a financial year, more than the specified number of tax audit assignments under Section 44AB of the Income Tax Act, 1961. The number specified for tax audits is 60.

Q. Where a Firm of Chartered Accountants has more than one partners, how many tax audits can be signed by one partner on behalf of other partners.

A. In view of Chapter VI of Council General Guidelines, 2008, in case of Firm of Chartered Accountants in practice, specified number of tax audit assignments means tax audit assignments per partner of the firm, in a financial year.

The paragraph 6.1.7 of Chapter VI of Council General Guidelines, 2008 clarifies that the limit on number of tax audit assignments per partner in a CA Firm may be distributed between the partners in any manner whatsoever. However, it should

be in accordance with the Standard on Quality Control (SQC) 1: Quality Control for Firms that Perform Audits and Reviews of Historical Financial Information, and Other Assurance and Related Services Engagements

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

A. No, in view of chapter VI of Council General Guidelines, 2008, the audits conducted under Section 44AD, 44ADA and 44AE of the Income Tax Act, 1961 shall not be taken into account for the purpose of reckoning the “specified number of tax audit assignments”.

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

A. Yes, as per Chapter X of Council General Guidelines, 2008 appearing in Volume-II of Code of Ethics, a member of the Institute in practice or a partner of a firm in practice or a firm, or a relative of such member or partner

Follow us on: www.esb.icaai.org | esb@icaai.in | [@icaiesb](https://twitter.com/icaiesb)

shall be deemed to be guilty of professional misconduct if he accepts appointment as auditor of a concern while he is indebted to the concern or has given any guarantee or provided any security in connection with the indebtedness of any third person to the concern, for limits fixed in the statute and in other cases for amount exceeding ₹1,00,000.

Q. Whether “indebtedness” for the purposes of Chapter – X of Council General Guidelines, 2008 applicable in case of internal audit?

- A. The Council decided that for the purpose of Appointment of an auditor when he is indebted to a concern, as dealt with under Chapter X of the Council General Guidelines, 2008, the term “auditor” shall not include internal auditor, concurrent auditor or an auditor giving report to the Management. In other words, the provision relating to criteria/limit of indebtedness shall apply only to statutory audits.

Q. Whether “indebtedness” for the purposes of Chapter – X of Council General Guidelines, 2008 include loan taken by the member against a Fixed Deposit?

- A. Yes, “indebtedness” for the purposes of Chapter –X of Council General Guidelines, 2008 includes loan taken by a member against Fixed Deposit. Accordingly, it is not permissible for him to accept audit assignment of a bank in case he has taken loan against a Fixed Deposit held by him in that bank.

Q. Whether there is any ceiling on the number of Company audit (Statutory Audit) assignments that can be taken up by a member in practice or a Firm of Chartered Accountants?

- A. Yes, in view of the Chapter VIII of Council General Guidelines, 2008 member in practice or a proprietary firm of Chartered Accountant can accept 30 audit assignments whether in respect of private Companies or other Companies, with the exception of one person Companies and dormant companies.

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

- A. The Council has decided certain self-regulatory measures in order to ensure a healthy growth of the profession and an equitable flow of professional work among the members. One of the recommendations of this nature is that the branch audits of a company should not be conducted by its statutory auditors consisting of ten or more members, but should be conducted by the local firms of auditors consisting of less than ten members. This should not be understood to mean any restriction on the right of the statutory auditors to have access over branch accounts conferred under the Companies Act. This restriction may not apply in the following cases:

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

Q. Whether a Chartered Accountant is qualified to be appointed as statutory auditor of one associate company when he is the internal auditor of another fellow associate company.

- A. Yes, the statutory auditor of one associate company can accept internal audit of the fellow associate company, because there is no holding-subsidary relation between such companies, and therefore there is no violation of provisions of Companies Act, 2013.

Q. Whether a statutory auditor can accept the system audit of same entity?

- A. Yes, the statutory auditor can accept the assignment of a system audit of the same entity, provided it did not involve any scrutiny/review of financial data and information.

Know Your Ethics

Q. Whether a member in practice will be liable, if he fails to disclose a material fact known to him which is not disclosed in a financial statement, but disclosure of which is necessary to make the financial statement not misleading?

A. Yes, as per Clause (5) of Part I of Second Schedule to the Chartered Accountants Act, 1949 a member in practice shall be deemed to be guilty of professional misconduct, if he fails to disclose a material fact known to him which is not disclosed in a financial statement, but disclosure of which is necessary to make the financial statement not misleading.

Q. Whether a member in practice will be liable if he fails to report a material mis-statement known to him to appear in a financial statement with which he is concerned in a professional capacity?

A. Yes, as per Clause (6) of Part I of Second Schedule to the Chartered Accountants Act, 1949 a member in practice shall be deemed to be guilty of professional misconduct, if he fails to report a material mis-statement known to him to appear in a financial statement with which he is concerned in a professional capacity.

Q. Whether a member in practice will be liable if he is grossly negligent in the conduct of his professional duties?

A. Yes, as per Clause (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949 a member in practice shall be deemed to be guilty of professional misconduct, if he does not exercise due diligence or is grossly negligent in the conduct of his professional duties.

Q. Whether a member in practice will be liable in a case where he was alleged to have signed two balance sheets on two different dates for the same financial year, the first one with a clean report and the second one with a qualified report

A. Yes, the action of the member in signing two balance sheets on two different dates

for the same financial year will constitute professional misconduct under Clause (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949 which states that a member in practice shall be deemed to be guilty of professional misconduct, if he is grossly negligent in the conduct of his professional duties.

Q. Whether a member in practice will be liable if he fails to obtain sufficient information to warrant the expression of an opinion or his exceptions are sufficiently material to negate the expression of an opinion?

A. Yes, as per Clause (8) of Part I of Second Schedule to the Chartered Accountants Act, 1949 a member in practice shall be deemed to be guilty of professional misconduct, if he fails to obtain sufficient information to warrant the expression of an opinion or his exceptions are sufficiently material to negate the expression of an opinion.

Q. Can a Chartered Accountant receive his professional fees in advance partly or in full?

A. Yes, as such there is no bar in the Chartered Accountants Act, 1949 or in the Chartered Accountants Regulations, 1988 as well as Code of Ethics in taking the fees in advance.

Q. Whether a member of the Institute in practice is required to maintain books of accounts?

A. Yes, in the exercise of the powers conferred by Clause (1) of Part II of the Second Schedule to the Chartered Accountants Act 1949, the Council of the Institute has issued Council General Guidelines, 2008, Chapter V of which specifies that a member of the Institute in practice or the firm of Chartered Accountants of which he is a partner shall maintain and keep in respect of his/its professional practice, proper books of account including the following:-

- (i) a Cash Book;
- (ii) a Ledger

Accounting treatment in the Company's standalone financial statements for the Corporate Guarantee (Deed of Guarantee) issued by the Company being Parent Company to banks/suppliers/service providers on behalf of its Step-down subsidiary company

A. Facts of the Case

1. A Company (hereinafter referred to as 'the Company') was incorporated on 16th August 1984 for procuring, transmission, processing and marketing of natural gas. The Company has an authorized share capital of Rs. 5,000 crore out of which Rs. 4,440.39 crore is paid-up share capital. The Government of India holds 51.45% equity of the Company at present. The Company is India's leading natural gas company with presence along the entire natural gas value chain comprising of exploration & production (E&P), LNG imports, gas transmission & marketing, gas processing, petrochemicals, LPG transmission, city gas distribution and power. The Company is having its global presence in various countries, such as, USA, Singapore, Myanmar, Egypt, China through subsidiaries/joint ventures (JVs)/associates etc. The securities of the Company are listed on the National Stock Exchange of India, the Bombay Stock Exchange and the London Stock Exchange (in the form of GDRs) with market capitalisation of over Rs. 61,000 crores (as of 31st March 2021). The Company's consolidated turnover for the year ended 31st March 2020 was approximately Rs. 72,400 crores with a profit after tax of Rs. 9,422 crores.

2. The Company has prepared its accounts as per Indian Accounting Standards (Ind ASs) w.e.f. 1st April 2016. In compliance to Companies (Indian Accounting Standards) Rules, 2015, the Company has prepared its financial statements for the financial year (F.Y.) 2016-17 with comparative figures for F.Y. 2015-16. The Company has adjusted the impact of transition from Indian Generally Acceptable Accounting Principles (I GAAP) to Ind AS in the opening reserve of 1st April 2015 and in the Statement of Profit and Loss for F.Y. 2015-16.

3. The Company has the following wholly owned subsidiary companies in USA:

- a) Subsidiary 1, which is a wholly owned subsidiary of the Company and is engaged in the E&P business.
- b) Step-down subsidiary, which is a wholly owned subsidiary of Subsidiary 1 and a Step-down subsidiary of the Company, and is engaged in LNG trading business.

At present, the Company has issued corporate guarantees on behalf of its US subsidiary, Subsidiary 1 and Step-down subsidiary to the tune of USD 1057.57 million (Rs. 7,810.15 crore). The Guarantee of USD 72.5 million (Rs. 535.41 crore) issued on behalf of Subsidiary 1 is towards meeting obligation of Subsidiary 1 and therefore, guarantee fee is being charged by the Company from Subsidiary 1 and as per the Company's assessment, presently there is no possibility of default by Subsidiary 1. Further, guarantees issued on behalf of Step-down subsidiary of USD 985.07 million (Rs. 7,274.73 crore), have been issued for furtherance of business of the company wherein ultimate beneficiary of these guarantees is the Company itself. As per the Company's assessment, there is no possibility of default by the Step-down subsidiary for meeting its obligation. Accordingly, the Company of the view that fair value of the guarantees is 'Nil' as the entire transaction is for the furtherance of business of the Company.

4. Facts of Step-down subsidiary and corporate guarantees provided on behalf of Step-down subsidiary are given hereunder:

Step-down subsidiary, a wholly owned subsidiary of Subsidiary 1, was established on March 28, 2013. On April 01, 2013, Step-down subsidiary executed

a terminal service agreement (TSA) with M/s ABC, LP to book capacity rights of approximately 330,000 dekatherm per day (Dth/day) at the Dominion Cove Point LNG liquefaction terminal.

On December 12, 2014, Step-down subsidiary executed a pipeline service agreement (PSA) with M/s ABC, LP to secure pipeline transportation capacity rights of 430,000 Dth/day, in accordance with the broad terms and conditions of the pipeline precedent agreement (PPA) that Step-down subsidiary executed with M/s ABC, LP on April 1, 2013.

On November 30, 2014, Step-down subsidiary signed a gas sale and purchase agreement (GSPA) with M/s XYZ, Inc for sourcing of natural gas on a delivered basis at the inlet of the pipeline at the Dominion Cove Point LNG liquefaction terminal for a term of 20 years. The natural gas purchased from M/s XYZ Inc will be liquefied at the Dominion Cove Point LNG liquefaction Terminal.

During September 2017, the Company and Step-down subsidiary have entered into a LNG Sale & Purchase Agreement (SPA), wherein Step-down subsidiary is to sell the *entire quantity of LNG* to the Company *on back-to-back basis* on FOB US Coast basis *for the entire contract period of 20 years. The entire risks and obligations of Step-down subsidiary*

under the upstream contracts entered by Step-down subsidiary with its suppliers have been passed to the Company through the SPA. The Company will take delivery of and pay for specified quantities of LNG procured by Step-down subsidiary, or compensate Step-down subsidiary for its costs incurred in the event that the Company fails to take delivery of the specified quantities (i.e., take or pay). Step-down subsidiary *bears limited risk and is acting as a low margin distributor and managing the operations of the contracts only.* Further, under Transfer Pricing Regulation, the Company has also filed Advance Pricing Agreement, and presently, Step-down subsidiary is charging 10% of value-added expenses as margin in overall value chain from the Company.

Under the LNG SPA, the Company is purchasing entire quantity of LNG from Step-down subsidiary and Step-down subsidiary is being reimbursed for (i) the cost of natural gas plus liquefaction expenses and other third-party costs; and (ii) all other expenses plus a mark-up.

(Emphasis supplied by the querist.)

5. In order to carry out the operations smoothly, as per contract terms, the Company has given the following corporate guarantees on behalf of Step-down subsidiary:

Date of Issue	Valid Up to	Company (To whom Guarantee Given)	Fund Based (FB) Amount In USD	Non-Fund based (NFB) Amount In USD	Fund Based (FB) Amount In Rs. -Crs.	Non-Fund based (NFB) Amount In Rs. -Crs.	Purpose of Guarantee
01.04.2013	31.12.2039	M/s ABC LP	0	\$ 700 Mn	0	5169.50	Payment Security under TSA
01.04.2013	31.12.2039	M/s ABC LP	0	\$ 90Mn	0	664.65	Payment Security under PPA
29.12.2014	28.12.2044	M/s XYZ Inc	0	\$ 25Mn	0	184.63	Performance Guarantee for GSPA
24.04.2020	23.04.2021	State Bank of India, New York Branch	\$70 Mn	0	516.95	0	*Working Capital Facility
28.09.2020	27.09.2021	Credit Agricole Corporate and Investment Bank	0	\$100.06 Mn	0	739.01	*SBLC Facility

* These Working Capital Facility and Stand-by Letter of Credit Facility (SBLC) are being renewed from same bank or another bank (based on the competitive rates) on yearly basis for next one year (12 months)

The querist has stated that the performance of Step-down subsidiary under the contracts signed by it with its supplies are solely dependent upon the performance of the Company and the failure of payment to third parties (i.e. suppliers of Step-down subsidiary) is solely within the control of the Company. Therefore, the expected credit loss due to this guarantee is 'Nil'. Further due to the same reason, the Company is not charging any guarantee fee from the Step-down subsidiary for providing these guarantees. Charge for provision of guarantee would be appropriate where the issue of guarantee is considered to be a service performed by the issuer for the benefit of the entity availing the guarantee. However, in cases where the guarantee is for the benefit of the guarantor only, i.e., for promoting/protecting its interest, no charge/compensation for issue of guarantee is warranted.

Further, the Company is accounting for the amount payable for gas purchase from Step-down subsidiary in its books of account and if the Company provides loss allowance for guarantee given on behalf of Step-down subsidiary for the same transaction, it amounts to duplication and overstating the Company's liabilities.

It may also be noted that the parent companies of the counter parties of TSA & PPA *have also provided reciprocal Corporate Guarantee to Step-down subsidiary* for the performance of M/s ABC LP (Operator) and M/s XYZ Inc as follows:

Date of Issue	Valid Up to	Company (To whom Guarantee Given)	Guarantee Amount In USD	Non-Fund based (NFB) Amount In Rs. Crs.	Purpose of Guarantee
01.04.2013	31.12.2039	Step-down Subsidiary	\$ 1750 Mn	12,923.75	Payment Security under TSA
01.04.2013	31.12.2039	Step-down Subsidiary	\$ 150 Mn	1,107.75	Payment Security under PPA
29.12.2014	31.12.2039	Step-down Subsidiary	\$ 25 Mn	184.63	Performance Guarantee for GSPA

It is quite clear that the parent company is required to provide corporate guarantee on behalf of its subsidiaries as newly formed subsidiaries do not have the requisite financial standing, credit worthiness and credit rating. However, these

corporate guarantees could have been avoided, if the contracts would have been entered by the Parent Companies.

6. The querist has also stated that all the guarantees provided by the Company on behalf of Step-down subsidiary are in furtherance of the Company's business, wherein the Company is the ultimate beneficiary for these guarantees provided by the Company. Further, entire performance of Step-down subsidiary is also dependent upon the performance of the Company. *So, it can be construed that the Company has provided these guarantees for its own performance only.* (Emphasis supplied by the querist.)

Step-down subsidiary started its commercial operations in the year 2018. Since starting, Step-down subsidiary is having a back to back arrangement with the Company and the Company has lifted all its LNG cargos from the Step-down subsidiary on FOB US Coast basis. Some of these cargos are directly imported to India and some are sold in the international market by the Company. Further, if the Company charges guarantee fees to Step-down subsidiary, the same will be loaded in the gas cost along with the margin by Step-down subsidiary to the Company.

Till date, in this contract, there is no default on the part of Step-down subsidiary and the Company with respect to their contractual obligations, and

hence, the corporate guarantees given by the company on behalf of Step-down subsidiary carry no risk. Further, in India, gas market is growing and the Government of India is also promoting use of LNG / R-LNG. The Company has laid additional

pipeline network with approx. pipeline length of 2655 Km. Along the pipeline, approximately four fertilizer plants will get revived, and as a result, the LNG requirement in India will increase. Presently, natural gas share in the India energy basket is around 6% and the Government of India has set a target to increase the same to 15%. Therefore, it is expected that usage of natural gas in India will rise and due to limited domestic production of the gas, the same shall be met through imported LNG.

Currently, the Company is disclosing the above guarantees in Notes to Accounts under details of Loans, Investment, Guarantees and security given by the Company under the Companies Act, 2013 and under Financial Risk Management (Liquidity Risk), as per the requirements of Ind AS 107, 'Financial Instruments: Disclosures'.

Documents separately provided by the querist for the perusal of the Committee:

1	Guarantee dated 01.04.2013 provided by the Company to M/s ABC LP for USD 700 million on behalf of the Step-down subsidiary for payment/ performance security under TSA
2	Guarantee dated 01.04.2013 provided by the Company to M/s ABC LP for USD 90 million on behalf of Step-down subsidiary for payment/ performance security under PPA
3	Guarantee Agreement dated 29.12.2014 provided by the Company to M/s XYZ Inc for USD 25 million on behalf of Step-down subsidiary for payment/performance security under GSPA
4	Letter of Guarantee dated 24.04.2020 provided by the Company to State Bank of India, New York Branch for USD 70 million on behalf of Step-down subsidiary for Working Capital Facility
5	Letter of Guarantee dated 19.08.2020 provided by the Company to Credit Agricole Corporate & Investment Bank Newyork for USD 100.06 million on behalf of Step-down subsidiary for SBLC Facility
6	Guarantee dated 01.04.2013 received from Parent of M/s ABC LP to Step-down subsidiary for USD 1750 million on behalf of M/s ABC LP for performance security under TSA

7	Guarantee dated 01.04.2013 received from Parent of M/s ABC LP to Step-down subsidiary for USD 150 million on behalf of M/s ABC LP for performance security under PPA
8	Guarantee dated 29.12.2014 received from Parent of M/s XYZ Inc to Step-down subsidiary for USD 25 million on behalf of M/s XYZ Inc for performance security under GSPA
9	LNG sale and Purchase Agreement between Step-down subsidiary and the Company

B. Query

7. In view of the above, the querist is hereby seeking opinion from the Expert Advisory Committee (EAC) of the Institute of Chartered Accountants of India on the following issues:

- (i) As per Ind AS, whether any accounting treatment is required for the corporate guarantees provided on behalf of Step-down subsidiary for satisfaction of its obligations under the contract (i.e., TSA, PPA and GSPA), towards the suppliers (i.e., M/s ABC LP and M/s XYZ Inc) considering back to back contract with the Company for procuring 100% LNG from Step-down subsidiary and that there is no credit risk involved for Step-down subsidiary as 100% risk is transferred to the Company through SPA.
- (ii) As per Ind ASs, whether any accounting treatment is required for the corporate guarantees provided on behalf of Step-down subsidiary, for obtaining working capital loan and SBLC facility from bankers, as the same have been availed by Step-down subsidiary to meet the temporary obligations to the suppliers, due to time lag between payment made by the Company to Step-down subsidiary and payment made by Step-down subsidiary to its suppliers.
- (iii) Whether any expected credit loss is to be provided for any of the above guarantees as per Ind AS 109, 'Financial Instruments'.
- (iv) Whether any other disclosure is required for any of the above guarantees in the Company's books of account, as presently, the Company is disclosing these guarantees under Notes to Accounts.

- (v) Any other advice in the context, which EAC may deem fit.

C. Points considered by the Committee

8. The Committee notes that the basic issue raised by the querist relates to the accounting treatment of the bank guarantees provided by the Company on behalf of its Step-down subsidiary in the separate financial statements of the Company. The Committee has, therefore, considered only this issue and has not examined any other issue that may arise from the Facts of the Case, such as, accounting treatment of the purchase and sale agreement with the Step-down subsidiary, determining the fair valuation of the financial guarantee contracts, accounting in the financial statements of Subsidiary 1 and Step-down subsidiary company, accounting on transition to Ind ASs, accounting treatment of corporate guarantees on behalf of Subsidiary 1, accounting treatment in the consolidated financial statements of the Group, accounting treatment of performance guarantee received from suppliers, determination of fair value, etc. The Committee has only examined the issue from Ind AS perspective and has not examined the regulatory or legal classification and implications, including those arising under Income-tax Act and Foreign Exchange Management Act (FEMA). The Committee presumes that the Step-down subsidiary is not acting as an agent of the Company. The Committee also observes from the Company's financial statements that the Company has neither previously nor on transition to Ind ASs in the financial year 2016-17, asserted explicitly that it regards financial guarantee contracts as insurance contracts and uses accounting that it is applicable to insurance contracts. Consequently, the irrevocable option to treat the corporate guarantee as an insurance contract available under paragraph 2.1(e) of Ind AS 109 is not applicable. The Committee also wishes to point out that the accounting standards referred hereinafter are Indian Accounting Standards (Ind ASs), notified under the Indian (Accounting Standards) Rules, 2015.

9. The Committee notes that Appendix A to Ind AS 109 defines a financial guarantee contract as follows:

“financial guarantee contract A contract that requires the issuer to make specified payments to reimburse the holder for a loss it incurs because a specified debtor fails to make payment when due in accordance with the original or modified terms of a debt instrument.”

Further, paragraphs B2.5 of Appendix B to Ind AS 109 and AG 8 of Appendix A to Ind AS 32, ‘Financial Instruments: Presentation’ provide as follows:

Ind AS 109

“B2.5 Financial guarantee contracts may have various legal forms, such as a guarantee, some types of letter of credit, a credit default contract or an insurance contract. Their accounting treatment does not depend on their legal form. The following are examples of the appropriate treatment (see paragraph 2.1(e)):

- (a) Although a financial guarantee contract meets the definition of an insurance contract in Ind AS 104 if the risk transferred is significant, the issuer applies this Standard. Nevertheless, if the issuer has previously asserted explicitly that it regards such contracts as insurance contracts and has used accounting that is applicable to insurance contracts, the issuer may elect to apply either this Standard or Ind AS 104 to such financial guarantee contracts. If this Standard applies, paragraph 5.1.1 requires the issuer to recognise a financial guarantee contract initially at fair value. If the financial guarantee contract was issued to an unrelated party in a stand-alone arm's length transaction, its fair value at inception is likely to equal the premium received, unless there is evidence to the contrary. Subsequently, unless the financial guarantee contract was designated at inception as at fair value through profit or loss or unless paragraphs 3.2.15–3.2.23 and B3.2.12–B3.2.17 apply (when a transfer of a financial asset does not qualify for derecognition or the continuing involvement approach applies), the issuer measures it at the higher of:

- (i) the amount determined in accordance with Section 5.5; and
 - (ii) the amount initially recognised less, when appropriate, the cumulative amount of income recognised in accordance with the principles of Ind AS 115 [see paragraph 4.2.1(c)].
- (b) ...”

Ind AS 32

“AG8 The ability to exercise a contractual right or the requirement to satisfy a contractual obligation may be absolute, or it may be contingent on the occurrence of a future event. For example, a financial guarantee is a contractual right of the lender to receive cash from the guarantor, and a corresponding contractual obligation of the guarantor to pay the lender, if the borrower defaults. The contractual right and obligation exist because of a past transaction or event (assumption of the guarantee), even though the lender’s ability to exercise its right and the requirement for the guarantor to perform under its obligation are both contingent on a future act of default by the borrower. A contingent right and obligation meet the definition of a financial asset and a financial liability, even though such assets and liabilities are not always recognised in the financial statements. Some of these contingent rights and obligations may be insurance contracts within the scope of Ind AS 104.”

The Committee notes that a financial guarantee contract is defined under Ind AS 109 as a contract that requires the issuer to make *specified payments to reimburse* the holder for a loss it incurs because *a specified debtor* fails to make payment when due in accordance with the original or modified terms of a *debt instrument*. For a financial guarantee under Ind AS 109 to exist, amongst others, there shall be a reimbursement for loss incurred by a specified debtor.

In the extant case, the Committee notes the following:

- In Documents 1 and 2 (as mentioned in the Table in paragraph 6 above) supplied alongwith the query, the Company

has undertaken to irrevocably and unconditionally guarantee M/s ABC LP, prompt payment by the Step-down subsidiary of all the amounts that become due and payable by the Step-down subsidiary under the Terminal Service Agreement, up to amount stated in the respective agreements. In case of default in payment of guaranteed obligation by the Step-down subsidiary, the Company shall promptly pay M/s ABC LP.

- In Document 3 supplied alongwith the query, the Company has undertaken to irrevocably and unconditionally guarantee M/s XYZ Inc, prompt payment by the Step-down subsidiary of all the amounts that become due and payable by the Step-down subsidiary, up to \$ 25 million. In case of default in payment of guaranteed obligation by the Step-down subsidiary, the Company shall promptly pay M/s XYZ Inc.
- In Document 4 supplied alongwith the query, the Company has undertaken to irrevocably and unconditionally guarantee State Bank of India, New York branch, due repayment of all amounts outstanding under credit facilities due and payable by the Step-down subsidiary to the extent of \$ 70 million in the event of failure on the part of the Step-down subsidiary to repay the amount drawn under credit facilities.
- In Document 5 supplied alongwith the query, the Company has undertaken to irrevocably and unconditionally guarantee Credit Agricole, due repayment of all amounts outstanding under credit facilities due and payable by the Step-down subsidiary to the extent of \$ 100 million in the event of failure on the part of the Step-down subsidiary to repay the amount drawn under credit facilities.

The Committee notes that the term ‘debt instrument’ is neither defined in Ind AS 109 nor in Ind AS 32. The Committee is of the view that the term implies a contractual right to receive cash arising on account of a debtor-creditor or lender-

borrower relationship. The Committee is of the view that apparently there is debtor-creditor or lender-borrower relationship between the Step-down subsidiary and the holder/ beneficiary of the guarantee contract (viz., M/s ABC LP, M/s XYZ Inc, SBI etc.) under the terms of TSA/PPA/GSPA/credit facilities etc. In case the Step-down subsidiary does not make payment to the holder/ beneficiary of the guarantee (viz., M/s ABC LP, M/s XYZ Inc, SBI etc.) under TSA/PPA/GSPA or credit facilities, the holder has a right to recoup the loss suffered by it from the Company. The Committee is, therefore, of the view that the corporate guarantee issued by the Company to the various parties mentioned above meets the definition of financial guarantee contract given in Ind AS 109. The Committee is also of the view that there exists a contractual right of the holder of the guarantee contract, to receive cash from the guarantor (viz., the Company) and a corresponding contractual obligation of the guarantor to pay the holder, if the Step-down subsidiary defaults. This is so even if the holder's ability to exercise its right and the requirement for the guarantor to perform under its obligation are both contingent on future act of default on future payments becoming due and payable by the Step-down subsidiary. Therefore, the contingent right and obligation meet the definition of financial guarantee contract, in accordance with the requirements of paragraph AG 8 of Ind AS 32.

The Committee further notes that the querist has argued that the performance of Step-down subsidiary under the contracts signed by it with its suppliers are solely dependent upon the performance of the Company and the failure of payment to third parties (i.e. suppliers of Step-down subsidiary) are solely within the control of the Company. Therefore, the expected credit loss due to this guarantee is 'Nil'. Further due to the same reason, the Company is not charging any guarantee fee from Step-down subsidiary for providing these guarantees. Charge for provision of guarantee would be appropriate where the issue of guarantee is considered to be a service performed by the issuer for the benefit of the entity availing the guarantee. However, in cases where the guarantee is for the benefit of the guarantor only, i.e., for promoting/ protecting its interest, no charge/compensation for issue of guarantee is warranted.

The Committee also notes that the querist has also put forth an argument that the Company is accounting for amount payable for gas purchase from Step-down subsidiary in its books of account and if the Company provides loss allowance for guarantee given on behalf of Step-down subsidiary for the same transaction, it amounts to duplication and overstating the Company's liabilities.

The Committee notes that the trade payable for the gas purchased from the Step-down subsidiary and the financial guarantee issued by the Company to third party on behalf of the Step-down subsidiary are separate financial liabilities emanating from separate transactions. The Company has obligations towards different parties in the two transactions. Therefore, the Committee is of the view that recognising the two financial liabilities and providing for loss allowance on the financial guarantee contract shall not result in duplication or overstating of liabilities. Further, as also pointed out by the querist, since there could be time lag in the payment made by the Company to Step-down subsidiary and payment made by the Step-down subsidiary to its suppliers, it may result in expected credit losses at the reporting date for some time till the payment becomes due from the Parent company from the perspective of the Step-down subsidiary (refer paragraph B 5.5.28 of Ind AS 109).

10. The Committee further notes that another argument put forth by the querist is that these guarantees could have been avoided, if the contracts would have been entered by the Company itself. All the guarantees provided by the Company on behalf of Step-down subsidiary are in furtherance of the Company's business, wherein the Company is the ultimate beneficiary for these guarantees provided by the Company. Further, entire performance of Step-down subsidiary is also dependent upon the performance of the Company. So, it can be construed that the Company has provided these guarantees for its own performance only.

The Committee believes that the financial guarantee provided to an external party on behalf of a subsidiary is required to be accounted for in the separate financial statements of the parent company as per Ind AS 109. This is notwithstanding the fact that the Step-down subsidiary's financial performance and position may be dependent on the business that is generated with the Company and that the Company being the ultimate parent of the subsidiary, is ultimately the

beneficiary of the subsidiary's operation. From the perspective of the separate financial statements, the reporting entity is the parent company only and not the group, i.e., parent company together with the subsidiaries. Therefore, it does not matter if the financial performance of the Step-down subsidiary is dependent on its business operations with the Company.

Further, the querist has also argued that till date there is no default on the part of Step-down subsidiary and the Company w.r.t. their contractual obligations, hence the corporate guarantees carry no risk. The Committee is of the view that the extent of credit risk shall not affect the initial recognition of the financial guarantee liabilities. However, this may be one of the factors that the Company may consider for the purpose of fair valuation at the time of initial measurement and for measuring the expected credit loss at the time of subsequent measurement.

11. Further, with regard to accounting treatment of such financial guarantee, the Committee is of the view that the guarantee obligations, as mentioned above, should be recognised and measured as per the requirements of Ind AS 109 by the Company in its separate financial statements. In this regard, the Committee notes from paragraph B 2.5(a) of Ind AS 109 reproduced above and other requirements of Ind AS 109 (paragraphs 5.1.1, 5.1.1A and B5.1.1) that the issuer of a financial guarantee should recognise it initially at its fair value. The Committee is of the view that this requirement is also applicable in respect of a guarantee issued by a parent on behalf of its subsidiary and where no fee or commission is charged by the parent for issuance of such guarantee. Accordingly, in the extant case, the Company, in its separate financial statements, should initially recognize a liability (a deferred income such as 'unearned financial guarantee commission') at fair value which will be equivalent to an amount that the Step-down subsidiary would have paid to obtain a similar guarantee in a standalone arm's length transaction.

The Committee further notes that in the extant case, the guarantee obligation has been undertaken by the Company in its capacity as the ultimate parent of the Step-down subsidiary company. The Company has a right to future economic benefits arising from its overall investments in the Step-down subsidiary through its control over Subsidiary 1. In case the Company is not charging any guarantee commission or other consideration to the Step-down subsidiary company, upon initial recognition of the financial guarantee liability, the Company should recognize deemed investment in the Subsidiary 1 and the same

should be accounted for as per the requirements of Ind AS 27.

12. The Committee also notes the requirements of Ind AS 109 in respect of subsequent measurement of financial guarantee as follows:

"4.2.1 An entity shall classify all financial liabilities as subsequently measured at amortised cost, except for:

- (a) *financial liabilities at fair value through profit or loss.* Such liabilities, including derivatives that are liabilities, shall be subsequently measured at fair value.**
- (b) financial liabilities that arise when a transfer of a financial asset does not qualify for derecognition or when the continuing involvement approach applies.** Paragraphs 3.2.15 and 3.2.17 apply to the measurement of such financial liabilities.
- (c) *financial guarantee contracts.* After initial recognition, an issuer of such a contract shall (unless paragraph 4.2.1(a) or (b) applies) subsequently measure it at the higher of:**
 - (i) the amount of the *loss allowance* determined in accordance with Section 5.5 and**
 - (ii) the amount initially recognised (see paragraph 5.1.1) less, when appropriate, the cumulative amount of income recognised in accordance with the principles of Ind AS 115.**

..."

5.5.1 An entity shall recognise a loss allowance for *expected credit losses* on a financial asset that is measured in accordance with paragraphs 4.1.2 or 4.1.2A, a lease receivable, a *contract asset* or a loan commitment and a financial guarantee contract to which the impairment requirements apply in accordance with paragraphs 2.1(g), 4.2.1(c) or 4.2.1(d).

B5.5.32 For a financial guarantee contract, the entity is required to make payments only in the event of a default by the debtor in accordance with the terms of the instrument that is guaranteed. Accordingly, cash shortfalls are the expected payments to reimburse the holder for a credit loss that it incurs less any amounts that the entity expects to receive from the holder, the debtor or any other party. If the asset is fully guaranteed, the estimation of cash shortfalls for a financial guarantee contract would be consistent with the estimations of cash shortfalls for the asset subject to the guarantee.

5.7.9 Despite the requirements in paragraphs 5.7.7 and 5.7.8, an entity shall present in profit or loss all gains and losses on loan commitments and financial guarantee contracts that are designated as at fair value through profit or loss.

From the above, the Committee notes that as per the requirements of Ind AS 109, expected credit loss should be considered on financial guarantee contracts at the time of subsequent measurement.

13. The Committee notes that Ind AS 37, 'Provisions, Contingent Liabilities and Contingent Assets' states as follows:

"2 This Standard does not apply to financial instruments (including guarantees) that are within the scope of Ind AS 109, *Financial Instruments*."

Therefore, financial guarantees, in the extant case, being governed by Ind AS 109, are not within the scope of Ind AS 37 and therefore, can not be classified as contingent liabilities. Instead, the Company should comply with the relevant presentation and disclosure requirements of Ind AS 107 and related disclosures of Division II of Schedule III to the Companies Act, 2013 for financial liability.

D. Opinion

14. On the basis of the above, the Committee is of the following opinion on the issues raised in paragraph 7 above:

- (i) and (ii) The Company should account for the financial guarantee contracts as per the requirements of Ind AS 109, as discussed in paragraphs 9-12 above.
- (iii) The Company should account for expected credit loss provision, if any, as per the requirements of Ind AS 109, as discussed in paragraph 12 above.
- (iv) The disclosures in the Company's financial statements should be provided based on the classification as financial liabilities, as discussed in paragraph 13 above. The Company should comply with the relevant presentation and disclosure requirements of Ind AS 107 and Division II of Schedule III to the Companies Act, 2013.
- (v) Refer above.

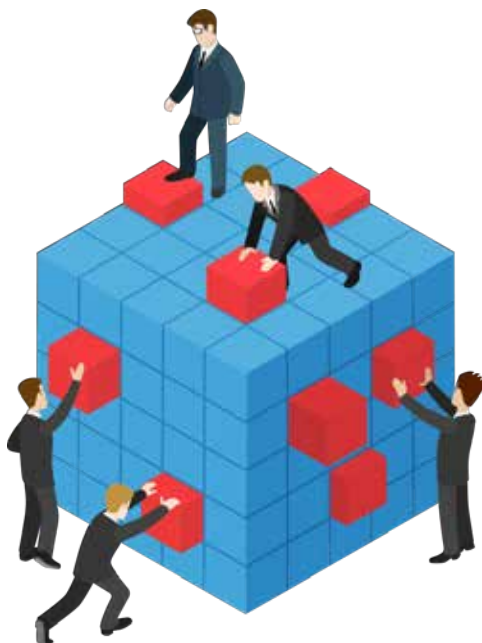
1.	The Opinion is only that of the Expert Advisory Committee and does not necessarily represent the Opinion of the Council of the Institute.
2.	The Opinion is based on the facts supplied and in the specific circumstances of the querist. The Committee finalised the Opinion on September 01, 2021. The Opinion 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 forty 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 eac@icai.in .



Snapshot of Progress

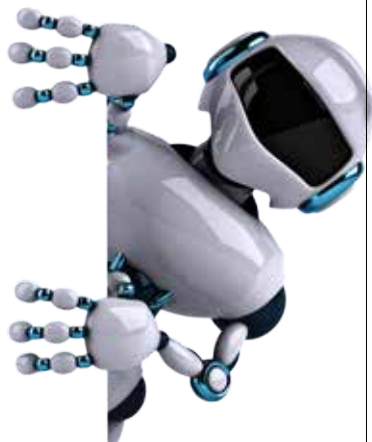
Partner in Nation's Development

- ↑ **Financial & Tax Literacy Drive (Vitiya Gyan ICAI Ka Abhiyaan)** - Launched to educate people about various financial planning and tax related guidance by experiential learnings and Multilingual website www.vitiyagyan.icaai.org functional in 12 languages
- ↑ **Launched dedicated MSME Exchange, MSME Portal and Helpdesk** to support MSMEs in gaining global ground.
- ↑ **Promoting Spirit of Entrepreneurship** by setting up Start-Up portal and Incubation Centres
- ↑ **Recognition of UDIN** - Various Government Departments and stakeholders have been actively utilizing the services of UDIN Portal to verify the authenticity of the documents.
- ↑ **Updation of UDIN portal with user friendly and new features.** More than 3 crores UDIN generated by the members.
- ↑ **Supporting Government** in resolving issues with New Income Tax Portal
- ↑ **Supporting Urban Local Bodies transition to Accrual Accounting** - Completed India relevant ASLBs (30) based on IPSAS. Publication launched – ASLBs at a glance for outreach amongst stakeholders
- ↑ **Promoting Sustainability amongst stakeholders** by launching Sustainability Reporting Maturity Model 1.0 and institutionalizing Sustainability Reporting Awards and Sustainability International Reporting Awards
- ↑ **Enhancing Audit Quality Framework with Audit Quality Maturity Model 1.0**
- ↑ **Working with Ministry of Commerce** on enhancing Export of Accounting and related services under Champion Sector.
- ↑ **NITI Aayog** initiated a study on “Transition to Accrual Accounting in Urban Local Bodies: Implementation Models and Lessons Learned from Select Indian States”.
- ↑ **Celebrating ‘Azadi ka Amrit Mahotsav’** with dedicated initiatives -ICAI conducted 10 physical 'Investor Awareness Programs' under the aegis of the IEPFA, Ministry of Corporate Affairs to create awareness among the general public through 10 different Gram Panchayats on 10th December 2021.
- ↑ **Developing understanding of Commercial Laws** through Public Advocacy
- ↑ **The Skill India Hub under the aegis of the Skill India Initiative** is Leveraging ICAI's Digital Learning Hub for customized competency and capacity building of Ministry and Government bodies in accounting and allied areas.



Robust Regulatory Mechanism

- ↑ **Revised Statement of Peer Review to improve process efficiency** by realigning criteria for practices unit, reduced time period.
- ↑ **Despite the lockdown, as many as 79 meetings of the Board of Discipline/Disciplinary Committees** were held till 31.12.2021 wherein as many as 166 PFOs were considered, hearings concluded in 146 cases and in 107 cases punishment awarded.
- ↑ **Web portal of FRRB Launched.** Automation of workflow using Rule based Analytics
- ↑ **Revised the Sample Selection Criteria and the various reporting formats under Peer Review** alongwith Questionnaire to be submitted by the Practice Units.
- ↑ **Digitization of Disciplinary Directorate** started with digitization of old records.
- ↑ **Increased scope of assurance services** by coverage of more firms for peer review.
- ↑ **First Accounting Body in the world to release the detailed Forensic Accounting and Investigation Standards (FAIS)** for its members & other stakeholders.
- ↑ **Videos on Frequently Asked Questions (FAQs) on the topics of Ethical issues**



Futuristic Institution

- ↑ **Progressive steps for Implementation of ERP** across the institute.
- ↑ **Election Reforms** - Anywhere voting (Within/Outside constituency) implemented
- ↑ **Approved proposals for infrastructure/land** at Kota, Kishangarh and Ratlam
- ↑ **Adopting environment friendly practices** and developing Green Buildings at ICAI
- ↑ Proactively pursuing matters to reduce **Minimum Experience required to be an Accountant Member in ITAT for CAs**
- ↑ **22 CPE POUs** were opened , expanding the **CPE network to 639 POUs**
- ↑ **Agreement with Indian Institute of Corporate Affairs (IICA)** to come together and share respective expertise for development of Independent Directors by identifying and implementing certain development initiatives




Building Profession Globally

- ↑ Enhancing Brand CA Globally through **ICAI Overseas Chapters & Representative Offices**. During the year, **ICAI has inaugurated 5 Chapters and 9 Representative Offices** abroad.
- ↑ ICAI become associate member of **ASEAN federation of Accountants**
- ↑ ICAI had taken up the **affiliate membership of Pan African Federation of Accountants (PAFA)** to further expand its global outreach and getting foothold in African regions
- ↑ ICAI representatives got the **leadership position at Global Forums of CAPA and SAFA**
- ↑ **MRAs renewed with CPA Australia, CA Australia and New Zealand** promoting mobility of professionals
- ↑ **MoU signed with** Qatar Finance Center, Institute of Professional Accountants of Russia (IPAR), and **in process with** Polish Chamber of Statutory Auditors (PIBR) , Chamber of Auditors of Azerbaijan Republic (CAAR)-Azerbaijan
- ↑ **Launching Executive Education Programs** for Indian Chartered Accountants with one of the world renowned University (HBS)
- ↑ **Working alongwith SAFA to promote UDIN in member bodies and PAFA to promote Digital Learning Hub and Sustainability standards.**
- ↑ **Supporting CPA PNG** with curriculum development of select papers.



Serving the Members

- 
- ↑ **University Grant Commission (UGC) has granted the academic equivalence to Chartered Accountancy qualification** with the Post Graduate degree.
 - ↑ **Developing Separate Auditing Standards for Audit of Smaller and Less Complex Entities**
 - ↑ **Revised networking guidelines and Multidisciplinary Partnership Guidelines** for firms to help **Indian audit firms grow into globally competitive firms.**
 - ↑ **Revised Norms for Appointment of SCA** through regular meetings with RBI
 - ↑ **CABF Assistance Scheme** (disbursed more than Rs.10 Crores to more than 800 beneficiaries)
 - ↑ **Operationalized CA Connect portal** of Chartered Accountants and Chartered Accountants firm of the Institute.
 - ↑ **Launched various certificate courses during the year** like MSME, Start-Up, FATA, FMSL, CSR for upgrading the skills of members.
 - ↑ **Represented matters of concern proactively with regulators** like Bank Audit Fees, Exemption from exam for being Independent Director, Automated Auditor's selection in Public Sector Banks, Change in minimum experience for being ITAT member for CAs.
 - ↑ **Entered into arrangements with various service providers** like Software, Insurance, IT products etc to facilitate easy services to Members at special rates
 - ↑ **Alignment of the time limit of generating UDIN from 15 Days to 60 Days** with the SQC 1 and SA 230.
 - ↑ **Highly Successful Campus Placement Programme** (Selection of more than 5000 newly CAs)
 - ↑ **Launched various technical/research publications.**
 - ↑ **To support continuous learning and skill upgradation** during Covid Free of Cost structured CPE hours were provided through DLH.

Shaping the Future – Students Initiatives

- ↑ **Exemption of Course fee including ICITSS and AICITSS fee to Students** whose parents/either of parent died due to Corona
- ↑ **ICAI BOS - Mobile app launched** to interactive quality learning services to CA students. The app is being used by about 170000 students
- ↑ **Article Placement & Industrial Training Portal integrated with SSP** provides a seamless interface for both students & industries
- ↑ **Digitization of Scholarship Process** for the award of Scholarship to CA Students.
- ↑ **Career Counselling Programs** conducted 560 attended by 287634 students
- ↑ **Memorandum of Understanding** with Education Departments of Government of Telangana and Punjab **for advancement of commerce education.**
- ↑ **Constitution of CRET** - Groups working in the areas of Academics, Soft Skills and IT related matters, Application base of testing, Case Studies, Open Book, Practical Training related matters, and Examination related matters



- ↑ To augment articleship training, **home-based practical training assessment test** are being conducted due to COVID-19 pandemic. Till date 1,03,000 students had appeared in these tests.

- ↑ The ICAI has entered into MoU with University of Technology (UoT) and IIS (Deemed to be University) from Jaipur, Sardar Patel University of Police, Security and Criminal Justice (SPUP), Jodhpur and R.K. University and Marwadi University from Rajkot for extending Academic co-operation in Accounting & Taxation to **stimulate and facilitate the development of collaborative and mutually beneficial programs** which will serve to enhance the intellectual life and cultural development in both organizations.
- ↑ As per “National Policy for organizing Oral Coaching Class by Accredited Institutions” to grant Accreditation to institutions to organize coaching classes for CA students **25 colleges have been given accreditation for conducting coaching classes.**

Technology Driven Initiatives

- ↑ **Enhanced presence on Social Media** – 15 lakh followers across 7 platforms (Twitter, LinkedIn, YouTube, Facebook, Instagram, Koo and Telegram)
- ↑ **Improved DLH Portal for Anywhere, Anytime** learning experience with 32 learning hubs and approx. 112000 active learners.
- ↑ **Promoting E –meetings** –reduced consumption of paper (Physical copies of journal reduced from 3 lakh to 1 lakh)
- ↑ **ICAI Shared its Digital Learning Hub Initiative to PAFA**
- ↑ **6282 CPE VCMs/Refresher Courses/Live Webinars** were conducted online during the year.
- ↑ **110 batches of various Certificate Courses** were conducted on Digital Learning Hub wherein **more than 12000 members attended.**



Achieving Societal Goals

- ↑ **Mega tree plantation drive** was conducted across the country on CADay.
- ↑ **Awareness drive on social issues** like International Day of Forests, Global Recycling Day, etc.
- ↑ **During the 2nd wave of Covid pandemic, all Branches and Regional Councils actively supported** people in need with arrangement for oxygen, hospital beds, food, medicines etc. and in general to provide mental support by organising yoga and wellness sessions.
- ↑ **ICAI Regional Council and branches organized Vaccination Camps** for the vaccination of members, students and their family in association with hospitals.
- ↑ **ICAI has taken an initiative to develop short videos on each of the 17 SDGs** with an objective to **raise awareness amongst the stakeholders about the Sustainable Development Goals (SDGs)** and encourage them to contribute towards building a sustainable future.

ICAI 2021-22: Aligning the Profession with the Digital Era

Accountancy in India as a profession is an integral part of a transparent and robust economy evolving and adapting to the dynamic economic conditions amidst the pandemic and aligning with the digital era. In this evolving scenario, ICAI has notably adapted to new challenges and delivered the envisioned goals.

During the Council year 2021-22, despite the disruptions caused and challenges posed by ongoing pandemic, as a partner in nation building, ICAI focused on supporting Government, Ministries and Government bodies to create an appropriate ecosystem for Industry, MSMEs and Startups by supporting development of an enabling environment. During the year we focused on harnessing technology for gaining edge and capacity building of the profession. As new Council year emerges to dawn, it is time to take stock of the achievements and various tasks accomplished during the Council Year 2021-2022 and the ones we continue to improve upon.

1. PARTNER IN NATION BUILDING

ICAI is actively involved in the economic development of the nation as we work with all stakeholders i.e., Government, Regulators, Business entities and society at large. Our profession enjoys the trust of all stakeholders built over seven decades of our existence by being at the vanguard of promoting public interest. The ICAI works to create value for all through its myriad initiatives like giving inputs to the Government and its constituents for better policy making, knowledge dissemination for enhancing competence of industry and coming up with best practices and standards to put in place a robust financial reporting framework.

1.1. Inputs/ Suggestions submitted:

- ❖ Various meetings with RBI, SBI, CAG, SEBI for providing inputs on Forensic Accounting & Investigation Standards.
- ❖ Conducted training sessions on Forensic Accounting & Fraud Detection, CAAT Tools, Cyber Security for ICLS Academy, Ministry of Corporate Affairs
- ❖ ICAI supporting the Task Force Committee constituted by Government of Assam for mentoring and monitoring the finalisation of Annual Accounts and Statutory compliance of Assam PSEs.
- ❖ The Committee and ICAI Accounting Research Foundation (ICAI ARF) along with NITI Aayog has initiated a study on “Transition to Accrual Accounting in Urban Local Bodies: Implementation Models and Lessons Learned from Select Indian States”.
- ❖ Manthan Meet held on 25th & 26th March, 2021 wherein relevant stakeholders of Central Government and State Governments (Haryana, Himachal Pradesh, Delhi, Chandigarh, Punjab) were involved to discuss about accounting and auditing of Local Bodies (Urban & Rural). Discussions were focussed on bringing forth readily implementable solutions for the issues plaguing the accounts of the Local Bodies with the active participation of various stakeholders.
- ❖ ICAI has submitted suggestions to the MCA regarding improvement in functioning of

Significant Achievements

MCA-21 E-Governance Portal in March 2021. The Ministry initiated the new MCA21 v3 system to enable easy and secure access of MCA services filled with the latest features and technologies.

- ❖ The Ministry of Corporate Affairs had constituted a Committee to make recommendations to the Government inter alia on further decriminalization of certain “compoundable offences”, consequential amendments and certain other changes in the LLP Act, 2008 to facilitate and promote ease of doing business and ease of living. In this regard, the ICAI has submitted its views/suggestions on the said report, in the month of March 2021. Further, a detailed study of all the penal provisions provided in the LLP Act, 2008 has also been undertaken and submitted to the MCA.
- ❖ The Ministry of Corporate Affairs with a view to improve Ease of Doing Business Rankings collated the feedback of Stakeholders on the ground with regard to the Incorporation of Company/ Foreign Company through SPICE+. In this regard, a detailed document was prepared capturing various provisions that are applicable on foreign companies, FAQs, Issues and International Position for incorporation of a Foreign Company and the differences in requirements of documents in various countries and submitted to MCA.
- ❖ Suggestions submitted to MCA for Improving Corporate Data Receipt and Retrieval System at MCA for Accurate Accounting of Research and Development (R&D) Expenditure under the Companies Act, 2013.
- ❖ The Securities and Exchange Board of India (SEBI) had issued a Consultation Paper on “Review of Regulatory Provisions related to Independent Directors” in March 2021 seeking views on various proposals including broadening the eligibility criteria for IDs, process of appointment / re-appointment and removal of IDs, enhancing transparency in the nomination and resignation of IDs, strengthening the composition of Board Committees, etc. Detailed recommendations of ICAI on the Consultation Paper have been submitted to SEBI in the month of April 2021.
- ❖ ICAI is contributing as a member of the Insolvency Law Committee as constituted by Government of India as Standing Committee for review of implementation of the Insolvency and Bankruptcy Code, 2016.
- ❖ The Reserve Bank of India holds quarterly meetings of State Level Coordination Committee to regulate Non-Banking Financial Companies (NBFCs) and deposit accepted activities of incorporated bodies (UIBs) at each of their regional offices. Such meetings are convened by Regional Director of respective regional office of RBI and attended by Principal Secretary/Secretaries of various departments such as Finance, Home, Law etc. of respective states, National Housing Board (NHB), Securities Exchange Board of India (SEBI), Registrar of Companies (RoC), Insurance Regulatory and Development Authority of India (IRDA), Registrar of Chit Fund, Department of Chit Fund and The Institute of Chartered Accountants of India (ICAI). More than 35 meetings were held during the year and were attended by the representatives of ICAI.
- ❖ Engagement of Young Professionals in the Ministries of Government of India
 - Pursuant to the request received from the Ministry of Corporate Affairs, for assisting the office of Regional Director, MCA Chennai for filling up vacancies of Young Professionals, applications from experienced CAs were invited. 37 CAs were shortlisted and forwarded to Ministry.
 - Applications from experienced CAs for vacancies in Election Commission of India (ECI) were invited and shared candidature of 12 CAs for further interview by the Ministry.
 - Invited applications from experienced CAs for vacancies in Department of Commerce location and after scrutiny by panel of officers, forwarded candidature of 35 members to them.

Significant Achievements

- ❖ Various Government Departments and stakeholders have been actively utilizing the services of UDIN Portal to verify the authenticity of the documents. Recently, the Public Works Department of the Government of West Bengal has informed that Govt of West Bengal has mandated mentioning UDIN in Form II (for judging financial capability) submitted by the bidders participating in their tender process. Recently, various State Governments like Govt. of West Bengal and Govt. of Maharashtra have recognized by way of verification of the authenticity of the documents received by them.
- ❖ ICAI Recommendations on Review of Remuneration Structure of Independent Directors (IDs) under the Companies Act, 2013.
- ❖ Representation submitted to RBI regarding change in nomenclature of “Long Form Audit Report” submitted by the Concurrent Auditors for the Branches which are subject to concurrent audit by chartered accountants and not selected for branch audit. The ICAI recommended that “Long Form Audit Report” should be replaced with the nomenclature “Long Form Management Report”, so that it can be differentiated with “Long Form Audit Report” submitted by Statutory Branch Auditors.
- ❖ Representation submitted to RBI regarding Clarifications on certain points related to RBI circular no.: DOR.No.BP. BC.71/21.04.048/2019-20 dated May 23, 2020 on COVID-19- Regulatory Package and

Interim Order of Hon’ble Supreme Court dated September 03, 2020 w.r.t. Statutory Audit of Banks for financial year 2020-21.

- ❖ Representation was sent to CBDT for providing the facility of the updation of bulk UDIN in case of 15 CB forms. Presently, only the facility of bulk upload of the 15CB forms is available at the e-filing portal. The same was duly acknowledged, accepted and implemented.
- ❖ A detailed paper including the recommendations of ICAI was submitted to the Ministry of Corporate Affairs on 18th August 2021 on the 12th Report of Standing Committee on Finance (2019-2020) on financing the startup ecosystem. Presentation before Parliamentary Standing Committee on Transport, Tourism and Culture, headed by Shri T.G. Venkatesh, M.P., Rajya Sabha, to hear views/ inputs on the efficacy of the relief and audit measures put in place by the Government of India for various Sectors viz., civil aviation, road, shipping, hospitality, heritage and culture, to tackle the difficulties faced on account of the Coronavirus pandemic. Views were collected in a consultative manner and a presentation was made before the Parliamentary Standing Committee.

1.2. Training Capacity Building Programme:

- ❖ Conducted a Training Programme on “Understanding the issues in the Data of Banking System; through Fund trail, Background Checks and various case studies” for the Investigating Officers of Economic Offence Wing (EOW) Unit.



- ❖ Training Programme on 'Audit, Tally & Reconciliation and Double Entry Accounting System' organized virtually on 5th June, 2021 for the officials of Local Bodies. It was attended by the officials of more than 150 Local Bodies from more than 20 States & Union Territories.
- ❖ Virtual training programmes organised for the officials of National Hydroelectric Power Corporation NHPC on Corporate Laws, Corporate Governance, and Project Management.
- ❖ ICAI organized an Online Basic Course on GST for the officials of Tractors and Farm Equipment Limited (TAFE) from 15th October to 17th November, 2021.
- ❖ Organized an online Faculty Development Programme on Goods and Services Tax for the faculty members of School of Management & Business Studies, Mahatma Gandhi University, Kottayam, Kerala
- ❖ Capacity building programme for Directors of Central Public Sector Enterprises was organised in Collaboration with Department of Public Enterprises, Ministry of Finance in the area of "Audit Committee Effectiveness". The programme was attended by more than 130 Independent Directors from various CPSE's.
- ❖ An Executive Development Programme was organized on Ind AS for the officials of Insurance and Regulatory Development Authority of India (IRDAI) from June 17, 2021 to August 6, 2021 on Insurance sector specific standards. Around 50 officials of IRDAI have been trained in the said programme.
- ❖ A six days training programme on Ind AS for the officials of Securities and Exchange Board of India (SEBI) was organized from November 12, 2021 to December 24, 2021 at Mumbai. Around 50 officials were trained under this programme.
- ❖ The panels of Chartered Accountants/Firms were provided to RBI, NABARD and various other authorities/ agencies such as and Private sector banks, Government Departments, Central Bureau of Investigation, Official Liquidator, SIDBI, SEBI etc. as per the criteria specified by them.

1.3. Helping Government and other Regulatory Bodies:

ICAI endeavors to support the government and it's constituents by providing support in various areas of corporate law, direct and indirect taxes, internal taxation etc.

- ❖ Submitted the following representations to the office of Urban Development Authority, Karnataka.
 - Representation to enhance transparency and accountability in Urban Development Authorities (UDAs)
 - Representation to enhance transparency and accountability in Urban Local Bodies (ULBs) by updating the prevalent accounting software there
 - Proposal to study Impact of implementation of ASLBs (Accounting Standards for Local Bodies) in Municipality/ Municipal Corporation
- ❖ The comments on the following draft Standards/documents of Government Accounting standards advisory board (GASAB) were formulated and submitted to GASAB:
 - Natural Resource Accounting as inputs sought by the Ministry of Corporate Affairs
 - Disclosure on Disinvestments of Public Assets
 - Prior period Adjustments II.
- ❖ Submitted views on the various accounting issues referred by various Regulators (Ministry of Corporate Affairs, Reserve Bank of India, Insurance and Regulatory Development Authority of India) and, wherever felt appropriate, various accounting issues were taken up with the relevant Regulators.
- ❖ Representation sent to Ministry of Home Affairs in August 2021 with a request for giving extension of time for submitting FCRA Annual Return Form C-4 through the designated portal; giving relaxation to submit Form C-4

Significant Achievements

off-line and waiving penalty for late/off-line submission of the same.

- ❖ Due to the severity of the second wave of Coronavirus, the institute has made the request to SEBI, for a 60-day delay in filing Financial Results, Limited Review Reports, Auditor's Reports, and other compliances. SEBI has agreed to extend the deadline to June 30, 2021, in response to our request.
- ❖ Participated in India- Japan Financial Symposium on "Financial Reforms and Emerging Opportunities in India" on April 22, 2021, organized by Embassy of India, Tokyo, in association with Department of Economic Affairs, Ministry of Finance, Government of India and Gujarat International Finance Tec-city (GIFT), with support of Japan External Trade Organization (JETRO).
- ❖ ICAI submitted suggestions invited by MCA on Cross Border Insolvency under The Insolvency and Bankruptcy Code, 2016 on the designated portal on 15th December, 2021.
- ❖ Inputs to the Government/Ministry on the following on India Spain Joint Economic Commission (JEC), Dashboard on improving OECD Services Trade Restrictive Index (STRI) in Accounting Services, MRA/MOU in Accountancy Services with Japan.
- ❖ Comments on opportunities available for India with respect to comprehensive measures taken by Government of Japan for attracting Investments and Financial/ Asset Management companies in International Financial Hub.
- ❖ Review and update of 11 ICAI's Schemes to enhance export of Accounting and related services under Champion Sector.
- ❖ Invited suggestions from members on Pre-Budget memorandum 2022. The suggestions received were collated, analysed and submitted to the Government.
- ❖ ICAI organises various programmes supporting the initiatives of the Government for effective implementation of the same in various parts of the Country through its strong Network base of 639 CPE Program Organising Units:

- 1007 programmes on GST including 36 programmes specifically on GST Audit were organised by the CPE POUs in various parts of the Country.
- 191 programmes on Companies Act
- 186 programmes on Ethical Standards/ Code of Ethics/Professional Ethics
- 181 programmes on MSME
- 177 programmes on Standards on Auditing
- 126 programmes on Investor Awareness
- 68 programmes on RERA (Real Estate Regulatory Act)
- 15 programmes on Foreign Languages in online mode - French and Spanish.
- ❖ FAQ on 'Accounting for amounts to be incurred towards Corporate Social Responsibility (CSR) pursuant to the Companies (CSR Policy) Amendment Rules, 2021' issued.

1.4. National Leadership Encouraging ICAI:

- ❖ Shri. M. Venkaiah Naidu, Hon'ble Vice President of India laid the foundation stone at ICAI Bhawan, Ernakulam. Shri. Arif Mohammed Khan, Hon'ble Governor of Kerala, Shri. V. Muraleedharan, Hon'ble Union Minister of State for External Affairs and Parliamentary Affairs and Shri. P. Rajeev, Hon'ble Minister for Industries, Law and Coir, Kerala also joined as Special Guests for the occasion. The event also had the presence of CA. Thomas Chazhikadan, Member of Parliament, Shri. Hibi Eden, Member of Parliament, Kottayam and Adv. M. Anil Kumar, Mayor of Kochi.
- ❖ Foundation stone of ICAI Bhawan, Kota laid by august hands of Shri Om Birla, Hon'ble Speaker, Lok Sabha.
- ❖ Interaction of ICAI representatives with Smt. Nirmala Sitharaman Hon'ble Finance Minister and officials of CBDT w.r.t issues in the new E-filing portal: The Finance Minister addressed the said meeting and appreciated the support and role of ICAI and made a strong appeal for putting the entire income tax portal operational, fully and quickly.

Significant Achievements

- ❖ CA. Piyush Goyal, Hon'ble Union Minister of Railways, Minister of Commerce & Industry and Minister of Consumer Affairs, Food and Public Distribution, graced the 73rd CA Day Celebrations as Chief Guest at ICAI Bhawan, New Delhi.
- ❖ Mega Tree Plantation Drive was launched on the occasion of CA Day 1st July 2021 in the presence of Shri Arjun Ram Meghwal, Hon'ble Minister of State of Parliamentary Affairs, Culture.
- ❖ ICAI International Conference on Accountants Creating a Digital and Sustainable Economy graced as chief Guest by Shri Nitin Gadkari, Hon'ble Union Minister, Roads, Transport and Highways held on 20-22 January, 2022. Smt. Smriti Zubin Irani, Hon'ble Union Minister of Women and Child Development also addressed the Conference.
- ❖ Shri Pratap Chandra Sarangi, Hon'ble Union Minister of State for MSME, Animal Husbandry and Dairying & Fisheries, Chief Guest on MSME International Day 27 June, 2021 at ICAI Bhawan, New Delhi launched various initiatives supporting MSMEs.
- ❖ Meeting with Dr. Bhagwat Kishanrao Karad, Hon'ble Union Minister of States, Finance on 5th August, 2021 to discuss the issues w.r.t direct taxes and the way forward for the same.
- ❖ Shri Parshottam Rupala, Union Cabinet Minister of Fisheries, Animal Husbandry and Dairying, addressed the ICAI Council and released a handbook on Multidisciplinary Partnership – Chartered Accountants in Practice.
- ❖ Meeting with Shri Narayan Rane, Hon'ble Union Minister for Micro, Small and Medium Enterprises regarding ways to contribute for development of MSMEs.
- ❖ Interactive Meeting with Shri Rajesh Verma, Secretary MCA to discuss about ICAI work and other matters.
- ❖ ICAI International Research Awards 2021 was held on 31st August 2021 (Tuesday) in the presence of the Chief Guest Shri Ramesh Bais, Hon'ble Governor of Jharkand.
- ❖ Interactive Meet with MDs, CEOs, EDs and CFOs of India's Top Banks organized on the 8th of October 2021 in Mumbai to discuss about bridging the gap between auditors, banks, and regulators. The Chief Guest was Dr. Bhagwat Kishanrao Karad, Hon'ble Minister of State for Finance, and Shri Rajkiran Rai G, Chairman of the Indian Bankers' Association (IBA). The Keynote Address was presented by Shri A. S Rajeev, MD and CEO of Bank of Maharashtra.
- ❖ CA. Suresh Prabhu, Hon'ble Member of Parliament graced the occasion as the Chief Guest and launched ICAI Research study project on "Evaluating the effect of scientific meditation on employee burnout: A multinational study.
- ❖ Virtual Meeting with Shri Uddhav Thackeray, Hon'ble Chief Minister, Maharashtra and Shri Sitaram Kunte, Chief Secretary - Maharashtra Government regarding ICAI's Role and placing suggestions regarding operations of CA Offices, 7 April, 2021.
- ❖ A Webinar on "Rise of Women CAs in Corporate World" was held on 23rd July, 2021 which was addressed by Smt. Smriti Zubin Irani, Hon'ble Union Minister for Women & Child Development. She expected ICAI to partner with her Ministry on women literacy projects.
- ❖ Meeting with the Shri Pinarayi Vijayan, Hon'ble Chief Minister, Kerala and Shri Vasavan, Cooperation Minister along with our member C.A. Thomas Chazikadan Member of Parliament to appraise the state government on the need for audit of cooperative sector.
- ❖ Webinar organised on "Save our Mother Earth – Integrate SDGs into Business Practices and Reporting" on the occasion of World Environment Day on June 5, 2021 to deliberate on the need of businesses to prioritize SDGs targets for saving the Mother Earth. Hon'ble Member of Parliament, CA. Suresh Prabhu addressed the members at the Webinar as Guest of Honour.

Significant Achievements

- ❖ ICAI organized a Residential Meet of CA Members in Public Service from 27th-29th August 2021 at Udaipur. The inaugural session was graced by Hon'ble Maharaj Kumar Sahib Lakshyaraj Singh Ji Mewar of Udaipur. CA. Suresh P. Prabhu, Hon'ble Member of Parliament & Former Union Minister, CA. Thomas Chazhikadan, Hon'ble Member of Parliament, Lok Sabha and CA. Subhash Chandra Baheria, Hon'ble Member of Parliament, Lok Sabha graced the occasion and lauded the role of profession and ICAI in supporting stakeholders.
- ❖ The CMEPS Committee had organized a webcast on 17th July 2021 on Success Stories of Chartered Accountants as Civil Servants. The webcast was inaugurated at the august hands of CA. Arun Singh, Hon'ble Member of Parliament, Rajya Sabha. The key panelists were CA. Praveen Garg IAS, Special Secretary and Financial Adviser, Ministry of Environment, Forests and Climate Change, Govt. of India, CA. Trilok Chand Gupta, IAS (Retd.), Chief Commissioner, Haryana Right to Service Commission and CA. Ruchika Katyal, IAS, Collector, South Goa.
- ❖ Shri Nagendra Nath Sinha, Secretary, Department of Rural Development (DoRD) (Chief Guest), Shri (Dr) G. Narendra Kumar, DG, National Institute of Rural Development & Panchayati Raj (Guest of Honour) virtually inaugurated and addressed the 5 days' Webinar series on "Financial Management of Welfare Schemes of the Government, Focusing on Rural Development" from 23rd to 27th August,

2021 organised in partnership with the Ministry of Rural Development (MoRD).

1.5. Meeting with National Leadership, dignitaries:

- ❖ Meeting with the Shri Shaktikanta Das Hon'ble Governor, RBI on 3rd November 2021 at his office in Mumbai to discuss the issues concerning bank audits.
- ❖ A Pre-budget meeting was held on 1st December 2021 with Shri P C Mody, Chairman, CBDT and other CBDT officials. The suggestions of ICAI were duly appreciated during the meeting.
- ❖ Meeting was held with Shri M K Jain, Deputy Governor, RBI and Shri Rohit Jain, Executive Director, RBI on 3rd November 2021 in Mumbai to discuss the issues like New Norms for SCAs, Audit quality enhancement – ICAI's Initiatives, Revision of Statutory Audit Fee, Unremunerative concurrent Audit Fee, Anomalies in Appointment of Branch Auditors, Importance of Bank Branch Audit among others.
- ❖ Meeting with Shri Darpan Jain, Joint Secretary, MOC on India-UK Free trade Agreement Enhanced trade Partnership (12th July 2021) and follow up inputs. A meeting with Shri Darpan Jain, Joint Secretary, Ministry of Commerce and Industry to review the status of implementation of the Champion Services Sector Scheme (CSSS) was held on 2nd November, 2021.



Significant Achievements

- ❖ Webinar on Promoting Investments in J&K was organised on 4th May, 2021. The programme was addressed by Shri Ranjan Prakash Thakur, Principal Secretary, Government of J&K.
- ❖ Webinar on Industrial Policy of Punjab was organised jointly with Punjab Bureau of Investment Policy (PBIP) jointly on 11th November, 2021 with participation of 840. CA. Rajat Agarwal, IAS, CEO, Punjab Bureau of Investment Promotion was the chief guest.
- ❖ Meeting with various Government Officials Shri D P Nagendra Kumar, Member, CBIC, Shri G D Lohani, Joint Secretary, Tax Research Unit – I, CBIC and Commissioner, Audit, CGST, Surat were held to discuss issues related to GST.
- ❖ Meetings were held during the year with senior officials Shri R. G. Viswanathan, Deputy C&AG, Shri Sunil Kumar, Secretary, Ministry of Panchayati Raj, Shri Shyam S. Dubey, Joint Secretary & Financial Advisor, Ministry of Housing & Urban Affairs, Shri K. S. Sethi, Joint Secretary, Ministry of Panchayati Raj (MOPR) and Shri Rakesh Desai to discuss the way forward and problems faced by Urban local bodies (ULBs) in transition from cash to accrual basis of accounting.
- ❖ Meeting with Shri Nilaya Mitash, IAS, posted at the Asian Development Bank as Principal Operations Coordination Specialist on 14th June, 2021 to discuss the way forward for the Accounting Standards for Local Bodies.

- ❖ Meeting held with Shri. Naveen Raj Singh, I.A.S., Managing Director, Karnataka State Minerals Corporation Limited on 27th December, 2021.

2. EVOLVING STANDARDS

The Institute being trustee of public interest has an onerous job to build a robust financial reporting framework and continues to evolve by incorporating new standards and practices, so as to upgrade fiscal ecosystem to enhance credibility, transparency and good governance for the growth of economy:

- ❖ Amendments to Ind AS - Amendments in Ind AS, recommended by ICAI under section 133 of the Companies Act, 2013, have been notified by the MCA as Companies (Indian Accounting Standards) Amendments Rules, 2021, on June 18, 2021.
- ❖ Ind AS 117, Insurance Contracts and Amendments to Ind AS 40, Investment Property, recommended to National Financial Reporting Authority.
- ❖ Conceptual Framework for Financial Reporting under Indian Accounting Standards issued with applicability date as April 1, 2021, for the preparers of financial Statements.
- ❖ The Accounting Standards mirroring Rules got notified as Companies (Accounting Standards) Rules, 2021, on June 23, 2021, that are applicable in respect of accounting periods commencing on or after April 01, 2021. The definition of Small and Medium-sized Companies (SMCs) revised in line with amendments to criteria for classification of Micro, Small and Medium Non-company entities, as recommended by the ICAI.



Significant Achievements

- ❖ Recommendations regarding removal of carve-outs in Ind AS have been submitted to the MCA.
- ❖ Amendments to Guidance Note on Accounting for Derivative Contracts issued in order to provide necessary changes w.r.t IBOR Phase II: Post-replacement issues.
- ❖ Continued efforts to revise the existing Accounting Standards and in this regard out of 32 Standards under project of revision of existing AS, 18 revised AS submitted to National Financial Reporting Standards.
- ❖ ICAI issued three ASLBs corresponding to the respective IPSASs for consideration by the Technical Committee on Budget and Accounting Standards for PRIs/ULBs for recommending the same to States for adoption by the respective local bodies:
 - ASLB 35, 'Consolidated Financial Statements';
 - ASLB 37, 'Joint Arrangements';
 - ASLB 38, 'Disclosure of Interests in Other Entities'.
- ❖ ICAI approved and issued Guidance Note on 'Accounting for Investments' for Local Bodies and it shall come into effect from April 1, 2022.
- ❖ Implementation Guide to Standard on Auditing (SA) 210, "Agreeing the Terms of Audit Engagements"
- ❖ Implementation Guide to Standard on Auditing (SA) 560, "Subsequent Events"

3. ICAI TOWARDS A GLOBAL FOOTPRINT – ENHANCING BRAND CA GLOBALLY

The profession is knowledge driven, puts a lot of emphasis to learn from its surroundings and in the era of globalization and digital economy it is very important to gain global experiences as businesses and services are expanding beyond boundaries. ICAI in its quest for excellence and growth of profession continues to forge ahead in global alliances for learning global perspectives, knowledge sharing and creating professional opportunities by bringing emerging practices as also promoting global mobility of professionals. To expand the profession it's necessary to collaborate with global institutions by way of dialogue, agreements, conference.

- ❖ ICAI has 44 Chapters and 29 Representative Offices spread across the globe in order to be able to serve the members better by positioning the

Brand India CA globally; ICAI has now etched its presence in 73 cities of the world. During the period, ICAI has inaugurated 5 Chapters namely Chicago, Dallas, Ghana, South Africa and Mauritius and 9 Representative Offices abroad.

- ❖ ICAI representatives has got leadership positions as Deputy President CAPA, Vice President SAFA and Board member CAW.
- ❖ Conducted FAFD Batches for Middle East and Africa Members and DISA Batch for ICA Srilanka.

3.1. Supporting Overseas Professional Bodies

- ❖ ICAI had shared its initiatives namely Digital Learning Hub, Digital Competency maturity Model and initiatives of Sustainability Reporting Standards Board of ICAI with PAFA during the virtual meeting held between PAFA and ICAI leadership. Also, with UNCTAD for successful collaborations towards Sustainability initiatives.
- ❖ Provided inputs/Comments on the exposure draft, questionnaire and other pronouncement issued by International Ethics Standards Boards for Accountants (IESBA) of International Federation of Accountants, sent report to IFAC on the status of adoption of international ethical standards, best practices, and fulfillment of SMO requirements and provided alike other inputs on ethical standards to CAPA and SAFA.
- ❖ Submitted Comments on Exposure Draft on Proposed Targeted Amendments to the IFRS Foundation Constitution to accommodate an International Sustainability Standards Board (ISSB) to set IFRS Sustainability Standards.
- ❖ Engaging with SAFA countries for outreach of ICAI Valuation Standards 2018.
- ❖ Comments on the various consultative documents (Exposure Drafts/Discussion Papers/Tentative Agenda Decisions) issued by the International Accounting Standards Board (IASB) and IFRS (IC) were submitted.
- ❖ ICAI participated in IAASB-IAAER Roundtable discussion on Exposure Draft of Proposed International Standard on Auditing for Audits of Financial Statements of Less Complex Entities (ISA for LCE).
- ❖ ICAI Submitted Comments to IPSASB of IFAC documents/Exposure Drafts (EDs) of the IPSASB:

Significant Achievements

- Exposure Draft 74, IPSAS 5, Borrowing Costs – Non- Authoritative Guidance
- Exposure Draft 75 on ‘Leases’ and Request for Information on, ‘Concessionary Leases and Other Arrangements Similar to Leases’
- Exposure Draft 76, Proposed Update to Conceptual Framework: Chapter 7, Measurement of Assets and Liabilities in Financial Statements
- Exposure Draft 77, ‘Measurement’
- Exposure Draft 78, ‘Property, Plant, and Equipment (PPE)’
- Exposure Draft 79, ‘Non-current Assets Held for Sale and Discontinued Operations’
- Exposure Draft 80, ‘Improvements to IPSAS, 2021’.

3.2. Collaboration with Foreign Accounting Bodies

- ❖ ICAI has taken the associate membership of ASEAN Federation of Accountants (AFA) to expand its global outreach and getting foothold in ASEAN Region.
- ❖ ICAI had taken up the affiliate membership of Pan African Federation of Accountants (PAFA) to further expand its global outreach and getting foothold in African regions.
- ❖ MoUs with CA ANZ and MRA with CPA Australia renewed for a period of 5 years. With this MoU, the two Institutes shall recognize the qualification, training of each other and admit the members in good standing by prescribing a bridging mechanism and would pave way for enhanced professional opportunities for members at either end.
- ❖ MoU has been signed with Qatar Financial Centre Authority (QFCA) ICAI and Qatar Financial Centre Authority (QFCA) to enhance cooperation between the two Institutes to work together to strengthen the Accounting profession and entrepreneurship base in Qatar at a virtual ceremony on June 28, 2021.
- ❖ MoU signed with the Institute of Professional Accountants of Russia (IPAR) on December 2, 2021 in a virtual ceremony. The MoU aims to establish mutual co-operation in the areas of Professional Accountancy Training, Professional Ethics, Technical Research, Advancement of Accounting Knowledge, Professional and

Professional Development of Accountants.

- ❖ ICAI is in process of signing MOUs with PIBR, Poland as approved by the Government of India.
- ❖ ICAI is a member of COP26 and Climate Action Task Force formed by Chartered Accountants Worldwide (CAW).
- ❖ Institute is developing the curriculum for two papers of Certified Practicing Accountants Papua New Guinea (CPA-PNG).
- ❖ Collaborated with ICAEW to bring out jointly Report on Automation in Finance Functions- lessons from India and the UK.
- ❖ ICAI is the ‘Knowledge Partner’ for College of Banking Financial Studies (CBFS), Oman, for the proposed diploma course on “Professional Higher Diploma in GCC Taxation and Value Added Tax”.

3.3. Important International Meetings and Conclaves

- ❖ ICAI participated in Virtual webinar of IFAC- IAASB/CAPA/SAFA Roundtable – Proposed Standard for Audits of Less Complex Entities (LCE) held in November, 2021
- ❖ The 13th AOSSG Annual meeting was held from 22nd–24th November 2021 virtually, at which ICAI handed over the Chairmanship to the incoming Chair viz., Institute of Chartered Accountants of Sri Lanka.
- ❖ “ICAI Global Virtual Sustainability Summit on the theme - Accelerating Sustainability Agenda: Opportunities for Professional Accountants” held on 17th - 18th November, 2021 to bring both the Indian and global perspective together dwelling deeper into the emerging sustainability reporting ecosystem across the globe.
- ❖ Mr. Alan Johnson, President, International Federation of Accountants (IFAC) addressed the VCM on Ethical Challenges in Emergence of New Technologies on 01.09.2021.
- ❖ Ms. Nancy Foran, Director, Confederation of Asian and Pacific Accountants (CAPA) attended ICAI Global Virtual Seminar on “Ethics and Sustainability” on 22.9.2021
- ❖ A virtual outreach programme on IASB ED/2021/7- Subsidiaries without Public Accountability: Disclosures was organized on October 21, 2021 which was hosted jointly by ICAI and Malaysian Accounting Standards Board

Significant Achievements

(MASB). The outreach provided a platform for the participants to share their views and communicate concerns regarding the proposed amendments.

- ❖ Organised Webinar on “Global Capacity Building Initiatives for professionals with special focus on Women members- International perspective” on 8th May 2021. Prominent speakers were - Ms. Satsuki Miyakara, Executive Board Member, JICPA, Japan, Ms. Jill Santos Gladeys, Vice president -Operations, PICPA, Ms. Jelena Misita, Chairperson, PAODC –IFAC, Bosnia.
- ❖ ICAI hosted the SAFA Global SMP Webinar on “Building Digitalised SMPs in Post Covid Era” on June 27, 2021 to celebrate International SMP day.
- ❖ ICAI organized a Webcast on “Automation in Finance Functions” on 11th August 2021 jointly with the Institute of Chartered Accountants in England and Wales (ICAEW) to understand how MSMEs have navigated COVID-19 pandemic and what solutions have been working for them from an automation perspective.
- ❖ ICAI hosted the SAFA Virtual Training Program: “Preparing Students to Face the Future” for the students of SAFA member bodies. The session was attended by over 1000 students across the globe.
- ❖ ICAI in association with Qatar Financial Centre had organized a webinar on the theme “Qatar Your Career Destination” on December 16, 2021. The webinar was a step ahead in the direction of collaboration between India and Qatar by way of a collaborative agreement which was signed between ICAI & QFC.
- ❖ ICAI representatives participated in following international forums:

- The Virtual meeting of Emerging Economies Group held on May 17-18, 2021.
- IFRS Advisory Council (IFRS AC) Meeting held on 11 May 2021.
- IFRS Foundation Virtual Conference held on June 3-4, 2021.
- World Standard Setter (WSS) virtual conference held on 28th - 29th Sep 2021.
- IFASS meeting held on 29th and 30th Sep 2021 - ICAI presented at the meeting on topic “Regulatory Assets and Regulatory Liabilities- comments submitted by the ASB, ICAI, to IASB”.
- The IAASB-NSS meeting held in May 2021.

ICAI International Conference -2022

- ❖ ICAI International Conference on “Accountants Creating a Digital and Sustainable Economy” was successfully held on January 20-22, 2022 in virtual mode. The International Conference was attended by more than 3000 delegates and addressed by about 70 eminent speakers across 17 session and 2 concurrent sessions. It delved upon the futuristic topics, the role of accountants and mostly importantly on the aspects of sustainability and digital economy - two key forces shaping the future.

ICAI International Research Awards-2021

- ❖ ICAI conducted the International Research awards 2021 considered to be the world’s largest cross-border competition in the research arena, for promoting research at the global level in the field of Accounting, Auditing Taxation, Finance and Economics. 138 published research papers were received from 12 countries. Jury meet



Significant Achievements

was held on July 14, 2021, for shortlisting the awardees. The Jury meeting chaired by Alan Johnson, President, International Federation of Accountants (IFAC).

ICAI International Sustainability Reporting Awards 2020-21

- ❖ ICAI had launched “ICAI International Sustainability Reporting Awards 2020-21” and “ICAI Sustainability Reporting Awards 2020-21” for the first time to promote the best sustainability reporting practices. The number of nominations received for “ICAI International Sustainability Reporting Awards 2020-21” was 24 and number of nominations received for “ICAI Sustainability Reporting Awards 2020-21” was 34. The Jury Meet for both the awards has been held on January 18, 2022. The Jury Chairman for “ICAI International Sustainability Reporting Awards 2020-21” was Mr. Alan Johnson, President, IFAC and for “ICAI Sustainability Reporting Awards 2020-21” was CA. Akhil Gupta, Vice Chairman, Bharti Enterprises Limited.

4. REGULATORY COMPLIANCES PAR EXCELLENCE

The ICAI understands the importance of the coveted duty casted upon itself by the Chartered Accountants Act, 1949 to regulate the profession. Over the years the ICAI has built a cohesive oversight mechanism by way of robust Disciplinary mechanism, supported by Ethical Standards Board, Financial Reporting and Review Board, Peer Review Board and Taxation Audit Quality Review Board. As a regulator, ICAI actively engages with its members to keep them aware about the best governance practices.

- ❖ Successful conduct of e-hearings with the effective participation of the members of the Board of Discipline/ Disciplinary Committee

including the Government Nominees. It has acted as a boon during the current pandemic situation as besides being time and cost-effective, it has ensured that parties to the case appear before the Board of Discipline/Disciplinary Committee without worrying about the COVID induced travel restrictions.

- ❖ The effectiveness of e-hearing is clearly reflected in the volume of cases that has been disposed off in the meetings of the Board of Discipline and Disciplinary Committee held during Council Year 2021-22 as stated hereunder (as on 31st December 2021) :

Name of the Committee	Number of meetings held	PFOs considered	Hearings concluded	Punishment awarded
Board of Discipline	27	52	29	26
Disciplinary Committee	52	114	117	81
Total	79	166	146	107

- ❖ Hosting of the details of disciplinary cases decided by the Board of Discipline/Disciplinary Committee as well as the cause list of cases on the Web portal of Disciplinary Directorate ICAI so as to create more awareness among various stakeholders.
- ❖ Digitisation of the Disciplinary Directorate - Scanning of the physical records of the Disciplinary Directorate has been initiated.
- ❖ To build awareness amongst members, video on frequently asked questions on ethical issues – Ethical Standards Board were prepared and uploaded on digital learning platform of the institute and ESB website.



Significant Achievements

- ❖ Seminars/ Programmes were organized for bringing awareness of the provisions of revised Code of Ethics and related issues among the members.
- ❖ Knowledge updation through Frequently Asked Questions and clarifications on the queries raised frequently by the members and questions posed on various issues.
- ❖ Ethical Standards Board has presence on Twitter wherein important topics/matter covering the revised Code of Ethics are being regularly shared for awareness of the members.
- ❖ More than 300 queries of members on various professional ethical issues were addressed and resolved in the given period.
- ❖ ICAI takes steps to improvise the quality of tax audit conducted by the members with a system of three tier review of Tax Audits. During the year 100 reports were selected for review. 40 Tax Audit Reports have been thoroughly reviewed so far. Based on the review, advisories are being issued to members to ensure that such mistakes are not committed again. Suggestions have also been identified to be conveyed to CBDT for changes in the Tax Audit Report e-filing utility, wherever required.
- ❖ During the year, the FRRB has undertaken, as special cases, review of 29 general purpose financial statement and auditor's reports thereon of various enterprises as referred by regulators, based on media reports and other references received which are on different stages of review.
- ❖ The Board has completed review of 19 financial statements among other agendas. The cases completed during the period include review of 12 Ind-AS based Financial Statements.
- ❖ Review of financial statements of 179 enterprises selected on suo moto basis or as special case. Out of these, the preliminary review of 171 enterprises (Tier I) has been completed by technical reviewers and review of 137 enterprises (Tier II) has been completed by Financial Reporting Review Groups.
- ❖ Launching of Web Portal of FRRB: Automation of FRRB workflow using Rule based Analytics web portal that will automate several processes which are currently performed manually.

5. EMPOWERING MEMBERS

The Accounting Profession is an ever-evolving profession and the members are constantly

required to keep themselves updated about the emerging developments. As the only constant is change, members are keen on expanding their professional horizon with gaining new perspective through knowledge enrichment. The ICAI has taken numerous initiatives to promote knowledge enrichment through e-learning and other ways to empower the members, few of the measures are summarized below:

5.1. Skill Development/ Empowerment:

- ❖ 22 more CPE POU's were opened for helping members to undergo CPE activities in their nearby places, reaching to a strong network base of 639 CPE POU's spread in all over India and Abroad for organisation of CPE programmes, and also for helping the members in mofussil/ remote areas to undergo CPE activities.
- ❖ Relief granted to members through CABF Assistance Scheme. During the year disbursed more than Rs.10 Crores to more than 800 beneficiaries.
- ❖ Forged tie-ups with various organizations and institutions to offer products and services to empower the members like Medical Insurance, IT products, Software, credit cards facility etc.
- ❖ 110 Batches of Certificate Courses of ICAI of Certificate Courses of ICAI on GST, Anti Money laundering Laws, Forex and Treasury Management, NPO, Wealth Management and Financial Planning, Concurrent Audit of Banks, Ind-AS, Forensic Accounting and Fraud Detection, Preparation of appeals, Drafting of Deeds & Documents and Representation before Appellate Authorities and statutory bodies, ADR (Arbitration, Mediation & Conciliation), Public Finance & Government Accounting etc. were organised for Members by the Central Committees of ICAI through physical/virtual mode.
- ❖ 40 Batches of Post Qualification Courses were organised for Members by the Central Committees of ICAI through physical/virtual mode.
- ❖ 7353 CPE programmes were organized for members across the country, by the POU's on various topics of interests through physical/virtual mode.
- ❖ 53 batches of Pre-registration Education Course organised by ICAI RVO.
- ❖ 10 batches of Pre-registration Education Course organised by IIIPI.

5.2. Professional Issues/ Representation:

- ❖ ICAI submitted comments to NFRA on
 - (i) Returning of Revision of Existing Accounting Standards: Approach Paper (2020) prepared by ICAI by NFRA and
 - (ii) Issuance of NFRA Consultation Paper on “Statutory Audit and Auditing Standards for Micro, Small and Medium Companies
- ❖ Representation to CBDT- Seeking relaxations in respect of late submissions of Form 15CA/ 15CB due to issues faced owing to shift to the new e-filing portal.
- ❖ Representation to CBDT – seeking clarification with respect to Significant Economic Presence Section 9 read with section 5 of the Income-tax Act, 1961 (Act) provides for nexus rule for a non-resident including foreign company, which if satisfied, deems income to accrue or arise in India and accordingly taxable in India under the domestic Law.
- ❖ Tendering Monitoring group has been actively advocating before numerous organizations many inconsistencies found in tender documents and has been successful in having the documents amended in accordance with the suggested adjustments. To bring awareness among the members and the organizations floating tenders, the ICAI has released a publication on “Tendering of Professional Services – All That You Should know.”
- ❖ Representations submitted to CBDT:
 - Request for a specific agency that may be notified by the CBDT so as to certify calculation of aerial distance as required u/s 2(14)(iii)(b) of the Act.
 - Request to notify rules to prescribe fair market value of slump sale consideration pertaining to amendment made in section 50B(2)(ii) of Income Tax Act, 1961 at the earliest.
 - Request to proactively take all possible and suitable steps for protecting taxpayers/ stakeholders interest considering prevalent COVID-19 pandemic situation.
 - Request to provide relief for payment of TDS for the month of March and April 2021 and filing of TDS and TCS Statements for the 4th quarter of FY 2020-21 in line with relief provided vide Circular No. 08/2021 dated 30.04.2021.
- Request to issue clarification regarding taxability of assistant provided by the employers to the legal hire/ nominee of their deceased employees.
- Request to consider issuing a benevolent Circular or making appropriate amendments for promoting private sector investment in the healthcare segment and to raise adequate funds by NGOs dedicated to healthcare.
- Request for amendment of Rule 17C of the Income-tax Rules, 1962 allowing charitable organisation to invest in Infrastructure Investment Trusts (InvITs).
- Regular submission of feedback on Newly launched e filing portal by the Income-tax Department.
- Request to amend Schedule to the Tribunal, Appellate Tribunal and other Authorities (Qualifications, Experience and other Conditions of Service of Members) Rules, 2020 – Need to lower the minimum qualification period of 25 years applicable to Chartered Accountants to be eligible as Accountant member to 10 years as applicable to an advocate to be eligible as a judicial member and reduction of minimum age limit of 50 years in the Tribunals Reforms (Rationalisation and Conditions of Service) Ordinance, 2021 dated 04.04.2021.
- ❖ The Institute has over the years expressed its concerns on the issue of appointment of auditors of Public Sector Banks by the Banks’ Board themselves. The Management of Public Sector Banks do not have any major ownership interest, this autonomy of appointment of auditors by management is fraught with risk in a very important and sensitive sector like banking. To address the issue and in order to bring autonomy in appointment of auditors of Public Sector Banks (PSBs), a web-based application was designed by ICAI for selection and allotment of Statutory Auditors of PSBs by randomly mapping and associating with the vacancies available in the PSBs. In the year 2021, ICAI approached all the Banks for

Significant Achievements

utilizing the said software. Pursuant to the follow-ups this software has been used by banks namely, Punjab National Bank, Bank of Baroda, Indian Overseas Bank, Central Bank of India, Canara Bank, Punjab & Sind Bank.

- ❖ The GST and Indirect Taxes Committee has been regularly submitting suggestions/ providing inputs and representations to the Government on various issues concerning implementation of GST with a view to make Goods and Services Tax a good and simple tax.
 - Providing inputs on ITR Forms, Form 3CD etc.
 - Providing inputs on CPC-TDS and inputs on other issues as and when required.
 - ICAI submitted its suggestions on the significant changes in GSTR-1, GSTR-2A, GSTR-2B and GSTR-3B returns and integration, recent changes in registration & refund, new functionalities and tools required and changes in available functionalities for consideration of Consultation Committee of GSTN.
 - Submitted Inputs on allow ability of input tax credit on CSR expenditure to the Ministry of Corporate Affairs
- ❖ ICAI submitted its Comments and Recommendations on the NFRA Consultation Paper on “Enhancing Engagement with Stakeholders”.

5.3. Post Qualification Courses – Certificate Courses:

22 batches of Certificate Course on Concurrent Audit of Banks through DLH. Around 3000 members successfully completed the Course during the year.

- ❖ Four batches of Diploma in International Taxation were completed online during the year.
- ❖ Online 30 batches on Ind AS conducted through the Digital Learning Hub (DLH). Around 3900 members were successfully trained.
- ❖ Conducted nine batches of the Certificate Course on Public Finance and Government Accounting for the members.
- ❖ Two online batches of Certificate Course on Anti Money Laundering Laws and 1 online batch of Certificate Course on ADR (Arbitration, Mediation & Conciliation) through DLH, ICAI.
- ❖ Conducted three online batches of Certificate Course on The Insolvency and Bankruptcy Code, 2016.
- ❖ 6 batches of Certificate Course on CSR was held during the year.
- ❖ 6 batches of Virtual Certificate Courses on ‘Wealth Management and Financial Planning’, 1 batch of ‘Preparation of appeals, ‘Drafting of Deed & Documents and Representation before Appellate Authorities and statutory bodies and 3 batches of ‘Working Paper Management’ respectively.
- ❖ Eight batches of Five-day online Certificate Course on Business Responsibility and Sustainability Reporting have been completed with around 650 members attending the same.
- ❖ Four Eligibility papers online were conducted to enable the DIRM members to complete the requirement of the course to be eligible to appear in the technical examination.
- ❖ Conducted 3 batches of Forex and Treasury Management, 2 batches on Derivatives and 1 batch each of FATA and Financial Markets & Security Laws. Further 8 Assessment tests were also conducted during the year.
- ❖ During the year, 10 batches of Certificate Course on GST have been organised through virtual



classes which have been attended by approx. 1350 members.

- ❖ Successfully completion of 2nd batch of PQC-Diploma on Management and Business Finance (DMBF) course through online mode.

6. TOWARDS BETTER EDUCATION AND TRAINING

- ❖ Launch of Digitalization of Scholarship Process. An automated disbursement of scholarship grant system has been developed for the Intermediate and Final Students of ICAI. Earmark Corpus Fund of Rs.100 Crore for grant of Scholarship
- ❖ Live Coaching Classes are being conducted by Board of Studies (Academic) for Foundation, Intermediate and Final Course Students without charging any Fees. So far 2.21 lakhs students have benefited from these classes.
- ❖ Exemption of Course fee including ICITSS and AICITSS fee to Students whose parents/either of parent died due to COVID-19.
- ❖ Board of Studies (Academic) launched ICAI-BOS Mobile App and providing Interactive Learning with all resources at a single platform. 1,70,000 students are using the services.
- ❖ Constitution of CRET - A Committee for Review of Education and Training (CRET) was set up in May, 2021 for reviewing its existing scheme of education and training as the role of a chartered accountant is undergoing a significant change to assume newer responsibilities in a dynamic environment.
- ❖ In view of the prevailing COVID-19 pandemic, Mock Tests papers (Series I & II) for all levels were conducted in physical/virtual mode(s).

International Conference of CA Students – 2022

The International Conference for CA Students was held virtually on 29-30 January, 2022. The International Conference has 11 sessions for the knowledge enrichment and professional development of the students. The International Conference was attended by more than 4500 students.

- ❖ The audio-enabled e-Books for all the three levels of CA Course have been uploaded on ICAI Digital Learning. Students can highlight, annotate and listen to the chapter as per their convenience.
- ❖ ICAI Commerce QUIZ an online quiz for the students of schools with an objective to promote commerce education and to encourage them to join CA Course this year. Around 31276 students registered from across 18 countries of the world.
- ❖ ICAI conducts Commerce Talent Search Test called as ICAI Commerce Wizard a diagnostic test that measures the concept understanding ability of a student, to educate and motivate them to achieve excellence in Commerce stream and search talent in Commerce stream. Around 17,100 students have registered for the competition.

7. DEVELOPING INFRASTRUCTURE – NEW BRANCHES, CHAPTERS ETC

The ICAI continues to expand its infrastructure across the country to meet its futuristic requirements :

- ❖ Approved the new construction proposal at following locations during the year:
 - ICAI Bhawan – Pali Branch
 - ICAI Bhawan – Kishangarh Branch
 - ICAI Bhawan – Ratlam Branch
 - ICAI Bhawan – Goa Branch
- ❖ Process for construction/Civil works, Interior & Furnishing works was initiated at following locations during the year:
 - ICAI Bhawan –Agra Branch
 - ICAI Bhawan - Kishangarh Branch
- ❖ Purchased new Land at the following locations:
 - 1 Kota
 - 2 Chengalpattu
 - 3 SIPCOT
 - 4 Ernakulam
- ❖ Finalization of modifications and updations in Infrastructure policy pertaining to Branches, Regional Councils and Head Quarters. ■■■

Anti - Abuse Tax Provisions on Primary Acquisitions

Section 56(2)(x) is an anti-abuse provision which penalizes by levying tax on acquisition for inadequate consideration of inter-alia, shares. Some argue that application of section 56(2)(x) to cases where shares are acquired through fresh allotments would lead to absurd conclusions. This article highlights that, it is not the provision, but the improper application of the provision which results in absurd conclusions. Read on...



CA. Uttam Padival M.

The author is a member of the Institute. He can be reached at uttampadival@gmail.com and eboard@icai.in

allotted by the company to the shareholders. The shareholder, as consideration, would pay the allotment price to the company. Consequently, the net assets of the company would increase to the extent of the total consideration received on account of the fresh allotment. Correspondingly, there would also be an increase in the total number of shares outstanding.

Secondary Acquisition is when a person acquires, from an

existing shareholder, shares which have already been allotted by the company. Hence, Secondary Acquisition is also termed as Acquisition Through Transfer ("ATT"). Existing shares when exchanged between parties results in ATT. ATTs do not impact either the net assets of the company or the number of shares outstanding. The only impact of ATT on the company would be the change in the shareholder from transferor to the transferee.



Figure 1 : Share Acquisition Types

Basics

Shares can be acquired through two modes – Primary and Secondary.

Primary Acquisition is when shares are acquired on allotment by the company. Hence, Primary Acquisition is also termed as Acquisition Against Allotment ("AAA"). In the case of AAA, new shares are



The following table provides the differences between Primary and Secondary acquisition:

Table 1 : Difference between Primary and Secondary Acquisitions

Differentiator	Primary Acquisition / AAA	Secondary Acquisition / ATT
Existence of shares prior to the transaction	No	Yes
Recipient of consideration of the transaction	Issuing Company	Transferee
Impact on Issuing Company's Asset Position	Increase	No impact
Impact on the shares outstanding	Increase	No impact

Anti-Abuse Tax provisions on Share Acquisitions

If an asset is exchanged at a price lower than the minimum acceptable rational price, then there is a high probability that the transaction price is vitiated. In the case of Immovables, the price determined by the stamp duty authorities, can be considered as such minimum acceptable rational price. Similarly, in the case of shares, the minimum acceptable rational price is the Book Value per share. No rational person would, in normal circumstances, be willing to sell his shares at a price below its Book Value. Hence, if additional tax is levied on share transacted at less than the Book Value, it would work as an anti-abuse provision dissuading misreporting of the transaction price.

The Indian Income-tax Act, 1961 ("Act"; reference to any statutory provision, unless otherwise mentioned, refers

to the statutory provisions of the Indian Income-tax Act, 1961) has promulgated certain anti-abuse provisions to check acquisition of shares at prices below the book value.

In 2009, section 56(2)(vii) was introduced to tax share acquisitions by individuals and HUFs for inadequate consideration. Subsequently, in the year 2010, section 56(2)(via), widened the scope to cover share acquisitions by partnership firms and closely held companies. In the year 2017, to give complete coverage, section 56(2)(x) was introduced, which provides for taxing share acquisitions for inadequate consideration by all forms of persons.

The aforementioned anti-abuse tax provisions provide that, if the transaction price is less than the Adjusted Book Value ("ABV"), difference between ABV and the transaction price will be taxable in the hands of



Primary Acquisition is when shares are acquired on allotment by the company. Hence, Primary Acquisition is also termed as Acquisition Against Allotment

the acquirer. Alternatively put, if the transaction price is higher than ABV, no tax u/s 56(2)(x) is attracted. Hence, these anti-abuse provisions, by prescribing the floor-price, monitor and tax such share acquisitions which are done below the ABV. The methodology for computing the ABV is contained in Rule 11UA of Income Tax Rules, 1962 which have been borrowed from the erstwhile provisions relating to Gift Tax and Wealth Tax.

While applicability of section 56(2)(x) on secondary acquisitions has been well-accepted, there has always been debate as to whether section 56(2)(x) is attracted on allotment of shares (primary acquisitions – AAA transactions). In order to clear the air, CBDT issued a circular¹ clarifying that no anti-abuse tax is attracted on primary acquisitions. However, within just a week, owing to unintended political controversy, this circular was retracted² citing the sub-judice status of the matter. There are two judgements³ by the

¹ CBDT Circular No. 10/2018 dated 31.12.2018

² CBDT Circular No. 02/2019 dated 04.01.2019

³ Sudhir Menon (HUF) Vs. ACIT dated 12.03.2014 and ACIT & Another Vs. Subhodh Menon & Another dated 07.12.2018

Bombay bench of the Mumbai Income Tax Tribunal, which have held that section 56(2)(x) is equally applicable to primary acquisitions too.

Those who advocate applicability of section 56(2)(x) on primary transactions, put forward a simple but elegant argument - Sections 56(2)(x) is applicable on receipt of shares for inadequate consideration. In primary acquisitions too, since the allottee receives shares, if the consideration is inadequate, why should it not attract section 56(2)(x)?

The following hypothetical example illustrates how non-applicability of section 56(2)(x) on primary acquisitions can lead to tax evasion and nullify the anti-abuse intent.

The promoter subscribed to the entire share capital being 1 Lakh shares of INR 10/- each of a newly incorporated company which was used to acquire an immovable property at fair market value of, say, INR 1 million.

Couple of years later, let us assume that the fair market value of the immovable has

appreciated to INR 5 million. Thus, the ABV per share would be INR 50/- per share. For avoiding tax, if either the immovable property or the shares are sold for less than adequate consideration, the acquirer will be liable for tax on inadequate consideration by virtue of section 56(2)(x). To evade this, the company allots 2 Lakh new shares at face value for INR 10/- to the acquirer. Now the ABV per share would drop from INR 50/- per share to INR 23.33/- per share. Subsequently, the promoter sells his shareholding of 1 lakh shares at INR 23.33/- per share to the acquirer. Consequently, the right in the immovable property whose fair market value was INR 5 million, got indirectly transferred from the promoter to the acquirer at INR 2.33 million. Since, the transfer of the shares from the promoter to the acquirer is at ABV, the anti-abuse provision is not attracted. This evasion would be possible if section 56(2)(x) is not applied on share acquisitions through allotments. As explained later, these kinds of tax avoidance acrobatics will be dissuaded, if 56(2)(x) is applicable for secondary as well as primary acquisitions.

Arguments against applying Anti - Abuse tax provisions on Primary Acquisitions

The detractors of applying section 56(2)(x) to primary acquisitions have the following



Secondary Acquisition is when a person acquires, from an existing shareholder, shares which have already been allotted by the company.

cogent arguments:

1. Primary transactions are not transfers: Non-Transfer Argument;
2. Since shares are chose⁴-in-action which come into existence on allotment, how can they be termed as property, which is the primary ingredient of section 56(2)(x)?: Non-Existence Argument;
3. If primary transactions are subjugated to taxation, then it would lead to absurdity in case of primary acquisitions as part of bonus allotment or rights allotment: Illogical Ramification Argument.

While argument against application of section 56(2)(x) to primary acquisitions, on the face of it, appear to be realistic, on a deeper analysis, application of the anti-abuse tax provision on primary acquisitions, not only fulfils the anti-abuse objective but at the same time does not impinge genuine business transactions as explained further.

Arguments against Non-Transfer argument

Agreed that primary acquisitions are not a result of transfers. However, transfer



If an asset is exchanged at a price lower than the minimum acceptable rational price, then there is a high probability that the transaction price is vitiated.

⁴French for "thing"

is not one of the essential ingredients for section 56(2)(x). The taxing provision is applicable when a person **receives** the shares. How the shares were acquired, through primary acquisition or through secondary acquisition, is not the lookout of section 56(2)(x). It is a settled matter that when words of the statute are unambiguous, one is not supposed to go beyond the literal interpretation. Further, by applying contemporaneous exposition, we learn that with the intent to dissuade acquisition of shares for inadequate consideration, the legislature has introduced section 56(2)(x) as an anti-abuse provision. Since the mischief sought to be remedied is acquisition and not transfer, section 56(2)(x) is equally applicable to primary acquisitions as it is to secondary acquisitions.

Arguments against Non-Existence Argument

Non-existence arguers contend that Primary Acquisitions are a result of allotment. Since shares do not exist prior to allotment, how can one be presumed to have received something which did not exist? Hence, provisions of section 56(2)(x), should not be applicable for shares which have been acquired through allotments.

The Supreme Court⁵ has held that, in company law the word “allotment” means appropriation out of previously unappropriated capital of a

company, of a certain number of shares, to a person and till such allotment, the shares do not exist as such. It is only on allotment that the shares come into existence and in every case the words “allotment of shares” have been used to indicate the creation of shares by appropriation out of the unappropriated share capital to a particular person.

From the above judgement, it can be inferred that shares do not exist prior to allotment. However, shares come into existence on allotment. The Non-Existence Argument would hold good against transfers, in which case, it can be argued well that the shares cannot be said to be transferred on their allotment, since they came to existence on allotment. However, section 56(2)(x) deals with receipts and not transfers and hence, there is no dispute about primary-acquisitions resulting in receipt of the shares.

Arguments against Illogical Ramification Argument

The following hypothetical example illustrates how applicability of section 56(2)(x) on primary acquisitions can purportedly lead to taxation and frustrate genuine business transactions.

A company has an ABV of INR 12 million. The Company has 2 promoters holding 1 share each. Because of the small number of shares, the shares have a high per share ABV –

INR 6 million per share. The high per share value, make the shares illiquid. Hence, the company capitalizes the profits and issues Bonus shares. No monetary transaction has taken place on allotment of bonus shares. If we force section 56(2)(x) to the Primary Acquisition of Bonus shares, it would be akin to a bank charging a customer for exchanging one INR 2000/- denominated note for twenty INR 100/- denominated notes.

However, the above anomaly is a result of improper application of the anti-abuse provisions. To recollect the anti-abuse provision, Section 56(2)(x) provides for taxation of the difference between ABV and **Consideration**. A proper understanding of the above two terms is very important for proper application of the anti-abuse provisions.

ABV

The basic question is, at what point of time should the ABV, be computed: Pre-Acquisition or Post-Acquisition? In the case of Secondary Acquisitions, as inferred from Table 1, there would be no impact on the balance sheet of the company and hence the pre-acquisition and post-acquisition ABV would be the same. However, in case of Primary Acquisitions, both the total ABV of the company as well as the number of shares would increase post-allotment. Hence, for the purpose of section 56(2)(x) should the ABV be computed pre-allotment or post-allotment? The answer lies

⁵Sri Gopal Jalan & Co. vs. Calcutta Stock Exchange Association Ltd. 1964 (3) SCR 698

in Rule 11U(j) of the Income Tax Rules, 1962 which provides that ABV of the shares needs to be computed at the time of receipt of the shares i.e., post-allotment.

Consideration

Consideration for the purpose of section 56(2)(x) is that

which is paid by the acquirer for acquiring the shares. Accordingly, the allotment price paid by the acquirer for acquiring shares would be the consideration for the purpose of 56(2)(x).

Additionally, there is one more element of consideration in

primary acquisitions, which is not applicable in the case of secondary acquisitions.

When new shares are allotted, depending upon the allotment price, the ABV-per share will increase or decrease as illustrated in the following table:

Table 2 : Impact of allotment on ABV-per share

Notation	Particulars	Basis / Formula	Case 1	Case 2	Case 3
A	Pre-Allotment Total ABV	Assumption	2,000.00	2,000.00	2,000.00
B	Total No. of Shares Pre-Allotment	Assumption	100	100	100
C	Pre-Allotment ABV per share	$A \div B$	20.00	20.00	20.00
D	No. of new shares allotted	Assumption	50	50	50
E	Allotment Price per share	Assumption	15.00	20.00	25.00
F	Total amount received by the Company on Allotment	$D \times E$	750.00	1,000.00	1,250.00
G	Post-Allotment Total ABV	$A + F$	2,750.00	3,000.00	3,250.00
H	Total No. of Shares Post-Allotment	$B + D$	150	150	150
I	Post-Allotment ABV per share	$G \div H$	18.33	20.00	21.67
J	Increase / (Reduction) in ABV per share on account of allotment	$I - C$	(1.67)	-	1.67

As can be observed from the above table, if the allotment price per share (Notation, "E") is more than the pre-allotment ABV per-share (Notation, "C"), it results in an increase in the ABV per-share, post allotment (Notation, "I") and vice-versa.

This increase or reduction in the ABV-per share as a result of a new allotment is nothing but the gain or loss experienced by the existing shareholders for their decision to allot shares at the allotment price.

If anything is paid by a person other than the acquirer, then such payment would not form part of the consideration for the purpose of section 56(2)(x). Hence, if the existing shareholder incurs loss in

the ABV-per share as a result of the new allotment, but no shares are acquired by the existing shareholder, then such loss would not form part of the consideration for the purpose of section 56(2)(x). In other words, such amount of loss in ABV per-share borne by an existing shareholder to the extent of the new shares acquired, would form part of the 56(2)(x) consideration.

Thus, consideration for the purpose of primary acquisition consists of two components being,

- (A) Allotment price per share
No. of Shares Acquired
- (B) Loss in ABV per share No. of
Shares Acquired

If the above peculiarities of ABV and Consideration in the case of primary acquisitions are properly understood and consistently applied, section 56(2)(x) would not result in taxation of genuine



This increase or reduction in the ABV-per share as a result of a new allotment is nothing but the gain or loss experienced by the existing shareholders for their decision to allot shares at the allotment price.

business transaction being bonus allotments and proportionate rights allotments. At the same time, Section 56(2)(x) would not leave untaxed such tax evasive manipulations through disproportionate rights allotments and allotments through preferential or private placements at disproportionately low allotment prices, as illustrated in the following table:

Table 3 : Impact of 56(2)(x) on various forms of Primary Acquisitions

Notation	Particulars	Basis / Formula	Bonus Allotment	Rights offer accepted wholly	Rights offer accepted partially	Preferential / Private Placement
A	Pre-Allotment Total ABV	Assumption	1,000.00	1,000.00	1,000.00	1,000.00
B	No. of Shares held by X, pre-allotment	Assumption	20	20	20	20
C	No. of Shares held by Y, pre-allotment	Assumption	30	30	30	30
D	No. of Shares held by Z, pre-allotment	Assumption	-	-	-	-
E	Total No. of Shares Pre-Allotment	$B + C + D$	50	50	50	50
F	Pre-Allotment ABV per share	$A \div E$	20.00	20.00	20.00	20.00
G	No. of shares allotted to X	Assumption	2	2	-	-
H	No. of new shares allotted to Y	Assumption	3	3	3	-
I	No. of new shares allotted to Z	Assumption	-	-	-	5
J	Total No. of new shares allotted	$G + H + I$	5	5	3	5
K	Allotment Price per share	Assumption	-	10.00	10.00	10.00
L	Amount paid by X against new allotment	$G \times K$	-	20.00	-	-
M	Amount paid by Y against new allotment	$H \times K$	-	30.00	30.00	-
N	Amount paid by Z against new allotment	$I \times K$	-	-	-	50.00
O	Total amount received against new allotment	$L + M + N$	-	50.00	30.00	50.00
P	Post-Allotment ABV	$A + O$	1,000.00	1,050.00	1,030.00	1,050.00
Q	No. of Shares held by X, post-allotment	$B + G$	22	22	20	20
R	No. of Shares held by Y, post-allotment	$C + H$	33	33	33	30
S	No. of Shares held by Z, post-allotment	$D + I$	-	-	-	5

Taxation

Notation	Particulars	Basis / Formula	Bonus Allotment	Rights offer accepted wholly	Rights offer accepted partially	Preferential / Private Placement
T	Total No. of Shares Post-Allotment	$Q + R + S$	55	55	53	55
U	Post-Allotment ABV per share	$P \div T$	18.18	19.09	19.43	19.09
V	Fall in ABV per share due to allotment of new shares	$F - U$	1.82	0.91	0.57	0.91
W	ABV loss borne by X for acquiring new shares	$B \times V$	36.36	18.18	11.32	18.18
X	ABV loss borne by Y for acquiring new shares	$C \times V$	54.55	27.27	16.98	27.27
Y	ABV loss borne by Z for acquiring new shares	$D \times V$	NA	NA	NA	NA
Z	Total Consideration from X for acquisition of new shares	$L + W$	36.36	38.18	-	-
AA	Total Consideration from Y for acquisition of new shares	$M + X$	54.55	57.27	46.98	-
AB	Total Consideration from Z for acquisition of new shares	$N + Y$	-	-	-	50.00
AC	Post-Allotment ABV of new shares acquired by X	$G \times U$	36.36	-	-	-
AD	Post-Allotment ABV of new shares acquired by Y	$H \times U$	54.55	57.27	58.30	-
AE	Post-Allotment ABV of new shares acquired by Z	$I \times U$	-	-	-	95.45
AF	Amount taxable u/s 56(2)(x) for X	$AC - Z$	-	-	-	-
AG	Amount taxable u/s 56(2)(x) for Y	$AD - AA$	-	-	11.32	-
AH	Amount taxable u/s 56(2)(x) for Z	$AE - AB$	-	-	-	45.45

Thus, we can conclude that section 56(2)(x) would equally be applicable to secondary as well as primary acquisitions. However, in the case of primary acquisition, it would have tax implication, if and only if, the allotment is disproportionate to the existing shareholding. ■■■

Business Banking
Solutions



Empower your business.

Banking solutions, customised to your needs.



Current
Account



Business
Loans



Loan Against
Property



Payment and
Collection Solutions



Point of Sale
(POS) / QR / UPI



Trade & Forex
Services



Working Capital
Solutions

Visit the nearest **Kotak Mahindra Bank branch** or **www.kotak.com**

Terms & Conditions apply. | Credit at the sole discretion of the Bank and subject to guidelines issued by RBI from time to time. Bank may engage the services of marketing agents for the purpose of sourcing loan assets. Available at select locations only.

BE READY

PROGRESS YOUR CAREER WITH CPA AUSTRALIA

With over 168,000 members in over 100 countries, CPA Australia is one of the most recognised and respected accountancy designations in the world.

At CPA Australia, we know how important it is to be recognised for excellence in the accounting profession. That's why we have signed a Mutual Recognition Agreement (MRA) with the Institute of Chartered Accountants of India (ICAI), providing members of both organisations the opportunity to achieve recognition across the globe through CPA Australia.

Contact us at india@cpaaustralia.com.au
or find out more at cpaaustralia.com.au/icai

**You may also visit our local contact
for inquiries:**

CPA Australia India Liaison Office
c/o EPR Solutions Pvt Ltd
An independent liaison office for CPA Australia
P: + 91 11 2654 4723
E: cpaaustralia.india@professionalconnect.co.in



The Institute of Chartered Accountants of India

Mutual Recognition
Agreement with ICAI



ENVISIONING GREENER INDIA FOR FUTURE GENERATIONS



LNG is environment friendly green fuel.



Petronet LNG Ltd. is supplying approximately 40% of the total gas demand of the country.



Petronet LNG Limited

World Trade Centre, 1st Floor, Babar Road, Barakhamba Lane, New Delhi-110001 (INDIA)



www.petronetlng.in

Taxation Aspects of Income of Deceased Person

There is no exemption from tax on death of a person. Tax planning is required even in cases of succession. This undoubtedly expands the arena of tax professionals and creates new horizons. Assessment of Income and derivation of tax liability in case of death of an individual has constantly been a subject of discussion. Drafting of wills and testamentary documents has been a major avenue for practicing professionals. However, there has been a long-drawn disputes and debates regarding the incidence of taxation of income and tax liability of a deceased person. Under the Income-tax Act, 1961, the relevant sections are 159, 161, 162 and 167. Read on...



Sonal Sarda

The author is an expert in area of Taxation. She can be reached at snl.sarda@rediffmail.com and eboard@icai.in

Who is a Legal Representative?

Section 159 of the Income-tax Act, 1961, 'Legal Representatives' is the primary section that encompasses the liability of a legal representative of a deceased person. The provision of the said section enables an assessment being made and tax recovered in respect of income of a natural assessee who was alive during a previous year but died either before the assessment proceedings were initiated or were completed. It enumerates the rights and liabilities of a legal representative. **However, the liability of such**

representative is limited only to the extent to which the estate left by the deceased is capable of meeting the tax liability subject to the contingencies mentioned in sub-sections (4) and (5) of Section 159.

Now, it is important to understand the scope of the term 'Legal Representative' in the legal world. As per Section 2(29) of the Income-tax Act, 1961, "*legal representative has the meaning assigned to it in clause (11) of section 2 of the Code of Civil Procedure, 1908.*" Section 2(11) of Code of Civil Procedure states that, "*legal representative means*





Section 159 of the Income-tax Act, 1961, 'Legal Representatives' is the primary section that encompasses the liability of a legal representative of a deceased person.

a person who in law represents the estate of a deceased person, and includes any person who intermeddles with the estate of the deceased and where a party sues or is sued in a representative character the person on whom the estate devolves on the death of the party so suing or sued."

There is another term that is often used as a substitute for legal representative: Legatee. Now similarly, Legatees are the persons or entities that are designated within a decedent's will to receive any gift (a legacy) from the estate. In other words, the legatees are the beneficiaries under the will.

The question that now arises is whether the terms 'legal heir' and 'legal representative' are one and the same?

In this context, the following judicial pronouncements are briefly mentioned hereinafter:

- Judgement of Supreme Court in **Custodian of Branches of BANCO National Ultramarino v. Nalini Bai Naique** AIR 1989 SC 1589: 'A 'legal representative' as defined

in Civil Procedure Code means a person who in law represents the estate of a deceased person, and includes any person who intermeddles with the estate of the deceased and where a party sues or issued in representative character the person on whom the estate devolves on the death of the party so suing or sued. The definition is inclusive in character and its scope is wide, it is not confined to legal heirs only instead it stipulates a person who may or may not be heir, competent to inherit the property of the deceased but he should represent the estate of the deceased person. It includes heirs as well as persons who represent the estate even without rifle either as executors or administrators in possession of the estate of the deceased. All such persons would be covered by the expression 'legal representative'.

- Rajasthan High Court in the case of **Smt Kamlawati Gupta vs Kanwari Lal & Ors on 21 July, 2011** held that: 'The term is inclusive of not only the heirs but also intermeddlers of the estate of the deceased as well as a person, who in law represents the estate of the deceased. It is not necessarily confined to heirs alone. The executor, administrators, assigns or persons acquiring interest by devolution under Order 22 Rule 10 or legatee

under a will, are legal representatives. Under the personal law of Hindu Succession Act also, not only that class one heirs under Section 8 read with Schedule of the Act but also the executor of the will of the deceased testator are legal representatives within the meaning of Section 2(11) of the CPC.'

Based on the above definitions and the judicial pronouncements, it becomes clear that any person who gets the legacy (being a legal heir or not) is termed as Legal Representative. A Legal Representative may or may not be a legal heir of the deceased.

Testate V/S Intestate

Death by testate refers to a situation where the deceased has left a will. Intestate indicates the absence of a will by the deceased. In case of testate, there is usually an executor mentioned in the will. However, there are instances wherein the will does not state the name of the executor. Letters of administration are filed by beneficiaries in case no executor is mentioned in the will, or, if the deceased has not made a will. The Court thereby, appoints an executor till the distribution of the estate of the deceased is made by way of probate.

Role of Executor

Section 168 of Income-tax Act, 1961 provides that the income accruing to the estate of a deceased shall be chargeable to tax in the hands of the executor.



Death by testate refers to a situation where the deceased has left a will. Intestate indicates the absence of a will by the deceased. In case of testate, there is usually an executor mentioned in the will.

It further clarifies that separate assessments shall be made on the total income of each completed previous year or part thereof as is included in the period from the date of the death to the date of complete distribution to the beneficiaries of the estate according to their several interests. In case of partial distribution, the income distributed shall be excluded from the estate and shall be made taxable in the hands of the legatee.

Section 168 (3) makes it clear that the executor will continue to be assessed until the estate is distributed among the beneficiaries equally according to their several interests. [Navneet Lal Sakarlal vs. CIT (1992) 193 ITR 16 (SC)]

Executor shall be assessed in respect of the income of the estate under a PAN, different from his own. The executor is assessable in the status of "individual". If, however, there are more executors than one, then, the assessment will be as if the executors were an AOP. However, the *Madhya Pradesh*

High Court has held, in the case of CIT vs. G. B. J. Seth and Anr (1982) 133 ITR 192 (MP), that though the assessment is on the executor or executors, for all practical purposes, it is the assessment of the deceased. The Court had held that the status of AOP is for statistical purposes and that notwithstanding the status of the assessee being an AOP, the executors were entitled to claim set off of the brought forward losses incurred by the deceased prior to his death.

Personal Liability of Legal Representative

Section 159(4) of the Income-tax Act, 1961 states that where legal representative create a charge on or disposes of or parts with any asset of the estate of the deceased, while the liability for tax on income of the deceased remains undischarged, the legal representative shall be personally liable for any tax payable by him in his capacity as legal representative. However, such liability is limited to the value of assets charged, sold or parted with.

Further, Section 167 of Indian Succession Act, 1925 states that where property specifically bequeathed is subject at the death of the testator to any pledge, lien or incumbrance created by the testator himself then the legal representative, if he accepts the bequest, shall accept it subject to such pledge or incumbrance, and shall be liable to make good the amount of such pledge or incumbrance.

However, it shall not infer that the will shall contain any

provisions for liability of the legal representative to pay the debts of the deceased. The liability of any legal representative shall be held effective only on the acceptance of the asset inherited by him through will and shall be limited to the value of such asset.

A contrary intention shall not be inferred from any direction which the Will may contain for the payment of the testator's debts generally. Explanation—A periodical payment in the nature of land-revenue or in the nature of rent is not such an incumbrance as is contemplated by this section. Illustrations

(i) A bequeaths to B the diamond ring given to him by C. At A's death the ring is held in pawn by D to whom it has been pledged by A. It is the duty of A's executor, if the state of the testator's assets will allow them, to allow B to redeem the ring.

(ii) A bequeaths to B a zamindari which at A's death is subject to a mortgage for 10,000 rupees; and the whole of the principal sum, together with interest to the amount of 1,000 rupees, is due at A's death. B, if



Section 168 of Income-tax Act, 1961 provides that the income accruing to the estate of a deceased shall be chargeable to tax in the hands of the executor.

he accepts the bequest, accepts it subject to this charge, and is liable, as between himself and A's estate, to pay the sum of 11,000 rupees thus due.

Assessment Proceedings

In case a person dies during the pendency of his assessment proceedings, then the proceedings can be continued against legal representatives. Further, any proceedings that could have been initiated in case the person was alive, the same can be initiated against the legal representative/s.

'In view of the provisions of section 159(2)(b) of the Act, it is permissible for the Assessing Officer to issue a fresh notice under section 148 of the Act against the legal representative, provided that the same is not barred by limitation; he, however, cannot continue the proceedings on the basis of an invalid notice issued under section 148 of the Act to the dead

assessee.' [Bipinbhai Bachubhai Kataria Vs ITO (Gujarat High Court) Special Civil Application No. 7850 of 2019]

Capital Gain Implications

As per Section 47 of the Income-tax Act, 1961, the transfer of capital asset under will shall not be regarded as 'transfer' and hence, no capital gains arise.

Then the question that arises is what is the effect of transfer of capital asset intestate (death without will)? It is to be understood that transfer of assets on death is not actually transfer but transmission indeed. There is no consideration for the same. Hence, no capital gains shall arise in case of transfer by testate or intestate.

For the recipient, the assets received are capital receipts and not income. Section 56(2)(x), however, charges tax on receipt of assets without payment of adequate consideration. Proviso thereto exempts receipt by way of will or inheritance and therefore, such receipts are exempt in the hands of the legatee. The cost of acquisition shall be the cost to the previous



Section 78(2) of the Income-tax Act, 1961 explicitly states that the successor shall not carry forward the losses of the predecessor, except in case of succession by inheritance.

owner and the period of holding shall include the holding period of the previous owner.

Carry Forward and Set Off of Losses

Section 78(2) of the Income-tax Act, 1961 explicitly states that the successor shall not carry forward the losses of the predecessor, except in case of succession by inheritance. Therefore, a legal heir shall be allowed to carry forward and set off of the losses of the deceased, but the concern is whether the same shall apply to other legatees as well.

Conclusion

The key takeaway is to recognise the difference between the terms legal heir and legal

representative, death by testate and intestate, extent of liability of a legal representative, two assessments of income in the hands of executor and legatee and so on. ■■■

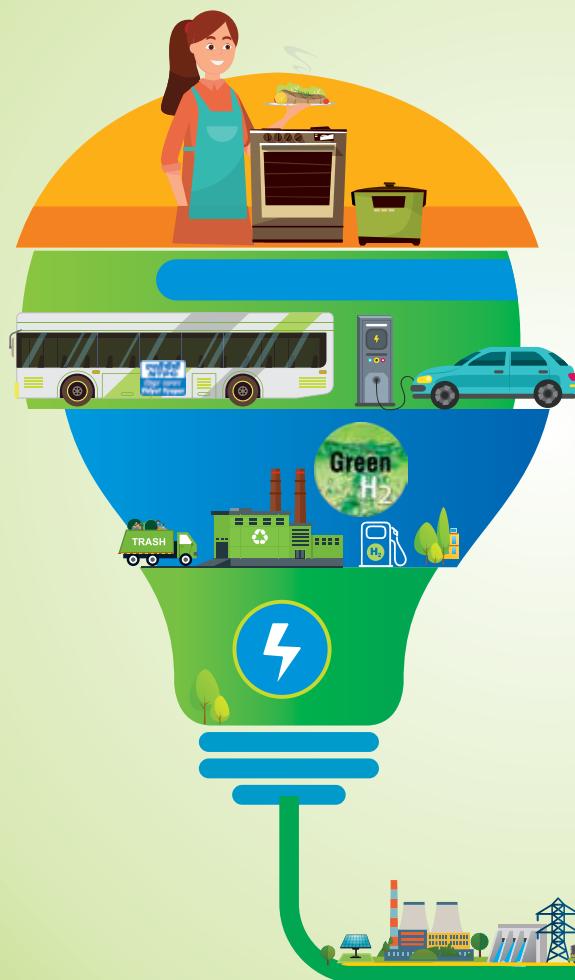


In case a person dies during the pendency of his assessment proceedings, then the proceedings can be continued against legal representatives. Further, any proceedings that could have been initiated in case the person was alive, the same can be initiated against the legal representative/s.





Transforming into a "Sustainable Integrated Energy Company"



India's largest Power Company,
NTPC is venturing into
new business areas -
e-mobility, Waste to Energy,
Power Distribution and
Green Hydrogen Solutions.

Follow us on: [f /ntpc1](#) [t /ntpclimited](#) [y /ntpcld1](#) [i /ntpclimited](#) [in /company/ntpc](#) [nntp ntpc_limited](#)

www.pfcindia.com



PFC IS NOW MAHARATNA

THE HIGHEST RECOGNITION FOR A CPSE

Ranked **365th**
in the World
in terms of Assets
Forbes Global 2021

₹56,000+ cr
Net worth

Highest Ever
Net Profit of
₹8,444 cr
in FY 2020-21

Products & Services

Project Term Loans | Debt Refinancing | E-Mobility | Renewables | Funding for Government Initiatives

POWER FINANCE CORPORATION LTD.
(A Maharatna Company)

Follow us on [f](#) [t](#) [i](#) [p](#) /pfcindia

Funding For A Brighter Tomorrow

Tally
POWER OF SIMPLICITY

 **TallyPrime 2.0**
Audit made easy!



Personalized reports' view

Secured access to reports on browser

Connected e-way bill and e-invoice

Join us at community.tallysolutions.com

Selection of Overseas AE as Tested Party

Selection of the Tested Party is one of the most crucial steps in the transfer pricing analysis and forms the base for the benchmarking analysis. Selection of Tested Party directly affects the selection of the 'Most Appropriate Method' and the comparable. Hence, great caution has to be exercised while selecting the tested party as the choice of a wrong tested party may distort the benchmarking analysis. The Indian Transfer Pricing Regulations do not provide any guidance in respect of selection of tested party. However, as per Organisation for Economic Co-operation and Development (OECD) and UN Transfer Pricing guidelines, broadly speaking, the least complex entity for which the most reliable data is available, and which requires fewer adjustments is to be selected as tested party. In many cases, selection of overseas AE as a Tested Party has been questioned by the tax authorities despite meeting the required conditionalities. Read on...



CA. Rajat Sambhaji Powar

The author is a member of the Institute. He can be reached at rajatpowar00@gmail.com and eboard@icai.in

The Indian Transfer Pricing Provisions

The Indian Income Tax law is silent on the aspect of selection of overseas AE as tested party.

OECD TP Guidelines¹

Paragraph 3.18: "...The choice of the tested party should be consistent with the functional analysis of the transaction. As a general rule, the tested party is the one to which a transfer pricing method can be applied in the most reliable manner and for which the most reliable comparables can be found, i.e., it will most often be the one that has the less complex functional analysis."

UN Transfer Pricing Guideline²

"Paragraph B3.5.1.2: The tested party normally should be the less complex party to the controlled transaction and should be the party in respect of which the most reliable data for comparing the results of similar independent transactions is available. Either the local or the foreign party may be the tested party. If a taxpayer wishes to select the foreign associated enterprise as the tested party, it must ensure that the necessary relevant information about it and sufficient data on comparables is available to the tax administration in order for the latter to be able to verify the proper selection of the tested party and the accurate application of the transfer pricing method."



¹ July 2017

² 2021

UN Transfer Pricing Guidelines (Indian-Country Practice)

Paragraph 3.2.3:In most cases, the Indian entity is taken as the tested party and Indian comparables are used. If the foreign associated enterprise is the less complex entity, it is taken as the tested party.

Hence, it can be inferred from the above international guidelines that a selection of overseas AE as a tested party is an internationally accepted practice. However, the Indian judiciary appears to be divided on this point.

Cases where Overseas AE was not selected as a Tested Party

Onward Technologies Limited vs. DCIT³

"The modus operandi of determining ALP of an international transaction under this method is that firstly, the profit rate earned by the assessee from a transaction with its AE is determined (say, profit A), which is then compared with the rate of profit of comparable cases (say, profit B) for ascertaining as to whether profit A is at arm's length vis-a-vis the profit B. If it is not, then the transfer pricing adjustment is made having regard to the difference between the rates of profit A and profit B. The rate of profit of comparable cases (profit B) may be computed from internally or externally comparable cases, depending upon the FAR analysis and the facts and circumstances of each case.

Thus, the calculation of profit B may undergo change with the varying set of comparable cases. However, in so far as calculation of profit A is concerned, there cannot be any dispute as the same has to necessarily result only from the transaction between two or more associated enterprises, as is the mandate of sections 92 read with 92B in juxtaposition to rule 10B. The natural corollary which, thus, follows is that under no situation can the calculation of 'profit A' be substituted with anything other than from the international transaction, that is, a transaction between the associated enterprises. So, it is the profit actually realized by the Indian assessee from the transaction with its overseas AE which is compared with that of the comparables. There can be no question of substituting the profit realized by the Indian enterprise from its Overseas AE with the profit realized by the Overseas AE from the ultimate customers for the purposes of determining the ALP of the international transaction of the Indian enterprise with its Overseas AE. The scope of TP adjustment under the Indian taxation law is limited to transaction between the assessee and its Overseas AE. It can neither call for also roping in and taxing in India the margin from the activities undertaken by the Overseas AE nor can it curtail the profit arising out of transaction between the Indian and Overseas AE at arm's length. The contention of the Id. AR in considering the profit of the Overseas AE as 'profit A' for the purposes of comparison with profit of comparables, being 'profit B', to determine the ALP of transaction between the assessee

and its Overseas AE, misses the wood from the tree making the substantive section 92 otiose and the definition of 'internal transaction' u/s 92B and rule 10B redundant. This is patently an unacceptable position having no sanction of the Indian transfer pricing law. Borrowing a contrary mandate of the TP provisions of other countries and reading it into our provisions is not permissible. The requirement under our law is to compute the income from an international transaction between two AEs having regard to its ALP and the same is required to be strictly adhered to as prescribed. This contention, is therefore, repelled."

Other decisions which relied on the judgment of Onward Technologies Limited v. DCIT (Supra) are:

1. Bekaert Industries (Pvt.) Ltd. v DCIT⁴
2. CarraroIndia(Pvt.) Ltd.v. DCIT⁵
3. AT & S India Pvt. Ltd.⁶

The essence of the judgments can be said to be as follows

- As per the Indian Transfer Pricing law, for determining ALP of international transaction it is the profit of the Indian AE which is to be compared with the profit of comparable and in no case can this be replaced by the profit which the Overseas AE earns from its ultimate customer.
- The term Enterprise used in Rule 10B refers to Indian enterprises whose profits are to be benchmarked.

³ [TS-94-ITAT-2013(Mum)-TP]

⁴ [TS-1150-ITAT-2019(PUN)-TP]

⁵ [TS-124-ITAT-2019(PUN)-TP]

⁶ [TS-539-ITAT-2016(Kol)-TP]



As per the Indian Transfer Pricing law, for determining ALP of international transaction it is the profit of the Indian AE which is to be compared with the profit of comparable and in no case can this be replaced by the profit which the Overseas AE earns from its ultimate customer.

- If the overseas AE is selected as a Tested Party and profits of the overseas AE are considered to be more than ALP than as a corollary, it would result in the Indian Entity earning less profit than ALP and hence the object of the TP exercise will not be achieved.

Cases where Overseas AE was selected as a Tested Party

1. Ranbaxy Laboratories Ltd. v. Additional CIT, Range 15, New Delhi⁷

58... The tested party normally should be the party in respect of which reliable data for comparison is easily and readily available and fewest adjustments in computations are needed. It may be a local or foreign entity, i.e., one party to the transaction. The object of transfer pricing exercise is to gather reliable data, which can be considered without difficulty by both the parties,

i.e., taxpayer and the revenue. It is also true that the least of the complex controlled taxpayer should be taken as a tested party. But where comparable or almost comparable, controlled and uncontrolled transactions or entities are available, it may not be right to eliminate them from consideration because they look to be complex. If the taxpayer wishes to take overseas AE as a tested party, then it must ensure that it is such an entity for which the relevant data for comparison is available in public domain or is furnished to the tax administration. The taxpayer is not then entitled to take a stand that such data cannot be called for or insisted upon from the taxpayer.

The above view has been followed in the following decisions:

2. Mastek Limited v. Addl. CIT⁸

3. ITO vs. WNS Global Services Pvt. Ltd.⁹

4. Development Consultants (P.) Ltd. v. Dy. CIT¹⁰

5. TNT India Pvt. Ltd. vs. ACIT¹¹

6. Almatix Alumina Pvt. Ltd.¹²

Thus, as can be seen from the above judgments that various tribunals have allowed selection of the overseas AE as a tested party where the overseas AE was the least complex entity. The OECD/UN Transfer Pricing guidelines have been accepted in this regard. It is emphasised that “tested party” is the least complex entity for which the most reliable data is available and for which fewer adjustments are required.

Analysis

Sec 92, which forms the basis of the Transfer Pricing Regulation under the Income-tax Act, 1961, provides that ‘Any income arising from an international transaction shall be computed having regard to the arm’s length price’. Sec 92B specifies that international transaction must be transaction between two AEs, at least one of which is a non-resident. Further, Sec 92A which defines AE also does not make any distinction between an Indian AE and an Overseas AE. Thus, it can be said that Indian Income Tax law does not have any bar against selection of overseas AE as a Tested Party.

Selection of tested party is a very important step in functional analysis. After taking into consideration the FAR analysis, the entity which has a least complex functional profile and for which most reliable data is available is to be selected as tested party. In most of the cases, it would be a simpler entity making



If the overseas AE is selected as a Tested Party and profits of the overseas AE are considered to be more than ALP than as a corollary, it would result in the Indian Entity earning less profit than ALP and hence the object of the TP exercise will not be achieved.

⁷ (2008) 299 ITR 0175

⁸ ITA No.3120/Ahd/2010 dt.29.02.2012

⁹ (TS-474-ITAT-2018(Mum)-TP)

¹⁰ 136 TITJ 129

¹¹ [TS-920-ITAT-2016(Bang)-TP]

¹² [TS-302-ITAT-2019(Kol)-TP]

non-unique contributions and performing simpler functions. Hence, for such an entity performing a benchmarking analysis is easy as comparables may be readily available. In such a case, the complex entity receives a residual return after compensating the tested party at an ALP. On the other hand, if a complex entity is selected as a tested party, performing benchmarking analysis is quite difficult in such a case, because the complex entity may be owning intangibles and making unique contributions for which comparables may not be readily available. Also, the profit of such an AE would be affected due to reasons other than Transfer Pricing. Hence, the results of the whole of TP exercise may be distorted due to this.

It is pertinent to note that in Transfer Pricing even though methods except for Profit Split Method are single sided method, yet it is the international transaction which is benchmarked. Even if one AE is selected as tested party and is subjected directly to transfer pricing analysis, indirectly the profit of the overseas AE would also be benchmarked as it would receive a residual return after compensating the Tested Party at



Selection of tested party is a very important step in functional analysis. After taking into consideration the FAR analysis, the entity which has a least complex functional profile and for which most reliable data is available is to be selected as tested party.

an ALP. Even, Sec 92 specifies that the income from the international transaction should be computed having regards to ALP. Even if it is found that the amount charged by the overseas AE is more than ALP, automatically the profit of the Indian AE would be less than ALP and there would be an adjustment in the hands of Indian AE. Hence, for the purpose of establishing that the international transactions have been entered at ALP there is no bar against selection of overseas AE as a tested party. This view is also consistent with the OECD guideline and UN guidelines on Transfer Pricing. Moreover, in the Country Practice part of the UN Transfer Pricing guidelines, it is said that overseas AE can be selected as a tested party if it is the least complex entity.

This can be better understood with help of following examples.

Example 1

Consider an example where an overseas AE is a reseller and Indian AE is the principal. In such a case, overseas AE would be the least complex entity for which the data would be readily available and hence it should be selected as a tested party. On the other hand, if the Indian AE is selected as a Tested Party, it must be making unique contributions for which comparables may not be readily available. Moreover, if the Indian AE is selected as a tested party, it will not be possible to select RPM as the Most Appropriate Method, which depending on the other factors can be selected as a MAM in case of overseas AE.

Example 2

Consider an example where an overseas AE is a Toll/Contract manufacturer and Indian AE is the principal. In such a case, overseas AE would be the least complex entity for which the



In Transfer Pricing even though methods except for Profit Split Method are single sided method, yet it is the international transaction which is benchmarked.

data would be readily available and hence it should be selected as a tested party. On the other hand, if Indian AE is selected as a Tested Party, it must be making unique contributions for which comparables may not be readily available. Moreover, if the Indian AE is selected as a tested party, it will not be possible to select CPM as the Most Appropriate Method, which depending on the other factors can be selected as a MAM in case of overseas AE.

Onus on assessee

The onus is on the assessee to provide reliable data in respect of comparables of overseas AE. Practically, the assessee may face difficulty in obtaining the data from its overseas AE's. However, if the assessee is not able to provide reliable data to the TPO/AO, the overseas AE cannot be selected as a tested party.

Conclusion

There is no express bar in the Indian Income Tax law against selection of the overseas AE as a tested party. However, the assessee should prepare a robust FAR analysis capturing the accurate functional profile of the overseas AE demonstrating how it is the least complex entity and how reliable data regarding the same is available. It should be well documented in the Transfer Pricing Study report as well as the master file of the assessee. ■■■



JOIN ICAEW AS AN ICAI MEMBER VIA THE PATHWAYS ROUTE

The Pathways route allows fully qualified ICAI members, with 5+ years of membership, to gain ICAEW membership based on their knowledge, skills and experience*.

A popular route amongst ICAI members, there is no studying or training involved. Instead, those interested in gaining the ACA designation have to meet and complete three requirements: a series of questions that demonstrates their achievements and skills, a sponsor who will support their application and a Letter of Good Standing from ICAI.

*please check the ICAEW website for detailed eligibility criteria

Why become an ICAEW Chartered Accountant?

1. **Global recognition and re-location opportunities** - the ACA and ICAEW are recognised and respected around the world. Becoming an ICAEW member could help you achieve your international career ambitions and help you attain global work opportunities or work with global companies.

2. **Career progression** - with access to our world-class technical and professional resources, you will find all the support you need to develop professionally.
3. **New clients and networking opportunities** - ICAEW Chartered Accountants help firms attract new clients.

For more information and to register your interest, please visit [icaew.com/pathways](https://www.icaew.com/pathways)

Are you based in India?

You can get in touch with Glenda Watsa at Glenda.Watsa@icaew.com to find out more about the route.

If you are anywhere else in the world please contact Doug Withington at Doug.Withington@icaew.com.



Continuing India's Energy March



IndianOil, a diversified, integrated energy major with presence across the hydrocarbon value chain has been partnering India's growth for over six decades now. The Corporation has been providing energy access to millions across the length and breadth of the country through its ever-expanding network of over 50,000 customer touch-points. In line with the vision of developing India into 'Aatmanirbhar Bharat', IndianOil is tapping new sustainable growth opportunities to be future-ready.

www.iocl.com

IndianOil Corporation Limited

IndianOil

IndianOil Corporation Limited

IndianOil

Competition Act 2002 and Opportunities Thereunder

The Competition Act 2002 (hereon “the Act”) provides the framework to prevent practices from having an adverse effect on competition. It is the Antitrust Act of India. It provides a mechanism for any person including individuals to register their grievances (Section 19). Similarly, any person who proposes to enter a combination (as defined in Section 5) is required to give notice under Section 6(2) of the Act. Read on...

Background of the Act

The background for this Act lies in the Constitution of India. The articles of the constitution states as follows:

1. Article 19(1)(g) of the constitution of India provides the right to practise any profession, or to carry on any occupation, trade or business in the country.
2. Article 38(2) makes it the responsibility of the



CA. Nand Kishore Tulsyan

The author is member of the Institute. He can be reached at nktulsyan32@gmail.com and eboard@icai.in

government to strive to minimize the inequalities in income.

3. Article 39(a) requires the government to secure that the citizens have the right to an adequate means to livelihood.
4. Article 39(b) requires securing the ownership and control of the material resources of the community are distributed as best to subserve the common good.
5. Article 39(c) requires securing the operation of the economic system so that it does not result in the concentration of wealth and means of production to the common detriment.

All these provisions could not be fulfilled unless the menace of unfair trade practice is stopped. To stop unfair trade practice, the Monopolistic and Restrictive Trade Practices Act, 1969 was implemented in India. A decade after the liberalisation of the Indian economy in 1990s, that old Act was changed. In the year 2002, the old Act was replaced with new Act named The Competition Act, 2002.

Purpose and Provisions of the Act

This Act acts as bulwark for free and fair market in the country. It prohibits anti-competitive agreements (whether oral or written) including cartel (Section 3), abuse of dominant position (Section 4) and



combination which could adversely affect competition (Section 6(1)). In short, this Act ensures that no one (other than Government in certain sectors like defence) can distort the prevailing free and fair competition in the market by using anti-competitive means, hence providing a level playing field to all.

Penal Provisions Under the Act

Section 7 establishes a commission named “**Competition Commission of India**” to oversee the implementation of provision of this Act. Section 27 provides for penalty for contravention of Section 3 and Section 4. Under it, the commission can impose a penalty up-to 10% of turnover. However, in case of cartel, penalty is higher.

Chapter VI covers other penalties under Section 42, 42A, 43, 43A, 44 and 45, which deals with the contravention of orders of commission, failure

to comply with directions of commission, non-furnishing of information and making false statements.

Prior Permission from CCI (the Commission) for Combination and Pre-filing Consultation

Section 5 and Section 6 deals with regulation of combinations. Section 6(2) requires the person to give prior notice to CCI before combination (above certain threshold limit). Section 6(2A) provides that no combination shall come into effect until 210 days have passed from the application under Section 6(2). However, if CCI approves the combination earlier, the 210 days rule will not apply.

Regulations made regarding filing are under Section 6(2) prescribed with a fee of Rs 15,00,000 for Form I and Rs 50,00,000 for Form II (optional form). Form III is without fee, used for acquisition by banks, etc.

Parties can approach the CCI for an informal pre-filing consultation in case of any queries. However, advice given at pre-filing is just advisory in nature.

Grievances Registration by Any Person

Any person can register grievances of unfair trade practices to the CCI. Section 19(1)(a) states that the Commission may inquire into any alleged contravention of the provisions contained in Section 3(1) and 4(1) either on its own



Section 27 provides for penalty for contravention of Section 3 and Section 4. Under it, the commission can impose a penalty up-to 10% of turnover. However, in case of cartel, penalty is higher.

or on receipt of any information from any person, consumer or trade associations. Regulations of 2009 and 2011 provide for “e-filing”. An Individual, HUF, NGO, Consumer association and Cooperative Societies are required to pay fees of Rs. 5,000. For others, including company and firms, the fees are Rs 20,000 and Rs 50,000 depending on turnover. Along with fees, an application is required to be filed stating the grievances and attaching the evidence for the same. It should be noted that the person filing the grievance needs to have their digital signature.

General Complaint

A person can drop a general complaint using the Feedback link provided in the CCI website.

Appeal Provisions

The appeal against the CCI order lies with the National Company Law Appellate Tribunal (Section 53A). NCLAT Act as single appeal point against order passed by CCI, NCLT and Insolvency and Bankruptcy Board of India. It is



This Act acts as bulwark for free and fair market in the country. It prohibits anti-competitive agreements (whether oral or written) including cartel (Section 3), abuse of dominant position (Section 4) and combination which could adversely affect competition (Section 6(1)).

the Appellate Tribunal's purview to hear appeals against the order passed by NFRA also.

As per Section 53T, appeal against NCLAT order, if applicable, lies with the Supreme Court.

Opportunities for Chartered Accountants

Section 35 of the Act states that a person can authorise his/her Chartered Accountant(s) to present his or her case before the Commission. The e-filing regulations state that information under Section 19 and notice under Section 6(2) can be filed by a Chartered Accountant. In such cases, Power of Attorney (vakalatnama) is to be uploaded.

Section 53S(1) states that a person can authorise Chartered Accountant(s) to present their case before the Appellate Tribunal. Section 53S (2) states that Central Government or State Government may authorise Chartered Accountant(s) to present

their case with respect to any appeal before the Appellate Tribunal. Section 53S(3) states that the Commission (CCI) may authorise Chartered Accountant(s) to present the case with respect to any appeal before the Appellate Tribunal.

In all the above statements, Chartered Accountant(s) means a practicing Chartered Accountant(s).

Types of Order passed by CCI

CCI passes following types of order under different Section of the Act

1. Section 26(1) – On receipt of information, if the Commission is of the view that there exists prima facie case, it shall direct the Director General to cause an investigation into the matter. Such an order also provides time within which the DG has to complete investigation and submit the investigation report.
2. Section 26(2) – When the Commission is of the opinion that there exists no prima facie case, it closes the matter and passes the order.
3. Section 26(6) – When the DG, after investigation as per direction under Section 26(1), recommends that there is no contravention of the provisions of the Act, the Commission may agree with DG and pass the order under this section to close the matter.



Section 53S(1) states that a person can authorise Chartered Accountant(s) to present their case before the Appellate Tribunal.

4. Section 26(7) – If the Commission does not agree with DG, it may direct for further investigation in the matter by the DG. Such direction is passed under this section.
5. Section 27 – This is an important order. After all inquiry, if Commission finds that contravention of provision of Act occurs, it passes the order under this section. The Commission may impose penalty along with direction to defaulters.
6. Section 33 – This gives the Commission the power to issue interim order during inquiry.

Recent Activity of the Commission

It should be noted that CCI can act suo-moto or on application from any person including from central or state government. When an application is received directly from government, CCI probes into the case without charging any fees. Newspapers have featured the following activity records:

1. In July, 2012, in the case named *Builders Association*



Along with fees, an application is required to be filed stating the grievances and attaching the evidence for the same. It should be noted that the person filing the grievance needs to have their digital signature.

of *India vs Cement Manufacturers' Association & Ors.*, CCI had imposed penalty on 10 Cement Companies for cartelisation.

2. In February, 2013, in *Sh. Surinder Singh Barmi vs Board for Control of Cricket in India (BCCI)* – CCI imposed penalty on BCCI for its IPL Media Rights agreement, whereby it had sought to restrict any other professional domestic Indian T20 competition other than IPL.
3. In November, 2015, in *Express Industry Council of India Vs. Jet Airways (India) Ltd. & Others* – Penalty on 3 airlines for cartelisation in fixing the fuel surcharge (FSC) on air cargo at a uniform rate of Rs. 5 per kg.
4. In July, 2018, in *Hemant Sharma & Others Vs. All India Chess Federation (AICF)* – Penalty on All India Chess Federation (AICF) for having anti-competitive clauses in its registration form. The registration form contained the declaration which states that the player will not participate in any tournament / championship that is not authorised by AICF.
5. In April, 2018, in its suo-moto case named *Cartelisation in respect of zinc carbon dry cell batteries market in India Vs. Eveready Industries India Ltd & Ors.*, CCI passed an order under Section 27 restricting Anti-competitive conduct in the Dry-Cell Batteries Market in India.
6. In September, 2021, in its suo-moto case named *Alleged anti-competitive conduct in the Beer Market in India*, CCI passed an order against the anti-competitive conduct in the Beer Market in India.
7. There are also numerous orders under different cases involving pharmaceutical sectors where retail medicine stores had sought relief against druggist associations. Druggist associations had mandated for No Objection Certificate (NOC) for appointment of stockists, repeatedly under changing nomenclature.
8. In 2020, CCI took an active probe into the e-commerce market practices and issued advice to e-commerce companies to form its self-regulation guidelines titled "Market Study on E-Commerce in India - Key Findings and Observations" dated 08-01-2020 is released by the Commission.
9. Currently, CCI is probing the pharmaceuticals sector to analyse measures to enhance competition, thereby ensuring affordability of drugs. It has released its market study in document titled "Market Study on the Pharmaceutical Sector in



Ensuring businesses are aware of their rights and illegal practices fortifies our role and function. We can stand as a backbone for the market, on which the economy can grow competitively and to its fullest.

India - Key Findings and Observations" dated 18-11-2021.

Conclusion

India being a developing country and we, Chartered Accountants being a partner in nation building have an integral role to play beyond auditing. Ensuring businesses are aware of their rights and illegal practices fortifies our role and function. We can stand as a backbone for the market, on which the economy can grow competitively and to its fullest.

References and links:

1. The Act - https://www.cci.gov.in/sites/default/files/cci_pdf/competitionact2012.pdf
2. Revised threshold for combination under Section 5 - https://www.cci.gov.in/sites/default/files/quick_link_document/Revised%20thresholds.pdf
3. Combination FAQs - <https://www.cci.gov.in/node/2847>
4. The orders under section 27 - <https://www.cci.gov.in/orders-commission/102> ■■■



ICICI Lombard Complete Health Insurance

[Comprehensive coverage,
Enhanced protection]



Key Benefits

- Unlimited Reset Benefit*
- Super No Claim Bonus**
- Sum Insured Protector†
- Claim Protector‡§
- World Wide Coverage®

Our IL TakeCare app is an one stop solution for your insurance and wellness needs. To download, scan the QR codes



icicilombard.com | 1800 2666

Below are the action points available by paying an additional premium. *Unlimited reset will not trigger on first claim. Reset cannot be used by the same person and/or for the same disease for which a claim has been paid in the policy year. **Super No Claim Bonus available for \$1.5L and above. 80% increase in sum insured for every claim free year subject to 100% for \$5Lm insured upto 10L and upto 200% for \$1.15L and above. Super No Claim Bonus will decrease by the same amount in the event of claim. †Sum Insured Protector available for \$1.5L and above. ‡Claim Protector cover available for \$1.15L and above. §World Wide Coverage available for \$1.15L and above. Subject to 80% reset. ICICI TakeCare App logo above belongs to ICICI Bank and is used by ICICI Lombard GIC Ltd. (former licensee and Lombard logo belongs to ICICI Lombard GIC Ltd. The endorsement contains only an indication of the cover offered. For complete details on its factors, terms, conditions, coverages and exclusions, please read the policy document carefully before concluding a sale. ICICI Lombard General Insurance Company Limited, Registered Office: ICICI Lombard House, 416, Veer Savarkar Marg, Near Siddhivinayak Temple, Fort Road, Mumbai - 400 023. RGA Reg. No. F15. ICICI Lombard Complete Health Insurance. LPA: ICICI/PT2516/00A2122. Toll Free No. 1800 2666. Fax No. 02261 911323. DIN: L1200MH0305PLC131608. Website: www.icicilombard.com. Email: customer.support@icicilombard.com. DIN/141188.





GAIL (India) Limited



INDIA'S NATURAL GAS LEADER

Energizing Possibilities

GAIL, transforming India's energy landscape
with presence across the entire gas value chain

-  Contributing 60% of the Natural Gas sold in India.
-  Over 70% market share in Natural Gas Transmission in India.

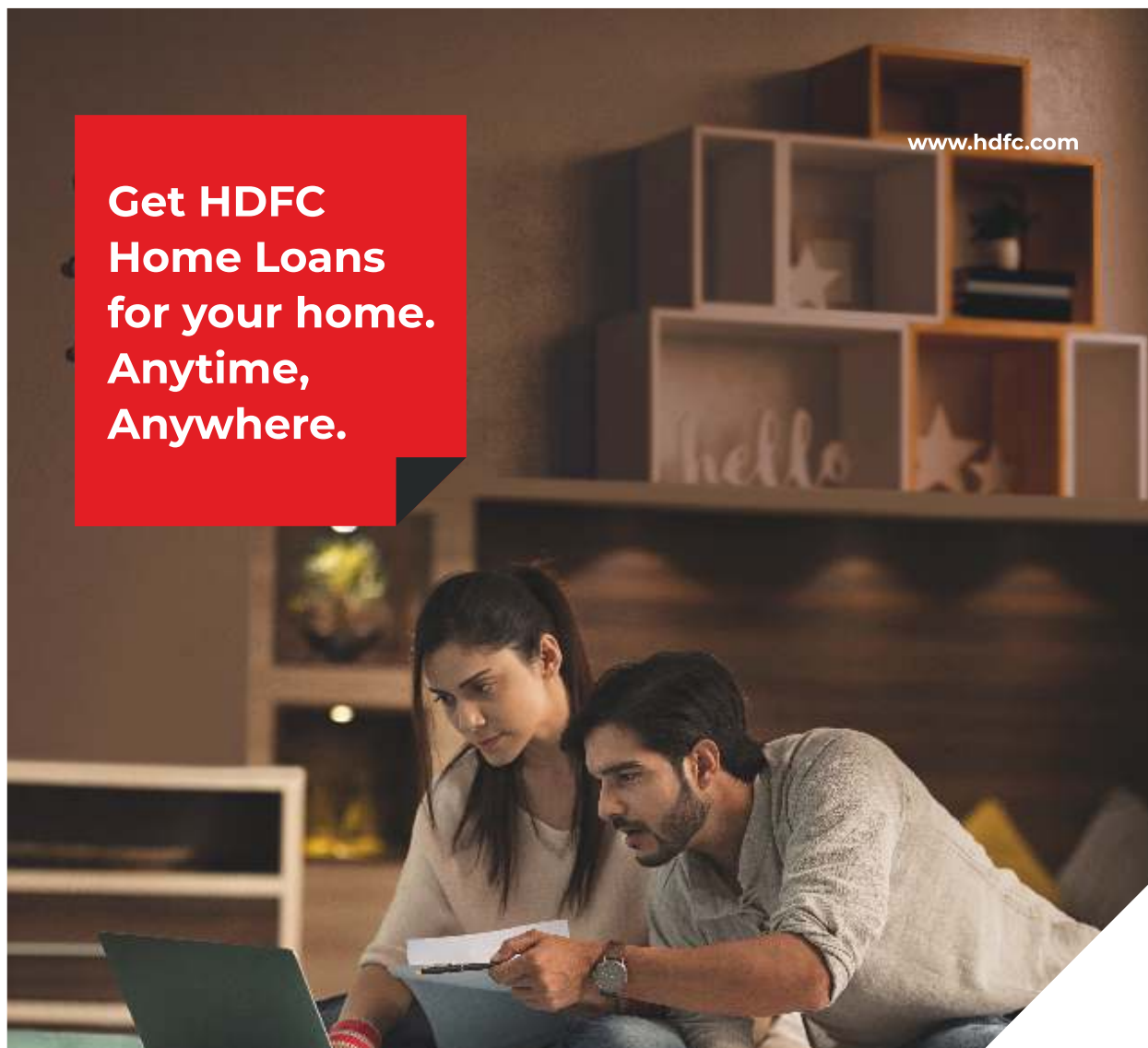
www.gailonline.com

Follow us on



**Get HDFC
Home Loans
for your home.
Anytime,
Anywhere.**

www.hdfc.com



Apply for Home Loan in **3 EASY STEPS**



**Register /
Sign Up**



**Upload
Documents**



**Pay Processing
Fee**

**Scan for
Home Loan**



Disclaimer: All loans are at the sole discretion of HDFC Ltd. For detailed terms & conditions, visit www.hdfc.com
CIN: L70100MH1977PLC019916

Principles of Natural Justice in Various Laws

Both in India and England, it is well-established that natural justice principles can be adapted to different situations. They are neither cast in a rigid mould nor can they be put in a legal strait-jacket. The fundamental rule is that if a person may be subjected to pains or penalties, or be expected to prosecution, he should be told the case made against him and be afforded a fair opportunity of answering it. Each person who appears before an Authority with adjudicatory power has the right to see the evidence being used against him. Purely administrative bodies are also bound to act justly and fairly which may bring in the requirement of natural justice as also the duty to give reasons. Read on...

Every modern legislation can be grouped in two types. The first type of legislations is to govern and develop procedure, and the second type of legislation are those which are directed to resolve immediate trouble.



CA. Abhishek Raja

The author is a member of the Institute. He can be reached at abhishek.raja@icai.org and eboard@icai.in

Taxation laws are of the first category and therefore the Department should follow "Principles of Natural Justice" by providing hearing. The concept of natural justice has undergone a great deal of change in recent years. In the past it was thought that it included just two rules, namely:

- (i) no one shall be a judge in his own cause (*Nemo debet esse iudex propria causa*), and
- (ii) no decision shall be given against a party without affording him a reasonable hearing (*audi alteram partem*).

A corollary has been deducted from the above two rules and particularly the *audi alteram*

partem rule, namely, *qui aliquid, parte inaudita altera aequum licet dixerit, haud aequum fecerit*, i.e., "he who shall decide anything without the other side having been heard, although he may have said what is right, will not have been what is right" or in other words, as it is now expressed, "justice shall not only be done but should manifestly be seen to be done".

Very soon thereafter a third rule was envisaged and that is that quasi-judicial enquiries must be held in good faith, without bias and not arbitrarily or unreasonably. But in the course of years, many more subsidiary rules came to be added to the rules of natural justice.



What is “Principle of Natural Justice”?

The “Principles of Natural Justice”, as they are called, must be kept within their limits, and should not be allowed to roam free. This nation is riding on the magnificent horse of natural justice, which is a powerful and well-trained thoroughbred to achieve its goal of “Justice, Social, Economic, and Political”. This thoroughbred must not be allowed to turn into a wild and unruly horse, carrying off were it lists, unsaddling its rider, and bursting into fields where the sign “no passage” is put up.

In a judgment, the apex court has held that principles of natural justice are not intended to operate as roadblocks to obstruct statutory inquiries. The extent of applicability of principles of natural justice depends upon the nature of inquiry, the consequences that may visit a person after such inquiry from out of the decision pursuant to such inquiry. The right to fair hearing is a guaranteed right. Appellant however will not be permitted to raise the different pleas in different proceedings.

The essential principles of Natural Justice are:

- (i) the person whose rights are to be affected must be given notice of the case or the charges which he is to meet
- (ii) he must be given an opportunity to make representation, explain the allegations made against him, and have his say in the

matter

- (iii) the authority conducting the proceedings must not be biased and should act in good faith.

Evolution of Natural Justice

The principles of natural justice are not the creation of Article 14 of the Constitution. Article 14 is not the begetter of the principles of natural justice but is their Constitution guardian. Both in England and India, it is well-established that natural justice principles can be adapted to different situations. They are neither cast in a rigid mould nor can they be put in a legal straitjacket. They are not immutable but flexible and can be adapted, modified or excluded by statute and statutory rules as also by the Constitution of the tribunal which has to decide a particular matter and the rules by which such tribunal is governed. In *Tulsi Ram Patel's case*, the Apex Court while considering the *Audi Alteram Partem* rule observed that:

- Person against whom an order to his prejudice may be passed should be informed of the charges against him.
- Such person should be given an opportunity of submitting his explanation which also include the right to know the oral and documentary evidence which are to be used against him.
- Witness who are to give

evidence against him to be examined in his presence with right to cross examine them.

- To lead his own evidence, both oral and documentary, in his defence.

In *Aligarh Muslim University v Mansoor Ali Khan* the Apex Court said that:

“Since then, this court has consistently applied the principles of prejudice in several cases: The above ruling and various other rulings taking the same view have been exhaustively referred to in State Bank of Patiala v. S.K. Sharma, (1996) 3 SCC 364; 1996 SCC (L&S) 717. In that case, the principles of ‘prejudice’ has been further elaborated. The same principles have been reiterated again in Rajendra Singh v. State of M.P., (1996) 5 SCC 460’

Lord Denning observed in *Selvarajan v. Race Relations Board* (1976) 1 All ER* 12:

“The fundamental rule is that if a person may be subjected to pains or penalties, or be expected to prosecution or proceedings, or deprived of remedies or redress, or in some such way adversely affected by an investigation and report. Then he should be told the case made against him and be afforded a fair opportunity of answering it.”

*All England Law Report

Article 21 of the Constitution of India

Article 21 of The Constitution

of India' 1949 is as follows:

Article 21. Protection of life and personal liberty

No person shall be deprived of his life or personal liberty except according to procedure established by law.

The Supreme Court in *Maneka Gandhi's* case (Maneka Gandhi vs Union of India, AIR 1978 SC 597) interpreted Article 21 and laid down that Article 21 is not only guarantee against executive action unsupported by law but is also a restriction on law making. The procedure contemplated by Article 21, must answer the test of reasonableness in order to conform with Article 14 of the Constitution. The principles of reasonableness which legally as well as philosophically is an essential element of equality or non-arbitrariness pervades Article 14 like brooding omnipresence. Therefore, Article 21 **means fair, not formal procedure; law is reasonable law and not any enacted piece.** This makes the words "*Procedure established by Law*" by and large synonyms with the "*procedural due process*" in the USA. This makes the right of hearing a contemplated part of natural justice.

Notice Essential for Natural Justice

"Notice" is knowledge of facts which would lead a person to make inquiry. In another sense, "notice" means information, an advice or written warning, in a more or less formal shape

intended to apprise a person of some proceeding in which his interests are involved or informing him of some fact which is his right to know and the duty of the notifying authority to communicate. Notice is the first limb of *audi alteram partem*. Since in the absence of notice, hearing becomes hollow, the right becomes a ritual the court may invalidate a decision for lack of pre-decisional notice.

Service of Summons and Application of Natural Justice

A Summons is served to inform the party to be charged of the offence which he has to meet, and when to meet it, and to require his attendance. In other words, the object of serving a summons is to notify the defendant of the charge and to give him the opportunity to defend the charge. A summon's primary purpose is to ensure that natural justice is accorded to a defendant by giving the defendant notice of the subject of the complaint and an opportunity to be heard.

Disclosure of Evidence

The principles of Natural Justice has an additional dimension. This is the disclosure and provision of evidence. Each person who appears before an Authority with adjudicatory power has the right to see the evidence being used against him. The disclosure does not have to involve the supply of the evidence. It is well-established in India and England that the principles and practices of



"Notice" means information, an advice or written warning, in a more or less formal shape intended to apprise a person of some proceeding in which his interests are involved or informing him of some fact which is his right to know and the duty of the notifying authority to communicate.

natural justice can be adapted to different circumstances. All such documents relied on by the Authority are required to be furnished to the noticee enabling him to show a proper cause as to why an inquiry should not be held against him though the Rules do not provide for the same. Such a fair reading of the provision would not amount to supplanting the procedure laid down and would in no manner frustrate the apparent purpose of the statute. The duty of adequate disclosure is not an additional safeguard to achieve fairness. It has its limitations. An accused of mis-declaration has the right to know the grounds on which he will be punished. He might have an answer, or he may not.

Cross Examination

It was observed by the Supreme Court in *Tulsi Ram Patel's* case that witness who are to give evidence against him be



A Summons is served to inform the party to be charged of the offence which he has to meet, and when to meet it, and to require his attendance.

examined in his presence with right to cross examine them, and an affected party has a right to cross examine the witnesses. The decisions of the Supreme Court in the case of *Swadeshi Polytex Ltd. v Collector of Central Excise* [Civil Appeal Nos. 3988-90 of 1988, decided on 23-Nov-1989] as well as in *Lakshman Exports Limited vs Collector of Central Excise* [Civil Appeal Nos. 14424-25 of 1996, decided on 18-Apr-2002] lay down that whenever any statement is relied upon by the Revenue, an opportunity of cross-examining the maker of the statement should be given to the person against whom it is being used. Not allowing the assessee to cross-examine the witnesses by the Adjudicating Authority though the statements of those witnesses were made the basis of the impugned order is a serious flaw which makes the order nullity since it amounted to violation of principles of natural justice because of which the part from this, the decision of the Delhi assessee was adversely affected.

Natural Justice in Quasi Judicial Proceedings

Conferment of quasi-judicial power further implies that

the person concerned must follow the rules of Natural Justice and must give reasons for making the order which he is empowered to make. Purely administrative bodies are also bound to act justly and fairly which may bring in the requirement of natural justice as also the duty to give reasons.

The rule of *audi alteram partem* is however not attracted during the investigation of a crime under Criminal Procedure Code even when the investigating agency applies to the court for issuance of a letter of Rogatory to a Court in a foreign country. Speaking generally, a person is not entitled to be heard in a preliminary enquiry or investigation when at a later stage he is to get full opportunity of defending himself before any final decision is taken against him yet there was no universal rule to that effect.

Abuse of Discretion

A judicial abuse of discretion occurs when the trial judge acts in an arbitrary or unreasonable way that results in unfairly denying a person an important right or causes an unjust result. Various types of decisions are reviewed under the abuse of discretion standard. For example, the trial judge's decision to award or deny attorney fees in a case will be upheld unless there was an abuse of discretion.

The appellate court will not overturn a judgement on the basis of any error that is

harmless. A harmless error is an insignificant error that does not change the outcome of the case. For example, the introduction of improper evidence that goes to motive is harmless error in a criminal case where there is a conviction for an offence requiring no motive.

Natural Justice in Taxation Laws

Section 274(1) of Income Tax Act mandates that no order imposing penalty under various sections of Chapter XXI, Le, section 271, etc., [Now also section 270A] will be made unless:

- (i) the assessee has been heard, or
- (ii) he has been given a reasonable opportunity of being heard.

However, in certain cases in GST, the Opportunity of being heard has been removed. Thus, the Department can take action without providing an



The principles of Natural Justice has an additional dimension. This is the disclosure and provision of evidence. Each person who appears before an Authority with adjudicatory power has the right to see the evidence being used against him.

opportunity of being heard. For example, Rule 21A of CGST Rules'2017 on Suspension of Registration. Thus, for Suspension of GST Registration prior notice to the Registered Person is now not required. Similarly, as per Rule 86A where Commissioner or an officer authorised by him in this behalf have reasons to believe that ITC has been fraudulently availed,

they can disallow debit of electronic credit ledger (block ITC) and for this there are no provisions of opportunity of being heard. Such block is valid for one year from the date of imposing such restrictions.

Some Judicial Decisions

These matters have been addressed in recent judicial decisions:



A judicial abuse of discretion occurs when the trial judge acts in an arbitrary or unreasonable way that results in unfairly denying a person an important right or causes an unjust result.

Cases	Judgement
Lakshman Exports Ltd. vs Collector of Central Excise [Civil Appeal Nos. 14424-25 of 1996, decided on 18-Apr-2002] [2005] 10 SCC 634	Duty to give opportunity to cross-examine witness is inherent part of "Principles of Natural Justice". In a reply to Show-Cause notice, assessee specifically seeking permission to cross-examine the representatives of certain concerns to show that the goods in the question had been accounted for in their books and that appropriate duty has been paid. However, such opportunity was not provided to the appellant. In such circumstances, matter remanded to the assessing authority to hear the matter de novo after removing the lacunae pointed out by Vice-President of Appellate Tribunal, viz., that due to non-observance of Principles of Natural Justice the assessee had suffered. " <i>Audi alteram partem</i> " i.e., right of cross examination is essential fundamental of "Principles of Natural Justice".
KBB Nuts (P.) Ltd. v. National Faceless Assessment Centre Delhi (Earlier National E-Assessment Centre Delhi) [2021] 127 taxmann.com 194 (Delhi)	Where objections filed by assessee in response to show cause notice were not considered by Assessing Authority before passing impugned assessment order, order was to be set aside to be passed afresh.
Rupam Mercantiles Ltd v Deputy Commissioner of Income Tax [2004] 91 ITD 237 (Ahmedabad - ITAT) (TM)	Penalty for concealment cannot be levied, where the assessee was not even asked to justify his claim and penalty was levied on the basis of presumption that the assessee's intention was to evade tax
R.B. Shreeram Durga Prasad & Fatehchand Nursingdas vs Settlement Commission (1989) 176 ITR 169 (SC)	Mere opportunity to make a submission is not enough, but it should be a clear opportunity so that the assessee can make an effective representation against the proposed action, otherwise it cannot be said to be opportunity. So also, proper opportunity is to be given in the proper time as well. An order passed by Commissioner without giving applicant an opportunity of hearing was a nullity being passed in violation of principles of natural justice.

Premier Breweries Ltd. v Deputy Commissioner of Income Tax (1991) 36 ITD 197 (Coch-Trib)	Where in the course of penalty proceedings, the assessee was not given the material relied on which would have helped him properly avail of the opportunity to cross-examine witnesses, proceedings were held vitiated for violation of natural justice. Where materials collected in the assessment proceedings were relied on in penalty Proceedings without affording opportunity of being heard to assessee, it amounted to failure of natural justice, though such opportunity was given in assessment Proceedings.
Commissioner of Income Tax v G.R. Rajendran (2003) 259 ITR 109 (Mad)	The assessing officer was wrong in levying penalty for concealment of income where the explanation offered by the assessee for the excess quantity of jewellery found during raid was not considered by him.



Good administration demands observance of doctrine of reasonableness in other situations also where the citizens may legitimately expect to be treated fairly.

Conclusion

No code can prescribe or fix the principles of natural justice and fundamental principles of administrative procedure. Many writers, lawyers, and legal systems have used natural justice to mean many things. It comes in many colours and forms.



Good administration demands observance of doctrine of reasonableness in other situations also where the citizens may legitimately expect to be treated fairly. Doctrine of Legitimate expectation has been developed in the context of Principles of Natural Justice.

As observed by the Supreme Court in Suresh Koshy George v. University of Kerala [(1969) 1 SCR 315 / AIR 1969 SC 198], the rules of natural justice are not embodied rules. What particular rule of natural justice shall apply to a given case must depend to a great extent on the facts and circumstances of that case, the framework of the law under which the inquiry is held, and the constitution of the Tribunal or body of persons appointed for that purpose. Whenever a complaint is made before a court that some principles of natural justice had been contravened, the court has to decide



Whenever a complaint is made before a court that some principles of natural justice had been contravened, the court has to decide whether the observance of that rule was necessary for a just decision on the facts of that case.

whether the observance of that rule was necessary for a just decision on the facts of that case.

To summarize the Principle of Natural Justice these four are essential:

- (a) Notice of Hearing
- (b) Opportunity of being Heard
- (c) Impartiality of Officer / Judge
- (d) An Orderly Course of Procedure.





NET



CARBON BY 2050

We, at Vedanta, are committed to India's vision of addressing the catastrophic effects of global warming by reducing our carbon emissions to 0 by 2050, or sooner.

We are pledging US\$ 5 billion over the next 10 years to accelerate our transition to net-zero operations.

Our plans include adopting the use of 2.5 gigawatt of Round-The-Clock Renewable Energy to reduce our absolute emissions by 25% by 2030.

By aligning with the Government of India's commitment to decarbonise India's economy, we are all set to usher in a greener tomorrow.



مركز قطر للمال
Qatar Financial Centre

EXPAND YOUR BUSINESS TO QATAR BY SETTING UP AT QATAR FINANCIAL CENTRE



Onshore Jurisdiction

QFC is an onshore business and financial centre that allows companies to operate in Qatar and in the region within a legal and tax environment aligned to international standards.



100% Repatriation of Profits

Payments of dividends, interest, royalties and management fees out of Qatar by QFC companies are free from withholding tax, enabling tax-free repatriation of returns and profits for shareholders.



100% Foreign Ownership

The QFC permits registered firms up to 100% foreign ownership of their business in Qatar.



One Stop Shop

A quick and easy set up process that licenses, establishes, and supports businesses in and from Qatar. A dedicated Client Affairs team to support your business needs.



English Common Law

A legal, judicial and regulatory framework based on English common law and international best practice, with an independent court, regulatory tribunal and dispute-resolution centre.



Trade in any Currency

Conduct business in any currency.



Competitive Tax System

Fair and transparent tax regime that benefits from the Double Taxation Agreement Qatar has with 80+ countries, 10% corporate tax on locally sourced profit, no personal income tax, wealth tax or Zakat and an efficient advance ruling service.

Are you ready to take your
business to the next level?
Get in touch today.

+974 4496 7777
info@qfc.qa
www.qfc.qa

Adoption of Digital Payment Wallets in India: Key Success Factors in the Journey towards Cashless Economy

Right from the very beginning of civilization there has been a need to exchange goods for trading purposes. It began from exchange of salt or beads followed by gold and cattle, and then to cash and finally it has reached to a point where people would not need to exchange physical objects for getting goods or services in return. The electronic media is serving their need. Technological advancements are a boon or bane, that's a separate story but the fact of the day is that the term 'money' has been subjected to a lot of change since the advent of digitalization. It has reduced the burden of individuals in some way or the other. Read on...



Prof. Anuradha Jain Dr. Harpreet Singh Dr. D. D. Chaturvedi

Authors are academicians. They can be reached at anuradhajain3@gmail.com, ddchaturvedi64@gmail.com and eboard@icai.in

The online transactions which support economic activities of a nation and are highly significant on an individual as well as on a national front. According to Global Payment Report, mobile wallet was the most used method of payment Point of Sales (POS) globally in 2020, with 25.7% of payments done on (POS). This share is estimated 33.4% by 2024¹.

The world is getting techno-savvy and India too. There has been a long debate in the context of digital transactions and digital payments. There

is an inevitable need to be receptive to the digital transformation. However, there are certain parameters, which affect the readiness to accept such changes. Shifting the entire population from a cash-based economy to a cashless economy is a huge challenge. The industry 4.0 has brought about several digital innovations, one of them being digital payment wallets. Industry 4.0 is the term used to denote the revolutionary changes in digital functions that have metamorphosized the world economy.



¹<https://worldpay.globalpaymentsreport.com/en/>

Digital payment technology is beneficial to the economy in many ways. With the use of digital mode of transactions, consumers' purchasing power has subsequently increased giving rise to employment opportunities and the economic growth in large. The infrastructure which supports digital payment makes it easy for the users to transfer money with just a few clicks. The process is a lot easier and efficient than conventional methods of doing transactions. Digitalization is a vital part of a developing economy. It is an integral part of the payment system in the current situation. The major factors having an impact on digitalization used in payment scenarios re-classified into five different categories namely, the infrastructure, the building blocks of the adoption of digital payments, other institutional factors as well as change and innovation with respect to the digital wallets. These factors explain the reasons why digital payments are self-sustaining and do not require extra support from anywhere else. Digital transactions would



With the use of digital mode of transactions, consumers' purchasing power has subsequently increased giving rise to employment opportunities and the economic growth in large.

just require two fundamental elements to support it, that is a good network coverage for the device and properly functioning internet bandwidth. That is enough to cater to the needs of a digital wallet. However, these basic elements can only work proactively depending on the geographical area as well as the electrification level in those areas.

The geographical landmarks must also give space to banks for the development of financial inclusion. It is the only pathway to connect the rural and urban areas with the basic financial infrastructure to enrol a greater number of people in the digital platforms. With a larger engagement of people into digital transaction's technology, it would substantially pave way for a cashless nation in the coming years.

Digitalization in India

Digitalization has made its mark with the help of innovation. It has brought in new products for digital transactions to take place. Innovation gives rise to new products. But whether the products would be successful depends on the accessibility and affordability of such products. The demographic characteristic of a certain place is important when any innovation or customized products are meant to be made for a targeted customer base. The change can only take place if the customers are receptive of it, based on their education and income level. The growth in digitalization of India can

be speculated with the data available on penetration into the smartphone market and the access to internet. India is on the second number in the list of digital transactions growth statistics. The nation has seen a tremendous increase in purchase of mobile subscriptions. The telecom industry in India is improving and giving its 4G services at affordable rates and with this, the demand for smartphones has also shown a huge growth in numbers. Earlier the mobile phones only supported first generation services, wherein only voice calls were possible. However, the 4th generation services along with providing fundamental facilities are also supporting huge bulks of data sharing, streaming multimedia, and higher bandwidth for uploading, downloading, and surfing the internet. Global connectivity has made it possible for digital technologies to prosper in the remote locations as well. Huge investments are being spurred into the industry of mobile payments. The start-ups working on mobile payment applications are being funded by giant companies because it is known to them that these apps could help in adding strategic value to their enterprises.

After an underlying wave in the payment systems working digitally, to a great extent ascribed to a deficiency of money in the financial framework or banking system as you may call it. The digital transactions have seen a plunge, showing a slow-moving

inversion in the utilization of technological platforms for making payments.

Digital Wallet

Digital wallet also commonly known as e-wallets refer to an electronic medium which supports payment activities. It could also be a software or an online application which helps different businesses or individuals to perform their transactions electronically with just few clicks. The wallet is just like a physical wallet, but this one is virtual, which stores all the required information about the user's payment. It could be done via several modes such as net banking credit or debit cards, gift coupons and so on. Customarily conveyed as a cell phone application, an e-wallet can likewise exist in different locations such as desktops or laptops as well. However, it is a user-friendly platform and the mobile version of it, is the more popular and common version of the digital wallet, because of its portability and adaptability. These digital wallets are advantageous to use in specific cases as well as more secure than customary physical



Global connectivity has made it possible for digital technologies to prosper in the remote locations as well. Huge investments are being spurred into the industry of mobile payments.

wallets. The e-wallet users need to download the applications made by banks or confided in other client companies to offer these services.

A study on Global Digital Payments was conducted by Blackhawk Network and the results showed that the acceptance rate of digital rates in India is the highest as compared to other countries in the survey. The report shows that 93% Indians used the e-wallets for their transactions in the preceding one year as contrasted to the global average of 55%. The reason behind the massive number was safety and convenience. In the past couple of years, especially when the pandemic had taken toll over all the countries, people were finding contactless ways to perform the daily activities, transactions being one of them. The pandemic spurred the usage of digital payment apps in different stores and shops as well as online payments. Digitalization has made financial inclusion much easier and far reaching than ever before. The financial technology, commonly called 'Fintech' has a wider scope of delivering financial products and services in a much better way than the physical banks. The digital wallets make use of the technological interventions for developing the customer base with the inclusion of personalized solutions for transactions.

Types of Digital Wallets

- **Closed Wallet:** These are the kind of wallets which are developed via the companies selling other products and services. It wishes to have an in-house platform supporting transactions. Amazon Pay is a kind of closed wallet. This wallet is built by the
- **Semi-Closed Wallet:** A semi-closed wallet permits the registered users to make exchanges at recorded locations and sellers. Albeit the inclusion space of such wallets is limited, both on the web and offline purchases can be made with the help of these wallets. This being the case, the sellers need to go into certain agreements with the merchants to accept their payments from the digital or e-wallets. Semi-closed wallets restrict users from withdrawing cash from their accounts.
- **Open Wallet:** These wallets give the liberty to the users to use the money available in their digital payment apps



Digitalization has made financial inclusion much easier and far reaching than ever before. The financial technology, commonly called 'Fintech' has a wider scope of delivering financial products and services in a much better way than the physical banks.

company Amazon to enable its customers to store their payment details and do quick as well as safe transactions while buying its products. Any kind of refund, cancellation or returns are stored back in the same wallet and can be further used on the same platform to purchase any item from the same website or application.

for making transactions or even withdrawing the funds in cash. These open wallets are most commonly issued by a third party or banks. Few examples of digital payment apps are Paytm, PayPal, Google Pay, PhonePe, and so on.

Success Factors in the Journey towards Cashless Economy

The perusal of electronic medium for performing transactional activities can be predicted because they are in sync with the education and income level of the consumers. These are such factors which determine the potential as opposed to the desire or willingness of individuals for adopting certain digital payment apps for transactions. If the firms can provide good options or solutions for their digital payments, then they would be able to grasp a larger customer base for their products or services. With user friendly solutions to payment transfers, the development and inclusion of acknowledgment for the cash transactions increases in different consumer groups. The economy, especially the informal sector of the country mirrors the inclination towards use of cash for their transactions or exchanges. The organization impacts, arising out of a predominantly informal economy, where the acceptable form of transactions done in cash has remained the same till date.

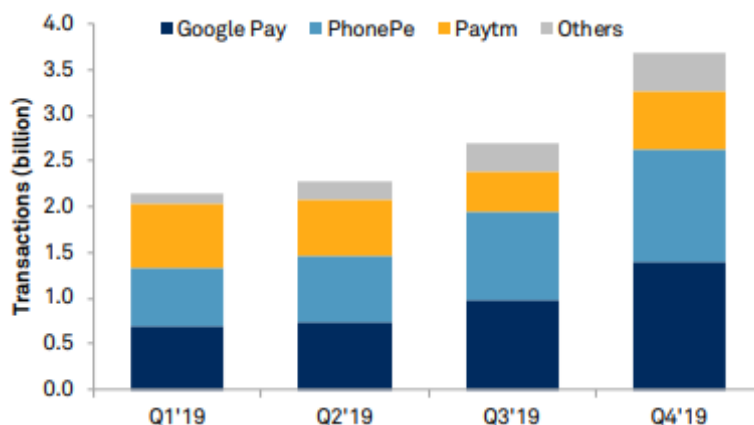
Strengthening Digital Payments Infrastructure

Whether India is ready for becoming a cashless economy depends on the steps which RBI and other financial institutions are taking along with government interventions for building a

solid infrastructure to sustain the process of adapting to the new system. The important aspects with the intention to make a better infrastructure would support digital payments and reduce the risks associated to the system. It has designed an authorization framework which would focus entirely on the payment systems offered by retail merchants. The Reserve Bank of India has set up ATMs for a greater participation of Fintech players. RBI is all set to provide licenses to some of the competitive digital payment organizations. The digital payment entities all over India are on their way to bring up new innovations and strengthen the infrastructure of digital payment systems. They are likely to build more risk free and efficient products which shall enhance the process of smooth transactions and make all parts of India financially inclusive while contributing to the larger goal of Digital India. Figure 1 shows the data of UPI payments in India for 2019, where Google Pay and Phone Pe are leading the volume of transactions, followed by Paytm.

Financial Inclusion and Access to Digital Products

The digital products are much more accessible and easier to use. The products have a far-reaching capacity than done via conventional physical logistics. With the advent of financial technology especially digital payment applications, the users from all over India be it rural or urban have shown a positive acceptance rate towards these Fintech products. The only mandates are strong internet connection along with mobile connectivity and a smartphone that would support the transaction. These would suffice to use the financial products in any nook and corner of the nation. To make this possible, is the aim. However, the Fintech companies are making attempts to include the tier two cities and other remote areas for spreading the reach of the digital transaction applications or platforms catering to the payment needs. Some areas in India have a smaller number of banks or are very far from the proximity of the banks. Those remote locations are being tapped by financial players for financial inclusion. This



Data compiled Feb. 17, 2020.

Source: S&P Global Report



The products offered by digital payment infrastructure are the initial contact point for the users to get an easier access to the products offered by financial institutions or banks such as small loans, insurance, credit products and other investment products and so on.

being a case, financial literacy is an important element without which digitalization would not have a greater impact. Awareness among the public is necessary and so is investment in the support structure of digital payments. The telecom industries also have a greater task ahead of them to expand the internet connectivity in tier two cities and remote locations as well. The products offered by digital payment infrastructure are the initial contact point for the users to get an easier access to the products offered by financial institutions or banks such as small loans, insurance, credit products and other investment products and so on. This means the intervention of digital payments have a lot more to offer than just digitizing the transactional process. The platforms have the capacity to provide a good number of offerings in the financial sector to the customers. With the approval of RBI and the changes that have been made in the recent times, the Fintech companies can now offer various quasi-banking products or services to cater to the demands of the customers in the financial domain. The fintech start-ups have played a very imperative role in the financial domain to offer quick and reliable

products to the customers for making different unreachable and untapped locations financially inclusive. This is helping the nation meet the objective of becoming financially inclusive and providing access of digital payment services to the citizens.

Benefits of a Cashless Economy

Some of the key benefits of the cashless economy have been listed here.

Reduction of Cost: Various costs related to physical and conventional cash transfers as well as withdrawals such as storing, printing and transporting cash are reduced if the system is cashless.

Reduction in Risk: Cash getting stolen is a common risk which occurs. However, a cashless economy naturally reduces the risk of cash getting stolen. If a card or mobile phone is lost or stolen, the numbers could easily be blocked. While travelling also, carrying a huge bulk of cash is risky, cashless digital payment apps can serve the purpose and are comparatively risk-free.

Convenience: Financial transactions can be easily performed with the help of digital wallets. Convenience is one of the biggest reasons to switch to online mode, long queues can be avoided with the help of these digital wallets. Transactions can



Convenience is one of the biggest reasons to switch to online mode, long queues can be avoided with the help of these digital wallets. Transactions can be done in seconds.



India is moving ahead towards adapting the online environment which necessarily means that they are supporting the contactless services, especially after COVID-19 had taken its toll.

be done in seconds. The KYC verification can also be done on the mobile itself so a person might not have to visit the physical financial institutions to get their KYC done for making transactions via their smart phones.

Along with the benefits mentioned above, there are numerous additional benefits such as discounts, cashbacks, tracking the amount spent in different activities or purchases and so on.

Conclusion

India is moving ahead towards adapting the online environment which necessarily means that they are supporting the contactless services, especially after Covid-19 had taken its toll. Therefore, the way towards a cashless economy has been chosen by Indian citizens. There is an exceptionally strong acceptance for digital infrastructure supporting payments and internet banking driven by Fintech players. Customers are likewise ready to see the benefits and demerits of the digital wallets and other such products available. The digital payment system is today beyond the early adopter stage and a huge part of the nation is embracing it. Is delightful to know that even the lower income groups are a part of this burgeoning development. Thus, India is ready to become a cashless economy in the coming years.





Accountants Creating a Digital and Sustainable Economy - A Report



The ICAI International Conference on the theme *Accountants Creating a Digital and Sustainable Economy* was held successfully from January 20-22, 2022 in virtual mode. The Conference had participation of more than 3000 delegates from across the globe through a specially curated virtual platform to provide best in class experience to the participants.

The International Conference had 17 technical sessions and 6 concurrent sessions and was addressed by over 80 eminent national and international speakers. The Conference aimed to highlight the importance of sustainable development and the need to embrace the technology disruption in contributing towards the economic growth of the nation. The following is the brief report:

The Conference was inaugurated by Shri Nitin Gadkari, Hon'ble Union Minister of Road Transport & Highways as the Chief Guest. Ms. Smriti Irani, Hon'ble Union Minister of Women and Child Development and Mr. Alan Johnson, President, International Federation of Accountants addressed the Conference as the Guest of Honour.



CA. Nihar N Jambusaria, President, ICAI in his address emphasized that accounting profession is concerned with adding value to economies, and our profession is truly adding value to the process of economic and social development in country. He elucidated the various initiatives taken by ICAI like ICAI sustainability literacy drive to make the process of sustainable development more feasible; financial and tax literacy drive-VitiyaGyan

Abhiyaan to create awareness amongst masses in 12 vernacular languages; capacity building initiatives for MSMEs to name a few. He also highlighted that ICAI, through the CABF Corona Financial Medical Assistance Scheme distributed around ₹10 crores to more than 800 beneficiaries. Continuing further, he stated that ICAI is contributing to nation's growth with its model of Independence, Excellence and Integrity and thus now moved on to become the most revered Institute in the field of education and professionalism.



In his address, **Mr. Alan Johnson, President, IFAC** stressed that **sustainability & digitization** are two of the most pressing issues

concerning the profession and appreciated ICAI for being proactive in addressing these issues. Continuing further, he stated that ICAI has made optimum and maximum utilization of technology and it has also formed a Sustainable Reporting Standards Board and is also organizing International Sustainable Reporting Awards to lead the change which would lead the future. He stressed on the need for workable action plan to address issues such as irreversible environment catastrophe and build a more equitable and inclusive society. He also appreciated the commitment and contribution made by ICAI through its representation on IFAC.



In his address, **Shri Nitin Gadkari, Hon'ble Union Minister of Road Transport & Highways** called Chartered Accountants

as **"Pillars of Economic Growth"** and highlighted their important role in the economic development of the country.

Continuing further, Hon'ble Minister stated that today, the rate of acceleration of the economic growth is based on the rate at which we embrace technology. The Government is also making the best possible use of technology to create smart, fast, hassle free and corruption free system. He emphasized on the 3 Es- Ethics-Economy-Ecology and Environment which are the top priorities of the Government.

He called for the advice and suggestions of Chartered Accountants in getting investments from abroad for MSMEs and urged the Chartered Accountants who he termed as "economic experts" to advise the Government in ways to decrease imports and enhance the exports thereby contributing in the vision of a \$5 trillion economy.



CA. (Dr.) Debashis Mitra, Vice President, ICAI proposed the vote of thanks to all the dignitaries for their words of wisdom to

motivate the fraternity. He stated that the term "Partner in nation building" was coined by the former President of India Shri Abdul Kalam ji and today Hon'ble Minister Shri Nitin Gadkari ji has bestowed his appreciation by fondly calling us the "pillars of economic growth". He assured that Chartered Accountants would strive to live upto his expectations of being a very important part in the process of nation and economy building.



Earlier at the start of Inaugural session **CA. (Dr.) Jai Kumar Batra, Secretary, ICAI** welcomed the distinguished dignitaries, members of the profession and esteemed Guests. In his welcome address, he emphasised on the

importance of International Conference as a platform for knowledge enrichment and exchange of ideas which would help to understand and reflect on future trends and issues concerning the profession.

Session-I : Building a Sustainable Economy Through Tax Reforms



CA. Nandkishore Chidamber Hegde, Central Council Member, ICAI welcomed the participants to the technical session. He apprised that session will delve upon creating a sustainable and robust model in relation to economic development through taxes. He stressed that the role of taxation is very important in sustaining economic growth in two ways, one through increase in investment and trade, and second covers social dimensions of tax for weaker section of our society.

Session Chairman - Justice CA. (Dr.) Vineet Kothari, Hon'ble Former Acting Chief Justice of Gujarat High Court, in his address, emphasized on the importance of sustainability which supports long-term economic growth without negatively impacting social, environmental, and cultural aspects of the community. He explained how it results in the ease of doing business, inspiring growth pragmatic tax reforms etc. He shared his perspective that there is a need for tax laws to be simplified, for which we should think out of box and embrace technology and innovation.

CA. H Padamchand Khincha, FCA, Eminent Tax Expert discussed upon **Enhancing Economic Growth through Sustainable Tax Policy and Tax Transparency**. He started by acknowledging the views of Hon'ble Minister Shri Nitin Gadkari on the stress he gave on embracing technology, innovation for accelerated growth and development of economy. During his presentation, he stated that India is a fastest growing economy which has seen rise in its growth rate with the increase in start-ups and entrepreneurship. He stated that when we have such changes in the economy, it involves tax administrators, law makers, tax payers and judicial system to enable a smooth transition and in this respect, the role of Chartered Accountant is increasingly important.

CA. Dinesh Kanabar, FCA, Eminent Tax Expert, in his address on **Growing Digital Cross Border Transactions-International Efforts for an Efficient Tax System**, emphasized that global tax landscape is changing due to digitization as many global companies are operating across the globe without requirement of physical presence. He added that stakeholders are expecting that businesses must pay a fair share of taxes and the countries where products of these global companies are being sold should also have the power to levy taxes on such companies. Further, he explained the two pillar solution to address the tax challenges that arise from digitalization of the economy viz. Unified approach and Global Anti Base Erosion Proposal (GLOBE).

CA. Chandrashekhar Vasant Chitale, Central Council Member, ICAI, concluded the session with the words that the concepts were very well presented by the eminent speakers and it's

important for India's growth to have a harmonious and transparent tax regime.

Session II: Fintech Leading India's Growth Story



CA. Ranjeet Kumar Agrawal, Central Council Member, ICAI, in his opening remarks, emphasized that digital economy can contribute upto USD 1 trillion, in India, for achieving the vision of 5 trillion dollar economy. He highlighted the initiatives of Government of India for being digital with a focus to cut on time, bottlenecks and corruption through its 9 innovative programs, which will lead India establishing itself as the biggest and fastest consumer space, than any other matured economy.

Mr. Shashank Kumar, Co-Founder, Razorpay shared his views on the topic **'Impact of Digitization on Business Finance Ecosystem'** in a fire chat conversation with CA Amit Arora, News Anchor, Doordarshan News and highlighted how the working of the world has changed due to Pandemic and that change was imperative. The economy is moving to a digital one; customer payments are increasingly becoming cashless, the portals are also increasingly being made user- friendly. He emphasized that the focus now is on reducing time and obstructions while making a payment and ensuring safety to the consumers. He further stressed that Government Departments are collaborating with private sector for digitalization. He asserted on the role of technology allowing smaller businesses to flourish by digitalization with greater level of trust and transparency.

Thereafter CA. Sundeep Mohindru, Chief Executive Officer, Mlxchange and Mr. Keerthi Kumar Jain, Co-Founder & CEO, InsurePays.com shared their views on the topic- Fintech Leading India's Growth Story.



CA. Sundeep Mohindru, Chief Executive Officer, M1xchange, shared his perspective on fintech, which he said, is one of the hot topics in the industry providing new twists on financial concepts and allowing consumers to have more influence on their financial outcomes. He further emphasized on the importance of promoting MSME's by providing huge value pack. He asserted that MSMEs can now operate without facing any irregular flow of their operational funds with the help of Fintech.

Mr. Keerthi Kumar Jain, Co-Founder & CEO, InsurePays.com, stated that the usage of technology is imperative in every sector. He described how the inclusion of technology in insurance sector has transformed the whole system of operations reflecting a shift towards system that is more robust, faceless and enabling incremental percentage of saving. It changed the entire perception of insurance and changed the life style of Indians as India is an emerging economy.

CA. Satish Kumar Gupta, Central Council Member, ICAI, proposed hearty vote of thanks to all the speakers for their enlightening deliberations



on how the world is changing and how these technology initiatives are making significant difference in today's world.

Panel Discussion I - India - The Global Growth Engine

CA. Babu Abraham Kallivayalil, Central Council Member, ICAI welcomed the panel speakers CA. Sunil Talati, Past President ICAI & Chairman, Services Export Promotion Council (SEPC); CA. Nilesh Shah, Managing Director, Kotak Mahindra Asset Management Co. Ltd and Mr. Anup Maheshwari, Chief Investment Officer & Whole Time Director, IIFL Asset Management Limited. He highlighted that India is the third largest and fastest growing economy in the world. Its strength and resilience are visible in the pandemic especially with the production and supply of vaccines within the country and beyond its borders.

The panel session focused on the GDP growth and positive indicators of the economy despite issues and infrastructural challenges. The role of CAs for addressing the issues to attract more FDIs was also emphasized. The success of IPOs, share market and Startups which herald a new era of growth echoing the four D's as voiced by PM Modi—Democracy, Demography, Demand and Diversity in favour of Atmanirbhar Bharat was also discussed in detail.

CA. Hans Raj Chugh, Central Council Member, ICAI proposed the Vote of Thanks and emphasized that CAs are always committed towards the nation's progress, which contributes harmoniously to the goals of the nation's progress.

Special Session I - Way Forward for Digital Payment System, Cryptocurrency and Financial Reporting

Mr. S. Ganesh Kumar, Former Executive Director, RBI & Ex-Chairman, Indian Financial Technology and Allied Services (IFTAS) talked about Future of India's Digital Payments,



how the rise of digital commerce, innovations in payments technology and India's growing digital payments market is expected to grow exponentially in the future. His address stressed on the way forward for digital payments and also highlighted the challenges for auditors. He stated that with the increase in digital payments, the accounting work would shrink and there is need for auditors to be adequately equipped with digital tools for effective and efficient reporting.

CA. Aishwary Gupta, Blockchain and Crypto Strategist deliberated upon **Future of Cryptocurrency** and shared insights about cryptocurrency and its unique features over the physical one and the role of blockchain on the future of cryptocurrency. He also shed some light on the challenges in the adoption of cryptocurrencies and its future and touched upon the role of accounting & finance professionals in shaping the crypto economy.

CA. Abbas Ali Mirza, Chairman, 21st Session, ISAR, UNCTAD, United Nations, Geneva discussed on **Globalization of Financial Reporting - A Quantum Leap Forward**, about the turning points in financial reporting and accounting world and stated that we all are in a crucial moment in the journey of survival in the wake of the pandemic. He shared insights about the need for International Accounting Standard Setting and consequently the evolution of the International Accounting Standards Board (IASB), its major breakthroughs, global acceptance and future work plan. He ended by reiterating that we are at a pivotal moment in this journey towards globalization of financial reporting.

DAY 2

Special Session II - CA. Aman Gupta, Co-Founder and CMO, boAt Lifestyle, in conversation with CA. Amit Arora, News Anchor, Doordarshan News

CA Dheeraj Kumar Khandelwal, Central Council Member, ICAI, welcomed the participants to the special session of the second day. He briefly highlighted various initiatives of the ICAI to support Start Ups in India and briefed that this session would focus on the success story



of CA. Aman Gupta and how he has transformed his company as one of the leading earwear companies in India. He added that his story would encourage young CAs towards Start Ups and entrepreneurship.

CA. Aman Gupta, Co-Founder and CMO, boAt Lifestyle, in his conversation with CA. Amit Arora asserted that a brand is nothing but an emotional attachment of people which connects them with a product. In the talk, CA. Aman Gupta discussed about changing customer preferences and stressed that change is required in business with changing needs of customer in order to be in the race. He concluded by highlighting the words of our Hon'ble Prime Minister that India is in the Era of start-ups and encourages entrepreneurship. His advice for all aspirant entrepreneurs is that one should focus on learning, with enough exposure and experience, before venturing out.

Special Session III - Perspectives on the Economy and Evolving Role of Professional Accountants



CA. Prafulla P. Chhajed, Past President, ICAI and Deputy President, CAPA, shared his perspective about the economy and evolving role of Chartered Accountants. He also talked about traditional role of accounting fraternity and how the role of Chartered Accountants' fraternity is changing now as they are able to showcase their talents across the world. He added that ICAI is also looking for opportunities for globalization equipped with advanced package with the help of Artificial Intelligence.

CA. Keki Mistry, Vice Chairman & CEO, HDFC Limited, appreciated the important role being played by the ICAI in enhancing public trust and

for continuously striving for the betterment of accountancy profession for over 72 years with the same spirit and dedication. In his address, he shared his perspective on the global as well as Indian economy and the expectations from the Chartered Accountants in the ever changing environment. He dissected how ICAI has taken a lead to bring the number of initiatives for serving the members in this digital revolution era and stressed on continuous updation in accountancy profession to face the challenges posed by the future. He enumerated various factors all of which play an important role in boosting the global economy thereby benefiting our own economy in return.

CA. Pramod Jain, Central Council member, ICAI, summed up and proposed the vote of thanks for a very relevant as well as interesting session which dwelled upon the role and contribution of professionals towards the growth of economy.

Special Session IV - Think Equal for a Progressive World



CA. Kemisha Soni, Central Council Member, ICAI, in her opening remarks, shared views on Gender Equality and added that women are the real architects of the society. Further she apprised about various initiatives taken by ICAI for female members through the Women Member Empowerment Committee. She concluded by adding Swami Vivekanand quote "there is no chance for the welfare of the world unless the condition of the women is improved. As it is not possible for a bird to fly on only one wing"

Ms. Asmaa Resmouki, Deputy President, IFAC, expressed her happiness for being part of International Conference and for speaking on a very powerful subject for accountants. She opined that "**Think Equal**" is beyond gender inequality and is a concern for every sector and segment. She further added that our profession has been contributing in promoting concept of equality and other subjects which includes diversity, sustainable

development, role of Chartered Accountant in Public Sector and alike. She stressed to think more, think optimistically and encourage values such as empathy, equality, peaceful conflict resolution, critical thinking, and problem-solving etc. in order to be really thinking equal.

Ms. Smriti Irani, Hon'ble Union Minister of Women and Child Development in conversation with CA. Nihar N. Jambusaria, President ICAI.



CA. Nihar N. Jambusaria, President ICAI stated that any sustainable economic growth is possible only if there is contribution from men and women both. He further apprised that about 30% of Indian Chartered Accountants and 44% of Indian CA students are females and shared the various initiatives taken by ICAI to address the issue of gender inequality. He continued through a series of relevant questions and invited the views and perspective of **Smt. Smriti Irani, Hon'ble Union Minister of Women and Child Development**.

Smt. Smriti Irani Hon'ble Union Minister of Women and Child Development, emphasized that in order to think equal, the foremost condition is to provide equal opportunities and access to education. She then highlighted the various initiatives taken by the Government of India in this area most importantly including gender equality in the National Education Policy for the first ever time in India and PM DISHA enabling access to digital education to over 6 crore people in rural areas. She in her address, also shared her perspective on the hallmarks of a female leadership and urged the audiences to not only just think equal but also act equal to initiate the change. She also had a special message for the CA students, where she stressed that there is no shortcut to success and consistent efforts would take them to newer heights. At the end, she called Chartered Accountants as the backbone of the financial consciousness of the country and highlighted the importance of CAs not only just for the economy as a whole but at a societal level as well.



Panel Discussion II: Accountants Creating a Sustainable World

CA. M.P. Vijay Kumar, Central Council Member, ICAI, in his introductory remarks stated if something is holding the world it is economy and commerce and he stressed that we belong to a profession which is the core of the economy and act as the catalyst to the global economy. But at the same time, like everyone else, it is our responsibility to recognize the pressing need for creating a sustainable world.

Session Chairman & Panel Moderator- CA. T. N. Manoharan, Past President ICAI and Padma Shri Awardee thanked for the privilege of sharing views in this panel discussion. He moderated the session titled 'Accountants Creating Sustainable World'. This panel discussion had eminent speakers including Mr. Sanjay Rughani, Chair, IFAC Professional Accountants in Business Advisory Group and CEO, Standard Chartered Bank (SCB), Tanzania, CA. Rakesh Agarwal, Vice President, Reliance Industries Limited, Mr. William Brooks, President, The Institute of Chartered Accountants in England and Wales (ICAEW) and Ms. Lebogang Senne, Technical Director, Pan African Federation of Accountants (PAFA).

Mr. Sanjay Rughani, Chair, IFAC Professional Accountants in Business Advisory Group and CEO, Standard Chartered Bank (SCB), Tanzania, started by quoting "When you create value for the society, you become valuable not only for business, but for society and also for individual". He thanked Mrs. Smriti Irani for being connected, committed and contributing

to sustainability. He stated that accountancy is a purpose driven language which means sustainability, shared the various aspects of reporting and also explained the 5Cs of business. He concluded by saying accountancy is one universal language for the fraternity.

CA. Rakesh Agarwal, Vice President, Reliance Industries Limited, explained that stakeholders are entire flora and fauna with entire living being, plant, and animals of present as well as future generation when it comes to sustainability. He elucidated the meaning of natural capital, where he added that it is the green air we breathe, abundance of blue water, uncontaminated soil and linked it with the role of accountants. He concluded by saying as a CA we can put a number for societal license to operate, which will be our biggest service, we can give, as a part of sustainability.

Mr. William Brooks, President, The Institute of Chartered Accountants in England and Wales (ICAEW), opined that 'Sustainability Reporting' is in fact an important aspect of future of accountancy as sustainability balances environmental, social and economic concerns, and focuses on the future to assure the wellbeing of upcoming generation. He stressed that a sustainable model is one where all stakeholders interact and participate towards a better, greener future for all. He focused on the importance of change, integrated reporting simplification, great clarity, more emphasis on transparency and emphasized that useful information should be shared with the others.

Ms. Lebogang Senne, Technical Director, Pan African Federation of Accountants (PAFA) began by acknowledging the stellar role the Chartered Accountants plays during the turbulent times. She explained about Sustainability standards and certifications, their commitment to good environmental, social, ethical, food safety issues and the role Chartered Accountants can play in asserting sustainability standards and committing themselves for a larger good.

CA. (Dr.) Sanjeev Kumar Singhal, Central Council Member, ICAI, proposed vote of thanks for the session and highlighted the great value created in the session about Sustainability Reporting. He shared how different speakers did justice to the topics they covered and kept the session very interesting for the participants of the conference.

Panel Discussion III: Enhancing Trust through Assurance Function



CA. G. Sekar, Central Council Member, ICAI, expressed his immense happiness and welcomed the stalwarts of the profession who have immensely contributed to the accounting profession to this panel discussion on topic Enhancing Trust Through Assurance Function. He added that as stakeholders put great trust in the documents attested by the professional accountants and accepting our performance, it is only justifying the high expectation of the society in terms of trust and transparency.

Session Chairman & Panel Moderator- CA. M M Chitale, Past President, ICAI, stressed on the impact of technology in assurance services by saying that new technology makes it possible for auditors to analyse large amounts of company's financial data and test 100% of a company's transaction instead of testing only a sample. He stressed that sophisticated tool enable auditors to perform advance analytics to gain deeper insight into the company's operations. He concluded by saying the technology could eventually enable auditors to provide a greater level of assurance than today's level of reasonable assurance.

CA. Kamlesh S Vikamsey, Past President, ICAI, stated that technology is currently performing 30% of overall tasks done by humans and this ratio is expected to increase to 50% in future. He highlighted that technology cannot replace the auditors as auditing requires auditor's knowledge, judgement and professional skepticism and these human aspects are difficult to be taken over by technology. He emphasized that the technology can be used to usher transformation in auditing enabling the auditors to expand their assurance services to areas other than financial reporting.

CA. Amarjit Chopra, Past President, ICAI, shared his perspective on integrating the latest technologies into our audit processes, where we are able to provide high quality audits, enhance the way we look at risk, reduce client burden and provide unrivalled insights. He stressed that this helps us meet both our expectations and evolving needs of businesses, regulators and investors and stressed on need to educate the society to meet their expectations

CA. G Ramaswamy, Past President ICAI, spoke on Pros and cons of technology. He stressed that artificial intelligence plays very important role and without technology our profession cannot function in future as volume of transactions are more. He added that with the help of technology, we are ready to complete any task in lesser time, we will utilise the time saved for the other important activities. He concluded by saying technological advances might even move auditors towards a more continuous auditing and monitoring model, because they will be able to access the client's data in a timelier and standardized format.

CA. Manoj Fadnis, Past President, ICAI, explained how auditors need to learn and understand new skills and acquire knowledge related to predictive analytics, robotic process automation (RPA), Block chain, machine learning and artificial intelligence. He also added that the entire system depends on credibility of financial system and to maintain credibility, implementation of standards at appropriate stages is necessary.

CA. Durgesh Kumar Kabra, Central Council Member, ICAI, proposed hearty vote of thanks for all the speakers for their enlightening deliberations and summed up by saying that the usage of technology in audit is imperative and one has to enhance trust and confidence by credibility of reports which ultimately helps the profession at large and also helps in bridging the expectation gaps.

Special Session V - Special - Leadership: Transforming Vision to Reality



CA. Jay Chhaira, Central Council Member, ICAI opened the session with a warm welcome

to all Council colleagues, esteemed speakers and delegates. He stated that a lot can be done with the focus on good leaders and right leadership which is about team building, delegation, developing the vision and striking a balance between tasks and the team.

Session Chairman **CA. M. Devaraja Reddy, Past President, ICAI** focused on the very integral role of a leader whose vision can transform any challenge into a fruitful situation. He stressed that a good leader shows us how to communicate, inspire and motivate thereby paving the path for all in the journey. In this rapidly transforming environment, empowered by technology, turning our world into a global village, a leader should have the capacity to incorporate the need of the hour. He added that leadership's vision and transformation in the post pandemic situation is required to motivate and grow in these rapidly evolving times.

Major General Neeraj Bali (Retd) Leadership Trainer and Life Coach, Founder CEO, LeadScape Advisors LLP spoke about the future of leadership in these times affected by technology and global interconnectedness. He asserted that the prime responsibility of a leader is to make sense of the chaos and be calm even in the face of challenges. He stressed that the work environment is rapidly changing, people are becoming more aspirational and a leader has to take cognizance of these developments and strategize by leading with example, empathy and information. He concluded by stating that the future belongs to those, who empower others by being visible and being involved. He emphasized that leadership is not only about action but about genuinely caring for the people you lead and making a difference in their lives as well.

Special Address: GST- Setting Stage for Self-Reliant India



CA. P. Rajendra Kumar, Central Council Member, ICAI welcomed the speaker and gave an elaborate introduction of his illustrious career to the audience.

Mr. N. Venkataraman, Additional Solicitor General of India, Department of Legal Affairs, Ministry of Law and Justice gave a thorough and lucid explanation of how GST taxes came to empower the economy and can become a great tool towards a truly self-reliant India. His in-depth knowledge about the legal, tax and political system of the nation's functioning provided the audience an excellent view of the GST system especially in light of the changing economic scenario of the pandemic.

CA. Sushil Kumar Goyal, Central Council Member, ICAI thanked the esteemed speaker for a very informative session and agreed that GST has indeed induced growth of the Indian economy.

DAY 3

Special Address India@75 – Vision for Self-Reliant India

CA. Charanjot Singh Nanda, Central Council Member, ICAI remarked that as India commemorates 75 years of its progress, it has demonstrated to the world its ability to lead and a strong, confident and "Aatmanirbhar" (self-reliant) India is essential not just for itself, but for the sake of larger global good. He added that the Government has been stressing upon the need to restrict imports and boost local manufacturing. He remarked that even our Chief Guest for the Conference Shri Nitin Gadkari ji, Hon'ble Union Minister of Road Transport & Highways sought the advice of Chartered Accountants on ways to decrease imports and enhance the exports thereby contributing to this vision of the Government of India.

Mr. Ajit Pai, Distinguished Expert, Economics & Finance, Niti Aayog gave a very inspiring address. He shared ways to move faster on the path of becoming a self-reliant country and for that he stressed on the importance of making the private enterprises globally competitive. He gave a very interesting comparison of growth stories of India with that of China, South Korea and Vietnam to illustrate how India has to increase its risk appetite to increase its growth rate. He also talked about the benefit of financial inclusion and Performance Linked Incentives by Government of India to 13 earmarked sectors who can lead us towards Aatmanirbhar Bharat. In the end, he emphasized on



the importance of reducing regulatory compliance burden and complexity for acceleration of growth of the economy. For this, he requested the support of Chartered Accountants who have the experience and the expertise for the same in achieving the vision of Aatmanirbhar Bharat. He stressed that they are in a best position to advice where and how these compliances can be reduced.

Session-III : Chartered Accountancy – The Global Profession



Session Chairman and Interviewer: **CA. K. Raghu, Past President, ICAI**, stated that the CA profession is extremely popular not only in India but all over the world. He emphasized that the Chartered accountancy is probably the only profession which is truly global. He stressed that today the Indian CA qualification is well recognised in many countries and we find that large number of young Indian CAs are able to take-up attractive global careers and start work immediately. He also apprised about various certificate courses launched by ICAI with an aim to provide skills set and knowledge base to member on various relevant as well as emerging issues to take up attractive global career opportunities.

CA. (Dr.) R. Seetharaman, CEO, Doha Bank, shared his experiences and stories from his professional journey. He said borders are no bar for knowledgeable professionals and Chartered Accountants, and the younger lot of CAs are especially proving this right. He opined that today more than 20,000 CAs work in the Gulf region and are offered attractive pay packages. He also cautioned the fraternity by saying in this digital era, if you don't innovate, you would evaporate.

He then asserted that CAs can play a vital role in achieving sustainable goals. He suggested that time is here for "Green Audit" and reporting in terms of sustainability and governance can ensure greater prosperity. He stated that economics today is Ecology + Economy and for this CAs are an important link.

CA. Dinesh Kothari, Managing Director, DPS Schools, UAE, talked about the role of technology in educational system during COVID 19 pandemic. When the pandemic struck, many countries faced unanticipated challenge and accelerated towards online learning. This represents a crucial time to consider technology, pedagogy and education. He appreciated how ICAI also adopted different methodologies for their students, members during pandemic situation. He concluded by saying Chartered Accountancy is the best profession, but, as is with every profession, one needs to be constantly conscious of the changes around us and to act proactively to address the unanticipated challenges.

CA. S. Venkita Padmanabhan, Chairman of Manas Group of Companies and Founder of The Infinity Forum, Singapore, started by saying that it is very important for everyone to love what they are doing for being a successful professional. This love would drive passion and passion would be a catalyst for success. He stated that Indian CAs are highly sought after across the world because of their skill-sets and high quality of education. But, CAs are reluctant to take risk to add more value to their knowledge base which then later on pose as challenge to them. He emphasized on the need to constantly upgrade oneself be it professional development or enhancement in soft skills. He advised the fraternity to invest in yourself and never stop learning as this would pave way for crossing the obstacles posed by the uncertain future.

CA. Mahaveer Singhvi, IFS, Joint Secretary, Ministry of External Affairs, Govt. of India, shared how his qualification as CA helped him in various areas including his current profile, where his qualification has assisted him to work efficiently in area of money laundering and the like. He mentioned about the Apex status bestowed by Ministry of External Affairs to ICAI Chapters abroad and appreciated the important role played by these Chapters as economic Ambassadors to

assist Government of India in achieving the vision of Aatmanirbhar Bharat. He also touched upon the important role CAs can play in sustainable development of an economy.

CA. Rajesh Sharma, Central Council member, ICAI, proposed the vote of thanks for such an informative session and shared how the speakers successfully navigated through the theme and did justice to curate exceptional learnings from the session and beautifully summed up the session.

Session-IV : Fireside Chat – Future of Audit and Finance in Digital Era



CA. Aniket Talati, Central Council Member, ICAI opened the session by stating digital adoption has benefited all members of ICAI. He added that entire process of all students and members has been brought on SSP (self-service portal) and even certificate courses are also now being done by digitalization. He stressed that even practicing Chartered Accountants remotely carried out attestations and audits (even stock audits). He added that pandemic has also accelerated the adoption of digital means and also put some light on how does RPA (Robotic Process Automation) work.

CA. Saurabh Goenka, Co-Founder & CEO at MindMap Digital and session Moderator welcomed all the speakers in this fireside chat. He moderated the session brilliantly by asking very pertinent questions in an interesting manner on automation, fintech start-ups and potential avenues for entrepreneurs etc.

Mr. Kunal Singh Chauhan, Country Manager, Hyperscience explained that when the technology evolved overtime, where he stressed that it was not easy for anyone to accept and adopt but with the passage of time people became habituated. Today, everyone is at a stage where all can actually think about the intelligent automation in their daily life. Globally finance & accounting is the biggest function, so technology plays a very important

role in this field. He shared that many softwares are there that are helping professionals to carry out finance function. He also added that, today we need to focus on being more creative, more innovative and more strategic tasks.

CA. Dipanjan Basu, Partner and CFO, Fireside Ventures stated that entrepreneurship is growing now days. He emphasized that Chartered Accountants are getting into startups which are a great advantage for them since they have understanding about businesses already. He added that data analytics is the future that needs to figure out the way to incorporate that in the discipline in a very meaningful manner. Many CA firms are converting itself into data led advising firms which is a very refreshing thing to happen.

Mr. Malay Shah, Vice President, IMEA at Automation Anywhere stated that this pandemic has given many challenges to each sector but automation and technology has helped them to accomplish their tasks. Automation and technology now days seem like personal assistant for finance professionals that are helping them to automate heavy tasks, repetitive tasks. He then, put some light on how to tackle the challenges i.e. higher costs investments faced by finance professionals in implementing RPA. He was of the view that for medium and small sized entities, technologies should be provided at free of cost in order to support automation.

Mr. Haresh Hiranandani, Head – Digital Transformation and Senior Vice President, Kotak Mahindra Bank stated that Chartered Accountants and other finance professionals have now become more technology friendly and technofunctional in nature. He stressed that Chartered Accountants are getting evolved in the use of technology. He said that businesses are working real time now i.e. the work which took 2-3 days earlier are now taking only half an hour.

Session - V : Build your Practices in Emerging Avenues



CA. Nilesh S. Vikamsey, Past President, ICAI set the right tone for the session by highlighting the role of accountants in creating a digital and sustainable economy. He stated that by harnessing the benefit of technology, it has been made possible to continue the work even when the physical world has faced the challenges of shutdown and Data analytics, AI, robotics is expected to further enhance the capacity of professionals.

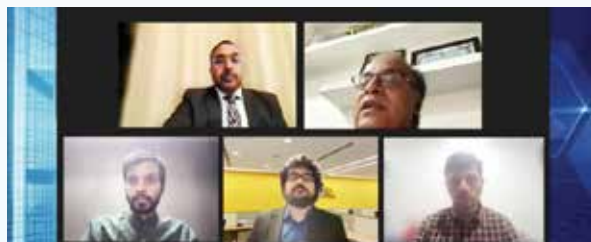
CA. Sanjay Gaggar - Founder Partner & CEO, IxCEO began by stressing that the pandemic naturally tilted the direction of financial services to a virtual environment. He enlightened the audiences that virtual financial services are an absolutely emerging area especially for upcoming CAs and collaboration & data are the two things that our life revolves around today. He was of the view that CAs need to embrace technology to stay relevant in the face of natural disruptions such as the one we are facing today. He took the audience through a lucid and quick walk through about virtual financial services which include, Wealth Tech, Insure Tech, Reg Tech, Tax Tech, Audit Tech, Pay Tech, Bank Tech and accounting Tech.

CA. Satish Shenoy, Sr. President, Corporate Management Audit, Aditya Birla Group gave the audience an in-depth and sharp tour of forensic accounting. He spoke with clarity on the subject enlightening about Forensic Accounting – the tools, technology, processes, background check, digital data extraction, digital media, social media extraction and e-discovery. He also mentioned white collar crimes and the function of forensic accounting in handling them.

Mr. Rajeev R Shah, Managing Director & CEO, RBSA Advisors spoke about the history of Valuation and how it is an established field of the profession. He gave a detailed presentation on how it has emerged through the years, the problems and practices of different perspectives and focus of practitioner. He provided deep insights on valuation and its connection with the profession.

Session VI- Fireside chat - Young CAs changing the World

CA. Tarun Ghia, Central Council Member, ICAI gave the opening remarks by stating that youth is the most dynamic and important segment of the society. He stressed that they are the creators, innovators, builders and leaders. He added that our



institute is lucky to have most of its membership as young CAs and stressed that these young CAs are now playing their role as entrepreneurs and have mostly contributed through extensive use of technology.

CA. Atul Kumar Gupta, Past President ICAI, Board Member of IFAC and Session Chairman, moderated the session. He stated that CAs are playing a very vital role. He emphasized that they are truly an army of the country for protecting the interests of the common man. He stressed that they were called as catalyst of economic growth, but now they are increasingly becoming catalyst of starts up and entrepreneurship.

CA. Jinand Shah, Managing Director, Online PSB Loans recalled his experience as a freshly qualified CA looking after MSMEs and their needs considering the obvious need for finance for MSMEs and the inherent lack of it where they are located. He worked hard to bridge this gap by coordinating relationships with the financiers and stakeholders which enabled both parties to avail each other's services digitally overcoming all physical and infrastructural barriers. He highlighted that since the day our Hon'ble Prime Minister launched the MSME platform, there was no looking back. He emphasised on the need for technology in the CA curriculum as the future is completely IT driven.

CA. Saurabh Jain, Co-Founder, TrashCon shared his experience post qualifying for his engineering degree and CA degree which capacitated him to fulfil the requirement of handling a business environment. He stated that it was his CA degree that enabled him to fully harness his technical and finance background and develop 'Trashcon' which has a huge social angle in waste management especially in these times when ESG goals are the need of the hour. He said that it is a great opportunity for professionals as compliance regulations and balance sheets will definitely require CAs expertise in the global village.

CA. Siddarth Pai, Co-Founder & Chief Financial Officer, 3one4 Capital talked about the gap in the industry where Indian ideas had a lack of funding particularly in the nascent stages of the start-up economy. He informed that in his case, it was hard to compete with larger firms so he developed the venture capital resources to aid this emerging scenario and the rest is history. He also stressed on the continued need to be updated on market requirements so as to provide enough exposure at learning stage itself.

The Chairman of the session concluded opining that CAs are the pillar of the economy. He expressed hope that when knowledge and experience is conveyed to authorities in the government will result in implementation at governance level.



CA. Nihar N Jambusaria, President, ICAI concluded the three-day Conference emphasizing that the possibility of this virtual conference is due to the technology only. The Conference has endeavoured to cover all subjects that

are relevant and are the need of the hour. He stressed that novel concepts e.g., getting a loan in the morning and repaying it by the evening is a sign that new avenues are developing in the profession. He thanked the sponsors for finding value in the networking capacity of the virtual conference and the delegates for sparing their time. He extended his gratitude to the Central Council Members of outgoing Council as well as the incoming 25th Council; WIRC team led by CA. Manish Gadia, Chairman, other Regional Councils namely NIRC, CIRC, SIRC, EIRC; Managing Committee of Branches, overseas Chapters and the International Affairs Committee for their support in making the Conference a grand success.

Concurrent Sessions

The conference also had Six concurrent sessions for the benefit of the membership at large, and brief details on the Concurrent sessions is as under:



Unlocking Global Opportunities for ICAI Members via MRA with CPA Australia

The first concurrent session with CPA Australia was planned to unlock opportunities for our members in Australia. The session started with introduction to CPA Australia where Mr. Leslie Leow shared insights about CPA Australia and the session continued with how an ICAI member can become CPA member, which was taken by Ms. Preeti Dang. CA. Subbu Subramanian, Chairman, Australia (Sydney) Chapter of ICAI and CA. Pankaj Damle, Chairman, Australia (Melbourne) Chapter of ICAI shared the engagement in Australia and support provided to the members, who are relocating to Australia and other nearby countries. The other speakers including CA. Pradeep and Mr. Parth shared relevant insights on accounting landscape and relevant insights for relocating respectively.

Professional Opportunities in Employment and Practice in Middle East



CA. Venkatesh Santhanam, Past Chairman-Dubai Chapter was the moderator of session. On the panel were Chapter Chairman :- CA. Sundar Nurani, Dubai, UAE; CA. Neeraj Ritolia, Abu Dhabi, UAE; CA. Santhosh Varghese, Bahrain; CA. Deepak Bindal, Kuwait; CA. Ravi Deora, Muscat, Oman; CA. Madhur Gupta, Riyadh, Saudi Arabia and CA. P K Chand, Ras Al Khaimah, UAE. As a Panel moderator, CA. Venkatesh shared the importance of Middle East region having the highest presence outside India. The panel discussed the professional opportunities for Indian Chartered Accountants in Middle East. It dwelled upon how all these jurisdictions have grown into hub of opportunities for professionals, a real recruitment hotspot that attracts wealth of talent. The Chartered Accountants are serving at top level in these jurisdictions; it indicates huge opportunities for the professionals.

Report

Latest trends in ESG Aligned Investments and Implementation Pathways



The session moderated by CA. Nilesh Shah helped the attendees to gain introductory understanding on current trends in the United States with respect to investments and ESG metrics. The session had three panelists including Mr. Sudhi Mukherjee, Ms. Danielle Barrs and CA. Geetha Ramakrishnan. The panelists beautifully navigated through the questions asked by Panel moderator, which played great role in improving the delegates understanding, on subjects deliberated in the session.

Professional Opportunities in Employment and Practice in Africa



CA. Sathyamorthy Rajagopalan, Past Chairman, Nairobi, Kenya Chapter was the moderator of session. On the panel were Chairman/ Leaders of few chapters/ Representative offices including CA. Kapil Garg, Dar Es Salaam, Tanzania; CA. Sanjay Jain, Lagos, Nigeria; CA. Adinarayana Balcha, Kampala, Uganda and CA. Udham Singh, Leader, Cairo, Egypt. As a Panel moderator, CA. Sathyamoorthy shared the importance of Africa with more than 50 countries and our presence in many countries of the African region. He highlighted the importance of understanding Africa considering several myths around it. The panel discussed the professional opportunities for Indian Chartered Accountants in Africa. It dwelled upon the growing industries in different countries and how these jurisdictions have been creating

more and more opportunities for our members from past decade

Professional and Business Opportunities in Qatar



The session on professional and business opportunities in Qatar was moderated by Doha Chapter Chairman, CA. Nirlep Bhatt. The session had three panelists representing different fields including Mr. Jahongirbek Burhonov from Qatar Financial Centre, CA. Hatim Hussain from industry and CA. Kurian Kuriakose from practicing field. Having varied representation in the panel, allowed moderator CA. Nirlep to bring out the wonderful business and practicing opportunities in Qatar. The panelists shared the insights on recent developments and the possibilities of future growth in the country.

Unlocking global opportunities for ICAI members by a pathway program of ICAEW



The members who are looking to add another qualification or looking to relocate to UK were presented with opportunity to understand how ICAEW Pathways work and what is expected from our members to complete the administrative processes and examination of experience for earning the ICAEW qualification. The session which continued for an hour helped participants to better their understanding on the subject.

The concurrent sessions were especially curated to make the ICAI members aware of the various professional opportunities in the jurisdictions viz, Australia, Middle East, Africa, Qatar, UK. The sessions were highly appreciated by the members.

You can too...



ICAI STRENGTHENING SUSTAINABILITY ECOSYSTEM TO ATTAIN SUSTAINABLE DEVELOPMENT GOALS 2030

ICAI takes various initiatives to strengthen Reporting ecosystem for community(s), businesses, economy as well as entities

- ▶ **Sustainability Literacy Drive:** Spreading awareness on importance and adoption of Sustainability Reporting
- ▶ **Carbon Footprint Challenge:** Creating a suggestion bank on ways to reduce carbon emissions
- ▶ **Certificate Course on Business Responsibility and Sustainability Reporting:** For capacity building and nurturing skills
- ▶ **ICAI International Sustainability Reporting Awards and ICAI Sustainability Reporting Awards:** To recognise global best practices in Sustainability Reporting
- ▶ **Framework for Disclosures on Climate Related Risks:** Developing guidelines in consultation with Industry Associations/ Stakeholders and Regulators
- ▶ **Propagating Sustainability Reporting Requirements and Assurance Standards:** Contributing to international bodies for Reporting specific requirement
- ▶ **Mega Tree Plantation Drive:** Planting & nurturing 10 lakh trees nationwide
- ▶ **Green Buildings:** Developing environment-friendly buildings to preserve precious natural resources

Sustainability — Everyone's Responsibility



The Institute of Chartered Accountants of India



(Set up by an Act of Parliament)

ACCOUNTANT'S BROWSER

PROFESSIONAL NEWS & VIEWS PUBLISHED ELSEWHERE

Index of some useful articles taken from Periodicals received during December 2021 – January 2022 for the reference of Faculty/Students & Members of the Institute.

1. Accountancy

Choosing a Billing Method for Financial Planning by Erica Gellerman and Courtney Vien. *Journal of Accountancy*, November 2021, pp. 32-34.

2. Economics

Development of Finance Institution - The Way Forward by Alekh Kumar Sahoo. *Banking Finance*, December 2021, pp. 36-38.

Non-communicable Diseases and Their Macroeconomic Impact in India by Arunika Agarwal, Alyssa Lubet, Simiao Chen, Alexander Khoury and David E Bloom. *Economic & Political Weekly*, December 18, 2021, pp. 56-63.

Role and Importance of Reinsurance in Economic Growth and Development by Deepak Godbole. *The Journal of Insurance Institute of India*, October-December 2021, pp. 96-97.

Virtual currency challenges and e-money laundering: Need for an effective mechanism by Susmitha P Mallaya. *Chartered Secretary*, December 2021, pp. 120-122.

3. Investment

Making Sense of the Mania Behind Insurance IPOs by Jagendra Kumar. *The Insurance Times*, December 2021, pp. 33-39.

4. Law

Directors' liability Towards Climate Change: Why Boards Should Be Bothered by Sikha Bansal and Payal Agarwal. *Chartered Secretary*, December 2021, pp. 91-97.

5. Management

Corporate Social Responsibility - Tool for Nation Building by Lalit Kumar and Sunil Kumar. *Banking Finance*, December 2021, pp. 47-50.

Managing Noise, Change, and Emerging Risks by Paul L. Walker and James H. Irving. *Journal of Accountancy*, November 2021, pp. 11-14

6. Taxation and Finance

Implications of GST on Charitable Trusts by Sanjay R. Bhargave. *Goods & Services Tax Cases*, December 28, 2021 - January 3, 2022, pp. 43-48.

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.

Corrigendum

Please read the table of article **Income from Shares: Capital Gain or Profits and Gains of Business or Profession?** by Author CA. Prachi Agrawal in January 2022 issue on page no. 108-109 as below:

"For example, Mr. A has entered into following transactions:-

1. Bought 1 lot of TCS Futures @ Rs. 2000 and sold for Rs. 2200.
2. Bought 1 lots of RIL futures @ Rs. 1500 and sold for Rs. 1400.
3. Bought 1 lot of call option of Tata Chemicals for Rs. 80 and sold at Rs. 100.
4. Sold 1 lot of put option of Infosys for Rs. 40 and bought for Rs. 50

Assume lot size to be 1000 shares in each case.

Solution :

Script Name	Transaction type	Purchase price (i)	Sale price (ii)	Gain/Loss [(ii-i) *1000]	Option Premium	Turnover
TCS	Future	2000	2200	200,000	0	200,000
RIL	Future	1500	1400	(100,000)	0	100,000
Tata Chemicals	Option	80	100	20,000	100,000	120,000
Infosys	Option	50	40	(10,000)	40,000	50,000
	Total			1,10,000	1,40,000	470,000

Total turnover of Mr. A will be Rs. 4,70,000."

Inconvenience caused is regretted.

RBI eases factoring regulation rules to enable more firms to participate in the business

The Reserve Bank of India (RBI) said all existing non-deposit-taking NBFC-Investment and Credit Companies (NBFC-ICCs) with asset size of Rs 1,000 crore and above will be permitted to undertake factoring business subject to satisfaction of certain conditions.

Factoring is a transaction in which an entity can sell its receivables to another entity to fulfill immediate working capital or cash flow requirements.

The new rules, which is effectively an easing of the existing regulations, will increase the number of NBFCs eligible to undertake factoring business significantly from 7 to 182, the RBI said.

Read more at: <https://www.moneycontrol.com/news/economy/policy/rbi-eases-factoring-regulation-rules-to-enable-more-firms-to-participate-in-the-business-7964081.html>

RBI proposes new norms for classification of banks' investment portfolio

RBI proposed new norms for the classification and valuation of the investment portfolio of banks, with a view to align them with the global prudential framework and accounting standards.

According to the proposed norms, the investment portfolio of banks will be divided into three categories held-to-maturity (HTM), available for sale (AFS), and fair value through profit and loss account (FVTPL).

Within FVTPL, held-for-trading (HFT) shall be a sub-category aligned with the specifications of 'Trading Book' as per the Basel-III framework.

The new bank portfolio classification norms will come into effect from April 1, 2023, the RBI paper said, while inviting comments on a discussion paper in this regard from stakeholders by February 15.

Read more at: https://www.business-standard.com/article/finance/rbi-proposes-new-norms-for-classification-of-banks-investment-portfolio-122011401218_1.html

SEBI launches Saarthi mobile app for investor education

Markets regulator Securities and Exchange Board of India (SEBI) launched "Saarthi" – a mobile app on investor education in Mumbai. The new app aims to create awareness among investors about the basic concepts of the securities market.

Additionally, the app will also explain about KYC process, trading and settlement, mutual funds (MF), recent market developments, investor grievances redressal mechanism, etc, the market regulator said in a press release.

Read more at: <https://indianexpress.com/article/business/market/sebi-launches-saa%E2%82%B9thi-mobile-app-for-investor-education-7731551/>

SEBI puts in place framework for operationalising gold exchange

Capital markets regulator SEBI came out with a framework for operationalising the gold exchange, wherein the yellow metal will be traded in the form of electronic gold receipts (EGRs). The stock exchange desirous of trading in EGRs may apply to SEBI for approval of trading in the new segment, the regulator said in a circular.

The bourses can launch contracts with different denomination for trading or conversion of EGR into gold. Under the new framework, the entire transaction has been divided into three tranches-- creation of EGR; trading of EGR on stock exchange and conversion of EGR into physical gold.

Read more at: https://www.business-standard.com/article/markets/sebi-puts-in-place-framework-for-operationalising-gold-exchange-122011001100_1.html

Investor Education and Protection Fund Authority (IEPFA) Signs MoU with Indira Gandhi National Open University (IGNOU) For Promoting Investor Education and Financial Literacy Among Youth Through Gyan Darshan Channel

The Investor Education and Protection Fund Authority (IEPFA) under the aegis of Ministry of Corporate Affairs has signed a Memorandum of Understanding (MoU) with Indira Gandhi National Open University (IGNOU) through a virtual event here today. The objective for signing the MoU is to achieve the mandate of Investor Education, Awareness and Protection by utilizing the tele-lecturing facility of Gyan Darshan Channel.

This association with IGNOU/Gyan Darshan channel will help in propagating the message of Investor Education and Awareness among a large group of present and prospective stakeholders.

Read more at: <https://indiaeducationdiary.in/investor-education-and-protection-fund-authority-iepfa-signs-mou-with-indira-gandhi-national-open-university-ignou-for-promoting-investor-education-and-financial-literacy-among-youth-through-gyan/>

National Update

Corporate Affairs: Focus turns to 'ease of exits'

After taking giant steps in enabling ease of entry as well as ease of conducting business, the Corporate Affairs Ministry (MCA) has now set its sight on facilitating 'ease of exits'.

Steps will be taken to re-engineering the processes so as to facilitate smooth exits, and MCA will bring about necessary changes in MCA21 V 3.0 to achieve this, a senior official said. "For start-ups, this is very important as they have to try ideas. If they fail, they should have ease of exit.

Read more at: <https://www.thehindubusinessline.com/news/corporate-affairs-focus-turns-to-ease-of-exits/article38202508.ece>

SEBI proposes regulatory checks for algorithm trading

The Securities and Exchange Board of India (SEBI) on Thursday took cognizance of the growing trend of retail algorithm and issued a discussion paper in a bid to prevent the rise of unregulated algorithms and their usage by retail investors.

The regulatory proposals firmly place the onus on regulated brokers and exchanges. Exchanges for approval and uniquely identifying all algos and brokers for algos, disputes and third-party vendors.

They would need to have suitable technological tools to ensure that appropriate checks are in place to prevent unauthorized altering/tweaking of algos. All algos developed by any entity have to run on the servers of broker.

Read more at: <https://www.livemint.com/market/stock-market-news/sebi-proposes-regulatory-checks-for-retail-algo-11639060870141.html>

SEBI says its Charter is empowering investors, shares initiatives to promote transparency in markets

The Securities and Exchange Board of India (SEBI) said it has taken steps to augment its 'Investor Charter' for securities markets. In a note titled 'Empowering Investors through Investor Charters', SEBI clarified that it has "taken various steps to implement the Charter".

In a notice, the regulator said the Charter aims to "protect investors' interests, promote transparency in markets, and enhance awareness, trust and confidence among the investors".

Read more at: <https://www.moneycontrol.com/news/business/sebi-says-its-charter-is-empowering-investors-shares-initiatives-to-promote-transparency-in-markets-7946961.html>

MCA allows IEPFA to liquidate existing holding of equity shares

Corporate Affairs Ministry (MCA) has now empowered the Investor Education and Protection Fund Authority (IEPFA) to liquidate shares held by it and acquired on account of dividend remaining unpaid or unclaimed by the shareholder for a period of seven years. IEPFA will now be entitled to offer the shares to the acquiring entity in case of amalgamation, share exchange, conversion of securities and also receive money on behalf of minority shareholders, the MCA has said.

Read more at: <https://www.thehindubusinessline.com/companies/mca-allows-iepfa-to-liquidate-existing-holding-of-equity-shares/article64836842.ece>

On the last lap: MCA to soon finalise comprehensive cross-border insolvency framework

Govt may push for enactment of the IBC amendment Bill in upcoming Budget session

The country's Insolvency and Bankruptcy Code (IBC) particularly on corporate insolvency issues is expected to see some changes as the government is likely to come up with a comprehensive framework for cross-border insolvency and make several changes to the corporate insolvency resolution process (CIRP) to avoid delays in resolution process.

The Corporate Affairs Ministry (MCA) will soon finalise the proposals for a comprehensive framework on cross-border insolvency, which when enacted as part of IBC could aid in further easing up of doing business in India.

Read more at: <https://www.thehindubusinessline.com/news/on-the-last-lap-mca-to-soon-finalise-comprehensive-cross-border-insolvency-framework/article38130948.ece>

MCA and Financial Intelligence Unit-India signs MoU for Data Exchange between the two organisations

A formal Memorandum of Understanding (MoU) was signed on 16 December between the Ministry of Corporate Affairs (MCA) and Financial Intelligence Unit-India, Ministry of Finance for data exchange between the two organizations.

The MoU will facilitate the sharing of data and information between MCA and FIU-INDIA on an automatic and regular basis. It will enable sharing of specific information such as information relating to suspicious transactions, KYC related details and consolidated financial statements of companies registered in the country.

Read more at: <https://www.taxscan.in/mca-and-financial-intelligence-unit-india-signs-mou-for-data-exchange-between-the-two-organisations/144920/>

International Update

Global Engagement Against Corruption: IFAC at the UNCAC CoSP9

IFAC participated as an official observer at the UNCAC CoSP9, or more formally the Ninth session of the Conference of the States Parties (CoSP) to the United Nations Convention against Corruption (UNCAC).

The UNCAC is a legally binding treaty with 189 “States Parties” worldwide. It requires countries to criminalize corruption and related acts and addresses preventive measures, law enforcement, international cooperation, asset recovery, technical assistance and information exchange. The date of its signing in 9th December 2003 is now celebrated as International Anti-Corruption Day.

IFAC had the opportunity to deliver, in person, a statement highlighting the accountancy profession’s important role in fighting corruption.

Read more at: <https://www.ifac.org/knowledge-gateway/building-trust-ethics/discussion/global-engagement-against-corruption-ifac-uncac-cosp9>

IFAC Charts the Way Forward for Assurance of Sustainability Information

International Federation of Accountants (IFAC) has published its vision for high-quality assurance of sustainability information—calling out best practices identified during its year-long, global engagement campaign related to the *State of Play in Sustainability Assurance*. This vision addresses the importance of global standards, regulation that supports decision-useful disclosure, and the value of an interconnected approach to sustainability and financial information reporting *and* assurance. Aligning sustainability disclosure with financial reporting and connecting sustainability assurance engagements with financial statement audits will maximize value to reporting entities and their stakeholders. High-quality, global standards—for reporting, assurance, and ethical professional conduct—play a key role in meeting this objective and in avoiding unnecessary costs and reduced comparability and consistency that result from regulatory fragmentation.

<https://www.ifac.org/news-events/2021-12/ifac-charts-way-forward-assurance-sustainability-information>

Mainstreaming Sustainability a Priority for Professional Accountants in Business

IFAC’s Professional Accountants in Business (PAIB) Advisory Group has compiled insights on how accountants are contributing to value creation and sustainability in their organizations in both the private and public sectors in a new report, *The Role of Accountants in Mainstreaming Sustainability*. This report includes highlights from the PAIB Advisory Group’s October 2021 meeting, including:

- Achieving sustainability and decarbonization under the stewardship of CFOs and accountants
- Navigating potentially disruptive transitions by investing in technology, innovation, talent, and partnerships
- Optimizing and capturing value for a range of stakeholders
- PAIB perspective on digital assets and cryptocurrencies

<https://www.ifac.org/news-events/2021-11/mainstreaming-sustainability-priority-professional-accountants-business>

SEC Finalizes Rule That Affords PCAOB Oversight of Foreign Issuer Books and Raises the Spectre of Delisting Non-Compliant Issuers

Foreign issuers of securities in the United States who were previously beyond the regulation of the SEC are now subject to the same standards as U.S. issuers. Recently the SEC finalized rules that provide for the inspection of foreign issuers’ books by the Public Company Accounting Oversight Board (PCAOB). This newest rule levels the playing field for foreign and national issuers in line with the Holding Foreign Companies Accountable Act (HFCAA), which passed with bipartisan support in December 2020. With this new rule, the SEC can delist companies listed on U.S. exchanges if they refuse or are unavailable for PCAOB inspections or investigations for three consecutive years starting at the end of 2021.

<https://www.lexology.com/library/detail.aspx?g=11810612-778f-4313-81f1-42a2ab0e9dee>

Legal Decisions



Income Tax

LD/70/96 [ITAT Bangalore: ITA No 869/Bang/2018] Rukmini Realtors Pvt. Ltd. Vs. The Asst. Commissioner of Income Tax; 23/12/2021

ITAT upheld disallowance of interest on loan availed for advance made to a Director for purchase of property on Assessee's behalf, before identification of such property; ITAT held the advance to be for Director's personal benefit and rejected Assessee's contention of commercial expediency; ITAT observed that the concerned purchase of land, for which the money was advanced, never materialized and that the amount was returned by the Director after a gap of 4 years; Revenue had observed that balance of reserve and surplus in financial statements of the assessee was running in negative, whereas the major item of assets was loans and advances out of which Rs.9.22 Cr was paid to Director and thus had noted that the borrowed funds were utilized to give advance to the Director without any interest.

LD/70/97 [ITAT Mumbai: ITA No 1659/Mum/2020 [M/s SDN & Co Vs. The Income Tax Officer, Mumbai; 23/12/2021]

Bad debts deduction claimed by the assessee in respect of loan made to Group company which was referred to BIFR, allowed by the ITAT; Assessee had written off loan of Rs.2 Cr. as business loss, and further that the partner of the firm accepted that loans were not given for business purpose but because directors of the holding company of the borrower were the partners of the Assessee; Revenue disallowed the amount on the grounds that there was no business exigency involved; As per ITAT, it was an undisputed fact that if interest income was assessed in past as business income and the loan from which such interest income arises is written off, such sum was allowable to the assessee as deduction under section 36(2) of the Act.

LD/70/98 [Bombay High Court: Writ Petition No 1802 of 2021] Shell India Market Pvt. Ltd. Vs. The Addl. Commissioner of Income Tax; 22/12/2021

Final assessment order passed without adhering to the procedure prescribed under Section 144C, quashed by the Bombay High Court; Requirement u/s 144C(1) to first pass the draft assessment order and provide a copy to the Assessee is mandatory requirement that gave substantive right to the Assessee to object to any variation prejudicial to the Assessee and depriving Assessee of this valuable right to raise objection before DRP would be denial of substantive right; High Court observed that failure to follow the procedure u/s 144C(1) of the Act was a jurisdictional error and not merely procedural error and therefore quashed the impugned order.

LD/70/99 [ITAT Delhi: 6716/Del/2018] The Addl. Commissioner of Income Tax Vs. G.S. Pharmbutor P. Ltd.; 08/12/2021

Conversion to debentures of debit balance with sister concern into debentures and then to equity shares, cannot be treated as diversion of funds to sister concern out of interest-bearing funds, as per Delhi ITAT; Revenue alleged that assessee had diverted interest bearing funds for making investment of Rs.28 crores in a related company and disallowed Rs.3.36 Cr as notional interest expenditure; Further ITAT noted that Revenue did not analyse whether interest free funds were available or not, in the period when the Assessee was advancing money to the related company; Further there was no amount advanced during the year under consideration.

LD/70/100 [ITAT Bangalore: 351/Bang/2019] Medicon Leather P. Ltd. Vs. The Asst. Commissioner of Income Tax; 06/12/2021

ITAT held that assessment order to be erroneous where in the context of Section 56(2)(viib), the AO accepted Assessee's fair value of shares without

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. For full judgement write to ebboard@icai.in.

submission of a valuation report; Also, section 56(2)(viib) applicable on issue of shares and not in the year of receipt of premium; AO had passed the assessment order making no reference to the communication in context of Section 56(2)(viib) and by accepting the return furnished by the Assessee; CIT had held that AO's action for accepting the valuation contrary to Rule 11UA of the Rules was erroneous and prejudicial to the interest of the Revenue; ITAT held that AO could not have accepted the intrinsic value of share without calling for a value in terms of Rule 11UA of the Rules to find out whether clause (i) or clause (ii) of explanation (a) to Sec.56(2)(viib) of the Act would be applicable.

*LD/70/101 [ITAT Mumbai: 490/Mum/2021]
Naik Seafoods P. Ltd. Vs. The Prin.
Commissioner of Income Tax; 26/11/2021*

ITAT held that issue of deductibility of CSR expenditure is debatable and therefore not covered under revisionary powers of PCIT u/s 263; Prin. CIT rejected assessee's claim of deduction u/s 80G for CSR expenditure incurred and directed the Revenue to reframe the assessment afresh; Assessee had incurred Rs.2.80 Lakhs towards CSR expenses which were suo motu disallowed and out of which Rs.1.40 Lakhs was claimed as deduction u/s 80G; On merits, the assessee was eligible to claim deduction since nowhere in the Income-tax Act it was stated that expenditure disallowed in terms of the Explanation 2 to Section 37(1) could not be allowed by way of deduction under Section 80G;

*LD/70/102 [ITAT Delhi: 4398/Del/2017]
Dy. Commissioner of Income Tax Vs.
Hardayal Charitable & Educational Trust;
24/11/2021*

ITAT held that audit of accounts of assessee-trust after grant of registration u/s 12AA did not vitiate the authenticity of the accounts; Revenue submitted that it was not the case that Assessee failed to submit the audit report in Form 10B along with the return, but in the instant case, the audit report itself was obtained after filing of the income

tax return; As per ITAT, Revenue did not point out any defects in the Assessee's accounts and merely because the accounts were audited after grant of registration u/s 12AA of the Act under the peculiarity of the present case, would not ipso facto vitiate the authenticity of the accounts so furnished before the Revenue; Assessee had submitted that since the Assessee was granted registration w.e.f. Apr 2010 on Jan 07, 2014, Assessee could not have submitted the Form 10B report before the grant of registration.

*LD/70/103 [ITAT Bangalore: 2314/Bang/2016]
Anugraha Shelters P. Ltd. Vs. The Prin.
Commissioner of Income Tax; 22/11/2021*

ITAT held that provisions of Section 53A of Transfer of Property Act (TPA) were inapplicable to the joint development agreement (JDA) and therefore deleted the addition made under capital gains head under reassessment; Assessee had agreed to transfer 65% share of undivided interest in the land in lieu of 35% of the built-up area in the project; ITAT noted that the developer was granted irrevocable permission and license to enter the scheduled property for the purpose of construction of residential apartments, and that the licence so granted shall not be considered as possession delivered in part performance of the contract u/s 53A of TPA nor any property right shall be deemed in favour of a developer.

*LD/70/104 [Madras High Court: W.P. No:
12005 of 2021] Bradken India P. Ltd. Vs.
The Income Tax Officer; 18/11/2021*

Final assessment order passed without passing of the draft assessment order quashed by the High Court; Revenue admitted and submitted that the draft order was prepared and uploaded on ITBA (since the assessment was to be completed by the NeAC) which got inadvertently processed as a final assessment order along with consequent demand and penalty notice; High Court directed the AO to pass fresh draft assessment order within 30 days from the date of receipt of this order.

Legal Update

LD/70/105 [ITAT Ahmedabad: ITA No: 2115/Ahd/2018] The Asst. Commissioner of Income Tax Vs. M/s Shalibhadra Developers; 15/11/2021

Assessee-Firm had transferred a land to three companies and claimed the amount as 'Capital gains' whereas Revenue held the same as being under the head 'Business Income', on the grounds that various activities undertaken by the assessee beginning from acquisition of land to its conversion into non-agricultural land and division thereof was the result of systematic and concerted activity in the league of business actions; ITAT held that the assessee engaged in business as developer of land would not ipso facto vitiate the nature and character of land holdings declared in a particular manner; Income from sale of land has the trappings of investment activity of capital nature.



GST

LD/70/106 [2022-TIOL-54-HC-Ahm-GST] Manish Scrap Traders Vs Principal Commissioner; 12/01/2022

In respect of recovery proceedings initiated under section 83 of the CGST Act 2017, the attachment cannot be extended to the cash credit bank accounts of the taxpayer as there is no debtor-creditor relationship between the bank and the borrower.

LD/70/107 [2022-TIOL-43-HC-Ahm-GST] M/S Karnataka Traders Vs State of Gujarat; 06/01/2022

When the consignment was accompanied by a proper invoice and E-way bill and on inspection, the goods were found to match the description as per the said documents, the confiscation proceedings were quashed holding that unless there is concrete evidence that the change in route was with the intention of evading tax there cannot be a presumption that every change in route was meant for tax evasion. The Court further reiterated a settled legal position that undervaluation cannot be a ground for seizure of goods in transit by the inspecting authority.

LD/70/108 [2022-TIOL-23-HC-AII-GST] Ranjana Singh Vs Commissioner of State Tax and 2 Others; 09/12/2021

Where the registration application is accompanied with requisite details/documents as per the provisions of the law and the additional clarifications sought by the authorities are also provided, the authorities cannot reject the registration application. Further, where the relevant facts are mentioned not only in reply to show cause notice but also in grounds of appeal, the appellate authority is duty-bound to look into the same and pass the order in accordance with the law. Where the registration application was rejected and such rejection was confirmed by the Appellate Authority without assigning any reason as to defect in the submission of house tax receipt instead of electricity bill, the court viewed the entire episode as the harassment of taxpayer by the officers and imposed a cost on the department while allowing the Writ.

LD/70/109 [2022-TIOL-15-HC-Kerala-GST] Jose Joseph Vs Assistant Commissioner of Central Tax and Central Excise Alappuzha, Additional Commissioner (Appeals), Kochi; 17/12/2021

When there is no provision for filing an appeal manually and the mode of appeal prescribed by the rules is only the electronic mode, the time limit of three months can start only when the assessee had the opportunity to file the appeal in the electronic mode.

LD/70/110 [2022-TIOL-03-HC-Sikkim-GST] Glenmark Pharmaceuticals Ltd Vs Union of India and Ors; 24/11/2021

When the assessee applied for registration manually and filed applications under budgetary support scheme manually relying upon CBIC communication after the grant of UID, the benefit of the scheme should not be denied to the assessee merely on account of the fact that the claim is in respect of the period prior to grant of UID, especially when the manual application for registration was never processed by the authorities in accordance with the said CBIC communication.

Disciplinary Case



Certification of two sets of Annual Reports / Balance Sheets of Company for the financial year 2012-13 by the Respondent -- Figures under the head “contract receipts” in both sets were at variance -- Held, Respondent is guilty under Clause (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949(as amended).

Held:

In the instant case, the charge against Respondent is that he had certified two sets of Annual Reports / Balance Sheets of a Company for the financial year 2012-13. In one set, the contract Receipts was shown as Rs. 3,42,46,344/- whereas in the other set it was shown as Rs. 20,86,46,344/-. It was further alleged that the financials having contract receipts of Rs.3,42,46,344/- was submitted by the Company to the Central Excise Department and the other one showing the contract receipts at Rs. 20,86,46,344/- was submitted to the Registrar of Companies and both these were issued/certified by the Respondent. In the complaint it was further stated that the statement of Respondent was recorded under Section 14 of the Central Excise Act, 1944 wherein he had admitted to have certified both the financial statements of the Company for the financial year 2012-2013. The Committee noted that both the sets were

certified by the Respondent for the Financial year 2012-13) and the figures under the head “Contract receipts” in certified statement and audited financial statement were at variance. In the certified statement, the contract receipt were shown Rs. 20,86,46,344/- read with report of the audit and in the audited statement the same appeared at Rs. 34246344/-) in this regard, the explanation offered by the Respondent in written submission was that the said difference in contract receipt was only on account of regrouping of figures i.e. inclusion of work in progress in net sales whereas during hearing, he emphasized that one has certified provisional statements and the other was audited financial statements. The Committee observed that in the Financial statements alleged to be provisional which were certified by the Respondent, he nowhere mentioned either by way of Note or Explanation that the stated financials were provisional which reflects his lack of due diligence and gross negligence. Considering the facts, the Committee held that the Respondent is guilty of professional misconduct falling within the meaning of Clause (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 (as amended).

File No. : PR-/97/2016-DD/131/2016/DC/750/2018] Sh. Amresh Kumar Vs CA. KJD.Srinivas.

Circulars/Notifications

Given below are summarised important Circulars and Notifications issued by the CBDT, CBIC-GST 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



I. NOTIFICATIONS

1. Rule 2DD notified prescribing computation of exempt income of specified fund for the purposes of section 10(23FF) - Notification No. 138/2021, dated 27-12-2021

The Finance Act 2021 inserted clause (23FF) in section 10 so as to exempt any income of the nature of capital gains, arising or received by a non-resident, which is on account of transfer of share of a company resident in India by the resultant fund and such shares were transferred from the original fund to the resultant fund in relocation, if capital gains on such shares were not chargeable to tax had that relocation not taken place. Vide this notification, rule 2DD inserted as well as Form No. 10-II (Statement of exempt income u/s 10(23FF)) and Form No. 10-IJ (Certificate to be issued by Accountant u/s 10(23FF)).

The detailed Notification can be downloaded from the link below:

https://www.incometaxindia.gov.in/communications/notification/notification_138-2021.pdf

2. Faceless Appeal Scheme, 2021 notified - Notification No. 139/2021, dated 28-12-2021

In exercise of the powers conferred by section 250, and in supersession of the Faceless Appeal Scheme, 2020 of the Government of India in the Ministry of Finance published in the Official Gazette vide number S.O. 3296(E) dated 25.09.2020 and S.O. 3297(E) dated 25.09.2020, except as respects things done or omitted to be done before such supersession, the Central Government vide this notification has notified Faceless Appeal Scheme, 2021.

The detailed Notification can be downloaded from the link below:

https://www.incometaxindia.gov.in/communications/notification/notification_no_139_2021.pdf

3. Insertion of new Rule 16DD prescribing form of particulars to be furnished along with return of income for claiming deduction u/s 10A(1B)(b) - Notification No. 140/2021, dated 29-12-2021

In exercise of the powers conferred by section 10A(5), the CBDT has introduced a new Rule 16DD vide the Income-tax (35th Amendment) Rules, 2021 applicable w.e.f. 29.07.2021. A new form no 56FF has also been prescribed requiring particulars to be furnished u/s 10A(1B)(b). Section 10A provides for special provision in respect of newly established undertakings in free trade zone, etc.

The detailed Notification can be downloaded from the link below:

https://www.incometaxindia.gov.in/communications/notification/notification_no_140_2021.pdf

4. CBDT specifies Income-tax authorities to operationalise the Faceless Appeal Scheme 2021 - Notification No. 141/2021, dated 29-12-2021

In exercise of powers conferred by section 120 and in supersession of the notification No. 81/2020 dated 25.09.2020 under the Faceless Appeal Scheme 2020, and to give effect to the Faceless Appeal Scheme, 2021 made u/s 250 and published vide Notification No. 139/2021 dated 28.12.2021, the CBDT vide this notification has directed that the specified Income-tax authorities, having their headquarters at the places as mentioned in this notification, shall exercise the powers and perform functions, in order to facilitate the conduct of e-appeal Proceedings, in respect of such territorial area or persons or class of persons or incomes

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.

or class of incomes or cases or class of cases as specified, with respect to appeals filed under section 246A or 248, pending or instituted on or after 29.12.2021.

The detailed Notification can be downloaded from the link below:

<https://www.incometaxindia.gov.in/communications/notification/notification-141-2021.pdf>

5. Government notifies the Bureau of Indian Standards (BIS) for the purposes of section 10(46) - Notification No. 142/2021, dated 31-12-2021

In exercise of the powers conferred by section 10(46), the Central Government vide this notification has notified, the Bureau of Indian Standards (BIS)(PAN:AAATB0431G) in respect of the specified income arising to that Bureau subject to satisfaction of conditions laid therein for AYs 2021-22 to 2025-26.

The detailed Notification can be downloaded from the link below:

<https://www.incometaxindia.gov.in/communications/notification/notification-142-2021.pdf>

6. Government notifies Regional Air Connectivity Fund Trust & International Financial Services Centres Authority for the purposes of section 10(46) - Notification No. 1&3/2022, dated 06-01-2022&11-01-2022

In exercise of the powers conferred by section 10(46), the Central Government has notified, Regional Air Connectivity Fund Trust (PAN AADTR1130P), a trust constituted by the Central Government & 'International Financial Services Centres Authority', Gandhinagar, Gujarat (PAN AAAGI0596L) in respect of the specified income(s) arising to that Trust/Authority subject to satisfaction of conditions laid therein from 01.06.2020 to FYs 2024-25 & from FYs 2020-21 to 2024-25 respectively.

The detailed Notification can be downloaded from the link below:

<https://www.incometaxindia.gov.in/communications/notification/notification-1-2022.pdf>

<https://www.incometaxindia.gov.in/communications/notification/notification-3-2022.pdf>

7. Government notifies 'Assam Electricity Regulatory Commission' for the purposes of section 10(46) - Notification No. 5/2022, dated 13-01-2022

In exercise of the powers conferred by section 10(46), the Central Government vide this notification has notified, 'Assam Electricity Regulatory Commission' (PAN:AAAJA1243K), constituted by the Government of Assam in respect of the specified income arising to that Commission subject to satisfaction of conditions laid therein for FYs 2021-22 to 2025-26.

The detailed Notification can be downloaded from the link below:

<https://www.incometaxindia.gov.in/communications/notification/notification-05-2022.pdf>

8. Insertion of Rule(s) 21AJA & 21AJAA and Form No(s). 10-IK & 10-IL for the purposes of section 10(4D) & 115AD(1B) - Notification No. 6/2022, dated 14-01-2022

Vide the Income-tax (1st Amendment), Rules, 2022, as applicable from 01.04.2022, new rules 21AJA (Computation of exempt income of specified fund, attributable to the investment division of an offshore banking unit, for the purposes of section 10(4D) & 21AJAA (Determination of income of a specified fund attributable to the investment division of an offshore banking unit u/s 115AD(1B) have been notified. Further, Form Nos. 10-IK (Annual Statement of Exempt Income u/r 21AJA(2) and taxable income u/r 21AJAA(2) & 10-IL (Verification by an Accountant u/r 21AJA(3) have also been inserted in the Income-tax Rules, 1962.

The detailed Notification can be downloaded from the link below:

<https://www.incometaxindia.gov.in/communications/notification/notification-06-2022.pdf>

II. CIRCULARS

1. One-time relaxation for verification of all ITRs e-filed for the AY 2020-21 which are pending for verification and processing of such returns - Circular No. 21/2021, dated 28-12-2021

In respect of all ITRs for AY 2020-21 which were uploaded electronically by the taxpayers within the time allowed u/s 139 and which have remained

incomplete due to non-submission of ITR-V Form/ pending e-Verification, the CBDT, in exercise of its powers u/s 119(2)(a) vide this Circular, has permitted verification of such returns either by sending a duly signed physical copy of ITR-V to CPC, Bengaluru through speed post or through EVC/OTP modes as specified. Such verification process must be completed by 28.02.2022.

The detailed Circular can be downloaded from the link below:

<https://www.incometaxindia.gov.in/communications/circular/circular-no21-2021.pdf>

2. CBDT extends due dates for filing of Income Tax Returns and various reports of audit for the Assessment Year 2021-22 under the Income-tax Act, 1961 - Circular No. 01/2022, dated 11-01-2022

On consideration of difficulties reported by the taxpayers and other stakeholders due to COVID and in electronic filing of various reports of audit under the provisions of the Act, the CBDT vide this Circular extended the due dates for filing of specified ITRs and various reports of audit for AY 2021-22 to 15.02.2022 & 15.03.2022. It is also clarified that the specified extension(s) shall not apply to Explanation 1 to section 234A, in cases where the amount of tax on the total income as reduced by the amount as specified in clauses (i) to (vi) of sub-section (1) of that section exceeds one lakh rupees.

The detailed Circular can be downloaded from the link below:

<https://www.incometaxindia.gov.in/communications/circular/circular-no-1-2022.pdf>

<https://incometaxindia.gov.in/Lists/Press%20Releases/Attachments/1050/CBDT-extends-due-dates-filing-ITR-various-reports-of-audit-11-1-22.pdf>

III. PRESS RELEASES/INSTRUCTIONS/OFFICE MEMORANDUM/ORDER

1. ITD conducts search operations in Mumbai - Press Release, dated 15-12-2021

The ITD carried out search and seizure operations on 08.12.2021 on four Asset Reconstruction Companies (ARCs). Total of 60 premises spread over Mumbai, Ahmedabad, Delhi, etc. have been covered. The search action has revealed that the ARCs had adopted various unfair and fraudulent

trade practices in acquiring the Non-Performing Assets (NPA) from the lender banks.

The complete text of the above Press Release can be downloaded from the link below:

<https://incometaxindia.gov.in/Lists/Press%20Releases/Attachments/1034/PressRelease-ITD-conducts-searches-in-Mumbai-15-12-21.pdf>

2. 3.59 crore ITRs filed on the new e-filing portal of the ITD - Press Release, dated 16-12-2021

Senior officials of MoF headed by Secretary, Revenue had a meeting with the Infosys team headed by Shri Salil Parekh, MD & CEO, Infosys on 16.12.2021, on the preparedness of the e-filing website during the peak filing period. As briefed by Infosys, steps taken in this regard include augmentation of the technical infrastructure and setting up of a dedicated war room to monitor the performance of the portal. Directorate of Systems along with Infosys personnel are also engaging through the ICAI platform to raise awareness about resolution of problems faced in the process of e-filing. Educational Videos have been released on the YouTube handle of ITD for guidance of taxpayers.

The complete text of the above Press Release can be downloaded from the link below:

<https://incometaxindia.gov.in/Lists/Press%20Releases/Attachments/1035/PressRelease-3-59-crore-ITR-filed-on-the-new-e-filing-portal17-12-21.pdf>

3. Advance Tax collections for the F.Y. 2021-22 (till 3rd Installment) stand at Rs. 4,59,917.10 crore as on 16.12.2021 which shows a growth of approximately 53.50% - Press Release, dated 17-12-2021

Net Direct Tax collections for the F.Y. 2021-22 have grown at a robust pace at more than 60%. Refunds aggregating to Rs. 1,35,093.6 crore have been issued in the current fiscal. The Advance tax figure of Rs 4,59,917.1 crore as on 16.12.2021 comprises Corporation Tax (CIT) at Rs. 3,49,045.4 crore and Personal Income Tax (PIT) at Rs. 1,10,871.7 crore.

The complete text of the above Press Release can be downloaded from the link below:

<https://incometaxindia.gov.in/Lists/Press%20Releases/Attachments/1036/Press-Release-Advance-Tax-collections-for-the-FY-2021-22.pdf>

4. ITD conducts search operations in Tamil Nadu & West Bengal & in Uttar Pradesh and Karnataka - Press Release(s), dated 21-12-2021

The ITD carried out search and seizure operation on 16.12.2021 on a Neyveli based group, engaged in the business of chit funds, finance and real estate. The group also runs educational institutions through its trusts. Also, the ITD carried out search and seizure operation on 16.12.2021 on two prominent Asansol based groups, engaged in business of iron and steel products, infrastructure, cement, poly fabs, agro-tech & food processing, etc. Further, the ITD carried out search and seizure operation on 18.12.2021 on various persons and their business entities, engaged in the business of civil construction and real estate and running educational institutes in UP and Karnataka.

The complete text of the above Press Release(s) can be downloaded from the link below:

<https://incometaxindia.gov.in/Lists/Press%20Releases/Attachments/1038/PressRelease-ITD-conducts-searches-in-Tamil-Nadu-21-12-21.pdf>

<https://incometaxindia.gov.in/Lists/Press%20Releases/Attachments/1037/PressRelease-ITD-conducts-searches-in-WB-21-12-21.pdf>

<https://incometaxindia.gov.in/Lists/Press%20Releases/Attachments/1039/PressRelease-IT-Department-conducts-searches-in-Uttar-Pradesh-and-Karnataka.pdf>

5. ITD conducts searches in Rajasthan & Maharashtra - Press Release(s), dated 28-12-2021

The ITD carried out search and seizure operations on 22.12.2021 on two groups and their business entities. The search action has covered more than 50 premises spread over various locations including Jaipur, Mumbai, and Haridwar. Also, the ITD carried out search and seizure operations on 22.12.2021 on two business groups of Nandurbar and Dhule districts of Maharashtra. The search operation covered more than 25 premises spread across Nandurbar, Dhule and Nashik.

The complete text of the above Press Release(s) can be downloaded from the link below:

<https://incometaxindia.gov.in/Lists/Press%20Releases/Attachments/1040/PressRelease-ITD-conducts-searches-in-Rajasthan-28-12-21.pdf>

<https://incometaxindia.gov.in/Lists/Press%20Releases/Attachments/1041/PressRelease-ITD-conducts-searches-in-Maharashtra-28-12-21.pdf>

6. Setting up of NFAC under “Faceless Appeal Scheme, 2021” - Office Order-3, dated 29-12-2021

In pursuance of Notification No. 139/2021 dated 28.12.2021, notifying the Faceless Appeal Scheme, 2021 and in supersession of Office Order-1 dated 25.09.2020, the CBDT vide this Office Order has set up the National Faceless Appeal Centre, which shall have its headquarters at Delhi and shall comprise of the specified Income-tax Authorities.

The complete text of the above Office Order can be downloaded from the link below:

<https://www.incometaxindia.gov.in/Lists/Latest%20News/Attachments/492/Office-Order-3-187.4.2020-ITA-I.pdf>

7. Setting up of Appeal Units under “Faceless Appeal Scheme, 2021” - Office Order-4, dated 29-12-2021

In pursuance of Notification No. 139/2021, dated 28.12.2021, notifying the Faceless Appeal Scheme, 2021 and in supersession of Office Order-2 dated 25.09.2020, the CBDT vide this Office Order has set up the Appeal Units as specified in this Order, which shall have their headquarters at the places as mentioned in the Order.

The complete text of the above Office Order can be downloaded from the link below:

<https://www.incometaxindia.gov.in/Lists/Latest%20News/Attachments/493/Office-Order-4-187.4.2020-ITA-I.pdf>

8. ITD conducts searches in Chhattisgarh & pan-India searches in case of mobile manufacturing companies - Press Release(s), dated 29-12-2021 & 31-12-2021

The ITD carried out search and seizure operations on 22.12.2021 on two prominent groups of Raipur and Korba, engaged in the business of manufacturing of iron & steel products, coal washery and transportation, etc. Also, the ITD carried out search and seizure operations pan India on 21.12.2021 in the case of certain foreign controlled Mobile Communication & Mobile Hand-set Manufacturing Companies and their

Legal Update

associated persons. Various premises in the states of Karnataka, Tamil Nadu, Assam, West Bengal, Andhra Pradesh, Madhya Pradesh, Gujarat, Maharashtra, Bihar, Rajasthan, Delhi & NCR have been covered in the action.

The complete text of the above Press Release(s) can be downloaded from the link below:

<https://incometaxindia.gov.in/Lists/Press%20Releases/Attachments/1044/PressRelease-ITD-conducts-searches-in-Chhattisgarh-29-12-2021.pdf>

<https://incometaxindia.gov.in/Lists/Press%20Releases/Attachments/1045/PressRelease-ITD-conducts-pan-India-searches-in-case-of-mobile-manufacturing-companies-31-12-21.pdf>

9. 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 31-12-2021

In partial modification of the CBDT's Order u/s 119 dated 19.10.2020, certain paras (i.e. para 1.i), 1.iii) and para 5) are modified vide this Order. Para 5 to be read as, 'The Pr. CIT/CIT / PDIT / DIT of the TDS charge or the Investigation Wing should monitor and ensure that the survey does not go beyond the scope as approved by the collegium of the concerned Pr. CCIT / CCIT (TDS)/ jurisdictional CCIT of TDS charge/ DGIT (Inv.), as the case may be as specified in this Order.'

The complete text of the above Order can be downloaded from the link below:

<https://www.incometaxindia.gov.in/Lists/Latest%20News/Attachments/496/Order-119-ITA-1961-for-exercising-power-of-survey-misc-31-12-21.pdf>

10. 5.89 crore Income Tax Returns filed on the new e-filing portal of the Income Tax Department as on 31st December, 2021 – Press Release, dated 01-01-2022

Nearly 5.89 crore ITRs have been filed on the new e-filing portal of the ITD as on 31.12.2021, the extended due date. More than 46.11 lakh ITRs were filed on 31.12.2021. In order to assist taxpayers with a smooth experience on the portal, 16,850 taxpayer calls and 1,467 chats were responded to by the helpdesk. In addition, the Department has been proactively engaging with and reaching out to taxpayers and professionals for assistance on its

official Twitter handle. On 31.12.2021 alone, more than 230 Tweets from taxpayers and professionals were responded to.

The complete text of the above Press Release can be downloaded from the link below:

<https://incometaxindia.gov.in/Lists/Press%20Releases/Attachments/1046/5-89-crore-ITR-filed-on-new-e-filing-portal-of-the-ITD-as-on-31-12-2021.pdf>

11. Searches conducted by ITD largely in Uttar Pradesh and Maharashtra – Press Release, dated 05-01-2022

The ITD carried out search and seizure operation on 31.12.2021 on two groups engaged in the business of perfume manufacturing and real estate. Over 40 premises in the states of Uttar Pradesh, Maharashtra, Delhi, Tamil Nadu and Gujarat have been covered during the search action.

The complete text of the above Press Release can be downloaded from the link below:

<https://incometaxindia.gov.in/Lists/Press%20Releases/Attachments/1047/Press-Release-Searches-conducted-by-ITD-largely-in-Uttar-Pradesh-and-Maharashtra-dated-05-01-2022.pdf>

12. ITD conducts searches in Andhra Pradesh and Telangana & Kerala – Press Release(s), dated 10-01-2022

The ITD carried out search and seizure operation on 05.01.2022 on three real estate developers, engaged in the business of land development as well as construction activities in the town of Kurnool and other mofussil areas of Andhra Pradesh and Telangana. Also, the ITD carried out search and seizure operation on 05.01.2022 on two groups, engaged in the business of quarry operation. More than 35 premises spread across districts of Kottayam, Ernakulam, Thrissur, Palakkad and Kannur have been covered in the search operation.

The complete text of the above Press Release(s) can be downloaded from the link below:

<https://incometaxindia.gov.in/Lists/Press%20Releases/Attachments/1048/PressRelease-ITD-conducts-searches-in-AP-and-Telangana-10-1-22.pdf>

<https://incometaxindia.gov.in/Lists/Press%20Releases/Attachments/1049/PressRelease-ITD-conducts-searches-in-Kerala-10-2-22.pdf>



Significant Notifications and Circulars issued in GST from 16th December, 2021 to 15th January, 2022

GST

1. Insertion of Rule 10B (Mandatory Aadhar Authentication).

Rule 10B inserted vide *Notification No. 35/2021 – Central Tax dt. 24.09.2021* making Aadhaar authentication mandatory for registered persons filing application for revocation of cancellation of registration and refund application has been made applicable from 01.01.2022.

Consequent amendments made in rule 23 (revocation of cancellation of registration), rule 89 (application for refund of tax, interest, penalty, fees or any other amount) and rule 96 (refund of integrated tax paid on goods or services exported out of India) has also been made effective from the same date.

Notification No. 38/2021 – Central Tax dt. 21.12.2021

2. Amendments made vide the Finance Act, 2021 made effective from 01.01.2022.

The Central Government vide *Notification No. 39/2021-Central Tax dated 21st December 2021* has appointed 1st day of January, 2022, as the date on which the provisions of sections 108, 109, 113, 114, 115, 116, 117, 118, 119, 120, 121 and 122 of the Finance Act, 2021 shall come into force. Out of which, section 108 i.e., section 7(1)(aa) of the CGST Act shall be effective retrospectively from 01.07.2017.

3. Due date for furnishing Form GSTR-9 and 9C for FY 2020-21 extended to 28th February 2022

A new sub-rule (1A) has been inserted in Rule 80 (Annual Return) to provide that the annual return in GSTR-9 for the financial year 2020-2021 can be furnished on or before 28.02.2022. Also, sub-rule (3A) has been inserted to provide that self-certified reconciliation statement in Form GSTR-9C can be furnished along with the said annual return on or before 28.02.2022.

Notification No. 40/2021 – Central Tax dt. 29.12.2021

4. Amendments in CGST Rules, 2017

The following amendments have been made in the CGST Rules, 2017 vide *Notification No. 40/2021 – Central Tax dt. 29th December, 2021*

I. Rule 36(4) has been substituted to provide that with effect from 01.01.2022, a registered person shall be able to avail ITC in respect of only those invoices or debit notes which have been furnished by the supplier in the statement of outward supplies in **FORM GSTR-1** or using the invoice furnishing facility and the details of such invoices or debit notes have been communicated to him in **FORM GSTR-2B** under sub-rule (7) of rule 60.

II. A proviso has been inserted in sub-rule (3) of rule 95 (**Refund of tax in certain cases**) retrospectively with effect from 01.04.2021, to bring forth that where Unique Identity Number of the applicant is not mentioned in a tax invoice, the refund of tax paid by the applicant on such invoice shall be available only if the copy of the invoice, duly attested by the authorized representative of the applicant, is submitted along with the refund application in **FORM GST RFD-10**.

III. Rule 142(3) lays down that if the amount referred to in section 129(1) of the CGST Act, 2017 is paid within fourteen days of detention or seizure of the goods and conveyance, the proceedings in respect of the notice shall be concluded. The said sub-rule has been amended to provide that if the amount referred to in section 129(1) of the CGST Act, 2017 is paid within *seven days of the notice issued under sub-section (3) of section 129 but before the issuance of order under the said sub-section (3)*, the proceedings in respect of the notice shall be concluded. Further, in sub-rule (5), the words “the person chargeable to tax” have been substituted with the words “the person concerned”.

IV. A new rule 144A (**Recovery of penalty by sale of goods or conveyance detained or seized in transit**) has been inserted

with effect from 01.01.2022. The new rule lays down that where the person transporting any goods or the owner of such goods fails to pay the amount of penalty section 129(1) within fifteen days from the date of receipt of the copy of the order passed under section 129(3), the proper officer shall proceed for sale or disposal of the goods or conveyance so detained or seized by preparing an inventory and estimating the market value of such goods or conveyance.

If the detained or seized goods are perishable or hazardous in nature or are likely to depreciate in value with passage of time, the said period of fifteen days may be reduced by the proper officer. The said goods or conveyance shall be sold through a process of auction, including e-auction.

- V. Rule 154 (**Disposal of proceeds of sale of goods or conveyance and movable or immovable property**) has been substituted with effect from the 01.01.2022 to provide that such proceeds shall now be appropriated against the amount to be recovered or to the payment of the penalty payable section 129(3), as the case may be, after being appropriated against administrative cost of the recovery process. Further, balance amount, if any, instead of paying directly to the defaulter, shall now be credited to the electronic cash ledger of the owner of the goods or conveyance in case the person is registered or else shall be credited to his bank account. However, where the balance of sale proceeds cannot be so paid within a period of six months from the date of sale of such goods or conveyance or such further period as the proper officer may allow, such balance of sale proceeds shall be deposited with the Fund.
- VI. Rule 159 (**Provisional attachment of property**) has been amended to provide that the Commissioner shall send the order of attachment in Form GST DRC-22 and a copy of such order shall also be sent to the person whose property is being attached under section 83. Other amendments have also been made in this

rule to incorporate the changes made in section 83 vide the Finance Act, 2021 providing for attachment of property of a person other than the taxable person i.e., any person specified in sub-section (1A) of section 122. Further, any objection to the order of provisional attachment of property shall be filed in **Form DRC-22A** whose format has also been notified.

- VII. **Forms GST DRC-10 and GST DRC-22** have been substituted with new Forms with effect from 01.01.2022.
- VIII. In **Form DRC GST DRC-11 (Notice to successful bidder)**, rule 144A has been included in addition to existing rules 144(5) and 147(12). Further, the word conveyance has also been included in addition to goods with effect from 01.01.2022 implying that now the possession of the goods as well as conveyance shall be transferred to the successful bidder after making full payment of the bid amount. Similar changes have also been made in **FORM GST DRC-12 (Sale Certificate)**.
- IX. In **Form GST DRC-11 (Restoration of provisionally attached property / bank account under section 83)**, the words '*Regional Transport Authority/Other Relevant Authority*' have been added in addition to existing '*Immovable property registering authority*', with effect from 01.01.2022.
- X. A new table has been substituted under clause (a) of entry no. 15 in **FORM APL-01** with effect from 01.01.2022.
- XI. A new **Form GST DRC-22A (Application for filing objection against provisional attachment of property)** has been introduced with effect from 01.01.2022 under rule 159(5).
5. **Amendments in rate notifications pertaining to goods**

The following rate notifications have been issued to align the rate notification of goods with the new Harmonised System of Nomenclature (HSN) implemented from January 1, 2022:

I. Notification No. 18/2021-CT (Rate) dt. 28.12.2021 to amend *Notification No. 1/2017- Central Tax (Rate) dated 28.06.2017* thereby making changes in the rate of certain goods.

II. Notification No. 19/2021-CT (Rate) dt. 28.12.2021 which seeks to amend exemption *Notification No. 2/2017- CT (Rate) dated 28.06.2017* in respect of goods.

III. Notification No. 20/2021-CT (Rate) dt. 28.12.2021 seeks to amend *Notification No 21/2018- CT (Rate) dated 26.07.2018* which prescribes concessional CGST rate on specified handicraft items.

6. Clarification on applicability of GST on service supplied by restaurants through e-commerce operators

CBIC has issued *Circular No. 167 / 23 /2021 - GST dt. 17th Dec, 2021* to clarify that with effect from 01.01.2022, an electronic commerce operator (ECO) shall be liable to pay GST on 'restaurant services' provided through it as 'restaurant service' has been notified under section 9(5) of the CGST Act, 2017. Thus, they shall no longer be required to collect TCS on restaurant services and file GSTR-8 in respect of restaurant services on which it pays tax in terms of section 9(5). There is no requirement for the ECOs to take separate registration for this purpose. Other relevant and practical issues related to such service have been dealt with in the Circular.

7. Mechanism for filing of refund claim by the taxpayers registered in erstwhile Union Territory of Daman & Diu for period prior to merger with U.T. of Dadra & Nagar Haveli

A Circular has been issued to explain the mechanism for filing of refund claim by the taxpayers registered in erstwhile Union Territory of Daman & Diu for period prior to merger with U.T. of Dadra & Nagar Haveli has been issued.

Circular No. 168 /24/ 2021 – GST dt. 31st December, 2021

8. Guidelines for management and administration of Consumer Welfare Fund

provided to Board under rule 97(7A) of the CGST Rules, 2017

CBIC has issued guidelines for management and administration of Consumer Welfare Fund made available to the Board under rule 97(7A) of the CGST Rules, 2017. The provisions governing the manner of utilization of the Fund are prescribed in rule 97 of the CGST Rules, 2017. Sub-rule (7A) of rule 97 provides that the Committee, constituted under sub-rule (4), shall make available to the CBIC 50% of the amount credited to the Fund each year, for publicity or consumer awareness on GST, provided the availability of funds for consumer welfare activities of the Department of Consumer Affairs is not less than 25 crore rupees p.a.

The detailed Guidelines can be accessed at the following link:

Guidelines for CWF provided to Board under rule 97(7A) of CGST Rules, 2017

9. Recommendation of 46th GST Council Meeting

The GST Council in its 46th meeting held on 31.12.2021 has recommended to defer the decision to change the rates in textiles sector recommended in the 45th GST Council meeting. Consequently, the existing GST rates in textile sector would continue beyond 1st January, 2022.

Press release

10. Guidelines for recovery under section 79 for cases covered under explanation to section 75(12) of the CGST Act, 2017

The CBIC vide *Instruction No. 01/2022-GST dt. 07.01.2022* has issued the guidelines for recovery proceedings under the provisions of section 79 of the CGST Act, 2017 in cases covered under explanation to sub-section (12) of section 75 of the Act namely, where the tax payable in respect of details of outward supplies furnished by the registered person in GSTR-1, has not been paid through GSTR-3B return, either wholly or partly, or any amount of interest payable on such tax remains unpaid.

CUSTOMS

1. Amendment in Sea Cargo Manifest and Transshipment Regulations, 2018

The Sea Cargo Manifest and Transshipment (Ninth Amendment) Regulations, 2021 has been introduced to amend Sea Cargo Manifest and

Legal Update

Transshipment Regulations, 2018 to provide that the authorized sea carrier shall continue to deliver the cargo declaration in Form III of the Import Manifest (Vessels) Regulations, 1971 and Form I of the Export Manifest (Vessels) Regulations, 1976, in the manner as was applicable before the commencement of these regulations, till **30th June 2022** instead of earlier 31st December 2021.



MINISTRY OF CORPORATE AFFAIRS (MCA)

Summary of Circulars & Notifications from 22-12-2021 to 13-01-2022

- **Commencement notification of the provisions of the Companies (Amendment) Act, 2017 and Companies (Amendment) Act, 2020.**

The Central Government has appointed the 01st July, 2022 as the date on which the following provisions of the Companies (Amendment) Act shall come into force namely:

S No.	Section of the Companies (Amendment) Act 2017 and Companies (Amendment) Act, 2020.	Section of the Companies Act, 2013	Particulars
1.	Second and third proviso to clause (i) of Section 80 of the Companies (Amendment) Act, 2017	First and second proviso to Section 403(1)	Fee for filing etc.
2.	Section 56 of the Companies (Amendment) Act, 2020	Third proviso to Section 403(1)	Fee for filing etc.

Details are available at:

- <https://www.mca.gov.in/bin/dms/t?mds=%252F1gywEL3uai%252Fowv0QtPAKw%253D%253D&type=open>
 - <https://www.mca.gov.in/bin/dms/t?mds=07YNA0Zg2jii0fhNar4%252Bw%253D%253D&type=open>
- **The Companies (Registration Offices and Fees) Amendment Rules, 2022**

The Ministry of Corporate Affairs (MCA), on January 11, 2022 has issued The Companies

(Registration Offices and Fees) Amendment Rules, 2022 to further amend The Companies (Registration Offices and Fees) Rules, 2014. This shall come into force on July 1, 2022.

Accordingly, with the introduction of the said Amendment Rules, additional fee and higher additional fee (in certain cases) shall become applicable for delay in filing of forms other than for increase in Nominal share capital or forms under section 92/137 of the Act or forms for filing charges w.e.f. 01st July, 2022.

Details are available at: <https://www.mca.gov.in/bin/dms/t?mds=%252FwqhpSXC6%252BFxaMTdJJWnnA%253D%253D&type=open>

- **Further extension of timeline to file e-forms AOC-4, AOC-4 CFS, AOC-4 XBRL, AOC-4 Non-XBRL and MGT-7/7A for the FY 2020-21**

The Ministry of Corporate Affairs has further extended the timeline for filing e-forms AOC-4, AOC-4 CFS, AOC-4 XBRL, AOC-4 Non-XBRL and MGT-7/7A for the Financial Year ended 31.03.2021 vide its General Circular No 22/2021 dated 29th December, 2021.

Accordingly, the below mentioned e-forms due for the FY 2020-21 can be filed by the Companies without payment of any additional fees upto:

- for e-forms- AOC-4, AOC-4 CFS, AOC-4 XBRL, AOC-4 Non-XBRL upto 15.02.2022;
- for e-forms- MGT-7/7A up to 28.02.2022 It is to be noted that during the said period, only normal fees shall be payable for the filing of the aforementioned e-forms.

Details are available at:

Circular No: 22/2021

<https://www.mca.gov.in/bin/dms/mds=y7MsuJR2BoOvDvpq8FREsg%253D%253D&type=open>



SECURITIES AND EXCHANGE BOARD OF INDIA (SEBI)

Summary of Circulars & Notifications from 22-12-2021 to 13-01-2022

- **Non-compliance with provisions related to continuous disclosures**

The SEBI vide circular dated 13 November, 2020 prescribed a uniform structure for levying fines and taking action for non-compliance with continuous disclosure requirements specified

under SEBI (LODR) Regulations, 2015 by the issuers of listed Non-Convertible Securities and/or Commercial Papers.

Pursuant to the recent amendments to SEBI LODR Regulations, it has been decided to issue the present circular in supersession of the aforesaid circular.

In view of the above, it has been specified in the circular that the Stock Exchanges shall levy fine and take action in case of non-compliances with continuous disclosure requirements by the issuers of listed Non-Convertible Securities and/or Commercial Paper as specified in Annexure I and Annexure II of the circular respectively.

Details are available at: https://www.sebi.gov.in/legal/circulars/dec-2021/non-compliance-with-provisions-related-tocontinuous-disclosures_55070.html

- **Amendment in Securities Contracts (Regulations) Act, 1956**

The Central Government vide Gazette notification S.O. 5401 (E) dated December 24, 2021, has declared “electronic gold receipts” as ‘securities’ under Section 2(h)(iia) of the Securities Contracts (Regulation) Act 1956.

For the purpose of this notification, “Electronic Gold Receipt” means an electronic receipt issued on the basis of deposit of underlying physical gold in accordance with the regulations made by the Securities and Exchange Board of India under section 31 of the said Act.

Details are available at: https://www.sebi.gov.in/legal/gazette-notification/jan-2022/notification-of-electronic-gold-receipts-as-securities-under-scr-1956_55247.html

- **Disclosure obligations of high value debt listed entities in relation to Related Party Transactions**

The SEBI vide circular no. SEBI/HO/CFD/CMD1/CIR/P/2021/662 dated November 22, 2021 has specified following disclosure obligations of listed entities in relation to Related Party Transactions with respect to specified securities:

- Information to be reviewed by the Audit Committee for approval of RPTs;
- Information to be provided to shareholders for consideration of RPTs and;
- Format for reporting of RPTs to the Stock Exchange.

In view of the applicability of the provisions of Regulation 23 of the LODR Regulations to high value debt listed companies also, SEBI vide circular dated 07th January 2022 has made applicable the provisions of the above referred circular dated November 22, 2021 to high value debt listed entities.

Details are available at: https://www.sebi.gov.in/legal/circulars/jan-2022/disclosure-obligations-of-high-value-debt-listed-entities-in-relation-to-related-party-transactions_55225.html



FEMA

Summary Information on few Compounding Orders issued after 1st March 2020

Sr. No.	Party Name	Nature of Contravention	Date of Order	Compounding Fees (Rs.)
1.	Vivek Khemnani	Contraventions under Regulation 20A read with para D(1) of Schedule V of FEMA 120 for delay in filing of Form ODI Part I beyond 30 days, para A(6) of Schedule V for setting up JV/WOS with step down subsidiary, para D(3) of Schedule V read with Regulation 15(iii) delay in filing of Form APR.	27-12-2021	4,69,708
2.	Bliss GVS Pharma Ltd.	Contravention under Regulation 15(i) of FEMA 120 for delay in submission of share certificate with RBI beyond prescribed period of 6 months.	14-12-2021	30,000
3.	Suntect Production India Pvt. Ltd.	Contravention under para 2(2) of Schedule I of FEMA 20R for issue of capital instruments beyond prescribed period of 60 days from date of receipt of consideration.	31-12-2021	71,886



Campus for Newly Qualified Chartered Accountants (NQCAs)

February- March, 2022

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 corporation, irrespective of its size, standing in the market and boundary of its business, can take part in this placement programme being held at several centers across the country during February- March, 2022.

Campus Interview Schedule:		
No.	Centre	Dates
1	Mumbai	10 th , 12 th , 14 th , 16 th , 17 th , 21 st & 23 rd March, 2022
2	Delhi	11 th , 15 th , 17 th , 22 nd , 24 th , 25 th & 26 th March, 2022
3	Bengaluru	12 th , 14 th , 16 th , 17 th , 21 st & 23 rd March, 2022
4	Chennai	14 th , 16 th , 17 th , 21 st , 23 rd & 25 th March, 2022
5	Kolkata	15 th , 17 th , 22 nd , 24 th , 25 th & 26 th March, 2022
6	Ahmedabad & Hyderabad	22 nd , 23 rd & 24 th March, 2022
7	Jaipur & Pune	24 th , 25 th & 26 th March, 2022
8	Durgapur, Nagpur & Rajkot	13 th April, 2022
9	Ernakulam & Visakhapatnam	16 th April, 2022
10	Kanpur	18 th & 19 th April, 2022
11	Noida & Thane	20 th & 21 st April, 2022
12	Bhubaneswar & Chandigarh	22 nd & 23 rd April, 2022
13	Coimbatore & Indore	25 th & 26 th April, 2022

Invitation to Candidates: The above Campus is meant for the candidates, who would be passing the CA Final examination held in Dec, 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, Tel No. (011)30110555 and to register log on to <https://cmib.icai.org/>.

Candidates may email at 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

Extension of last date for complying with the mandatory CPE hours' requirements for the Calendar Year 2021 either in physical/offline mode or in virtual mode through VCM/DLH – from 31st December, 2021 to 28th February, 2022

Dear Member,

In view of impact of Covid-19 across the world and the difficulties faced by Members for completing their mandatory CPE hours' requirements during the Calendar year 2021, it has been decided by the Competent Authority to extend the last date for complying with the CPE hours' requirements for the Calendar Year 2021 from 31st December, 2021 to 28th February, 2022. The same may be complied by attending the CPE Programmes in physical/offline mode or in virtual mode through Virtual CPE Meetings/ Digital Learning Hub.

Accordingly following may be noted:

"Requirement of completion of 20 Structured CPE hours which is mandatory to be completed by Members below 60 years holding COP for **Calendar Year 2021**, can be fulfilled through online mode (either through Digital Learning Hub or through Virtual CPE meetings including mandatory CPE hours on "Code of ethics" and "Standard on auditing") **till 28th February, 2022**. To clarify, if a member has earned more than 20 Structured CPE hours through Digital learning Hub and/or VCMs till 28th February, 2022, for compliance purpose, only 20 Structured CPE hours will be credited for Calendar Year 2021.

It is pertinent to mention here that the members may acquire contemporary knowledge and skills relevant to their professional duties simultaneously complying with the mandatory Structured CPE hours' requirements through ICAI's Digital Learning Hub and Virtual CPE Meetings without paying any fee. The members who have completed their Unstructured Learning Activities (ULAs) but have not updated its details on the CPE Portal for Calendar year 2021 are requested to kindly claim the CPE Hours credit of unstructured learning online by login into your account on CPE portal www.cpeicai.org

It may be noted here this is the last opportunity for members to complete their respective CPE hours' requirements for the Calendar year 2021, till 28th February, 2022 as no further extension will be granted.

Happy Learning!!

With kind regards

Chairperson
CPE Committee of ICAI

Vice-Chairman
CPE Committee of ICAI

Continuing Professional Education Committee
The Institute of Chartered Accountants of India,
'ICAI Bhawan'
A-29, Sector - 62,
Noida - 201309 (Uttar Pradesh)
Email: cpeadmin@icai.in

Empanelment of Chartered Accountant firms/LLPs for the year 2022-2023

Online Applications are invited from Chartered Accountant firms/LLPs who desire to be empanelled with the office of the Comptroller and Auditor General of India for the year 2022-2023 for considering for appointment as auditors of Companies as per Sections 139(5) and 139(7) of the Companies Act 2013 and of Statutory Corporations/Autonomous Bodies as per the provisions of their respective Acts. Online application form along with detailed instructions in this regard will be available on the website www.cag.gov.in from 1 January 2022 to 15 February 2022. The applicant firms/LLPs will have to fill/update the data showing the status of their firm as on 1 January 2022. After filling/updating the data, the firms/LLPs will be required to generate online acknowledgement letter for the year. If the firms/LLPs fail to generate online acknowledgment letter, their application would not be considered for empanelment. The firms/LLPs will be required to submit a print out of the acknowledgement letter generated online and also hard copies of the documents in support of their online application to this office by 28 February 2022.

Professional Development Committee, ICAI

Classifieds

- 5887** Required Qualified assistants and partners to open branches in the states of Maharashtra, Uttar Pradesh, Andhra Pradesh, Telangana and Tamil Nadu. Please contact email: partners1985@gmail.com
- 5888** Tarun Kandhari & Co LLP Delhi based CA firm having Fifteen Partners at 11 branches, operational since 1992, looking for growth prospects through partnership/merger of experienced or new members/firm preferably with DISA qualified having office space and infrastructure at Arunachal Pradesh, Assam, Goa, Himachal Pradesh, Jammu & Kashmir, Jharkhand, Madhya Pradesh and Rajasthan. Contact CA Tarun Kandhari, Partner at email: tarunkandhari@catarunkandhari.com; Mobile no. 9958644645.
- 5889** Chartered Accountant certified in IFRS and Ind AS with 23 years of industrial and professional work experience in Direct and Indirect Taxation and various types of audits is looking to join as Partner with Chennai as base. For details contact balrose2014@gmail.com and mobile number 9500082377.
- 5890** Ranchi based CA-Firm required partners for branches in Assam, HP, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Uttarakhand, Ladakh, Pondicherry & JK. Email malhotrarnrc@gmail.com.
- 5891** Delhi based FCA with commercial experience in corporates 40 years seeking assignment on partnership/ subcontract basis in professional consultancy etc.: 9810023290 email: rkwadhawan@yahoo.com
- 5892** We are a Chartered Accountancy firm with an experience of over 2 decades. We have our presence in Mumbai, Pune, Bengaluru and Gurugram with a team strength of 60+ employees. We are looking at networking and partnering with fellow Chartered Accountancy firms. Interested firms may email their profile to rajesh.sonar@harensanghvi.com or call us on +91 7738056208.
- 5893** Required Partners for a Partnership firm. Call Chat Mail on 9920317933/ 9321787756 casgd.office@gmail.com

ICAI in Media : Glimpses of December - January, 2021-22

BusinessLine

New Delhi, December 18, 2021

Accounting bodies to get powers to act against erring firms

FM introduces Bill to overhaul disciplinary mechanism of the three institutes

BY KR SRIVASTAVA

The government on Friday moved an amendment Bill to empower the three accounting bodies—the CA Institute, the Company Secretaries Institute and the Cost Accountants Institute—to initiate disciplinary action against erring firms, a long-pending demand of the professional bodies.

It, however, diluted the representations of the professional bodies in the composition of the respective Disciplinary Committees.

So far, these professional bodies could only act against their members and not against the firms they represented. The new Bill – The Chartered Accountants, the Cost and Works Accountants and the Company Secretaries (Amendment) Bill 2021 – sent to the Lok Sabha by Finance Minister Nirmala Sitharaman on Friday requires every firm to get local approval with the institutes concerned.

The Councils of the institutes will have to maintain a register of firms with the details of propensity of any actionable information or complaint or imposition of penalty against them. Also, the Councils will be empowered



Finance Minister Nirmala Sitharaman outside the Parliament House in New Delhi on Friday

to remove a firm from the list of erring firms if it has been found to be indulging in any activity or activities relating to the provision of a chartered accountancy in practice under any law or by any competent court.

For speedy disposal of disciplinary cases, the Bill specifies a time limit of 120 days.

Significant change

One of the significant changes is revamping the composition of the Disciplinary Committees and the Board of Discipline – a move seen by experts as a move to give the institutes a role to the professional institutes and take away their powers to guide the outcomes in disciplinary mechanisms.

Per the Bill, the Presiding Officer of the Disciplinary Committee would be a non-member of the institute, which

would mean that the Presiding Officer of these bodies can no longer be the Presiding Officer. From the current situation where the five-member disciplinary committee includes three institute members, including the President, and two government nominees, the Bill moots a shift to two institute members and three non-members, including the Presiding Officer appointed by the government.

The Bill has, however, been softened by allowing the selection of the Presiding Officer from a panel recommended by the Council of the Institutes.

What ICAI says

Reacting to the provisions of the Bill, the Institute of Chartered Accountants of India (ICAI) President, Nisha

Jambhavi, told *BusinessLine* that the government had, by and large, considered their recommendations. The amendment Bill will further make the functioning of the ICAI more cohesive and result in strengthening the corporate governance and quality of preparation and reporting of key statutory documents, he added.

Imparting the CA Institute to take action against the erring firms, a long-standing demand of the ICAI, is a progressive provision, he said.

On the disciplinary committee for revamping, Jambhavi, however, admitted that this was not the best outcome for the CA Institute and added that the ICAI has already written to the Ministry of Corporate Affairs seeking a rethink at the provision particularly with regard to the composition of the disciplinary committee and the Board of Discipline.

"We would prefer the current composition of 3+2 (three Institute members and two government nominees) to continue instead of the proposed 2+3 formula (two Institute members and three non-Institute members), even if this is not acceptable, it would be better if government does a rethink on the provision of officer being a non-member of the institute. The Presiding Officer has to be a member of the institute and a chartered accountant for the disciplinary mechanism to work efficiently," he added.

BusinessLine

New Delhi, Jan 21, 2022

'CAs can help attract foreign investments into MSMEs'

Gadkari lauds CAs as main pillar of Indian economy

BY KR SRIVASTAVA

New Delhi, January 20

Time is ripe to attract more foreign investments into MSME sector, said Union Road Transport and Highways Minister Nitin Gadkari on Thursday addressing the ICAI virtual international conference 2022.

"Our MSMEs contribute 30 per cent to growth. We need more capital investments to push growth. We are trying our level best to get more foreign investments in MSMEs. CAs role in this is important", he said.

Gadkari described chartered accountants as the "main pillar of Indian economy" and urged them to use their innovative approach to capital raising and thereby support the Indian economy and MSMEs.

"Attracting foreign investment into MSMEs is a huge challenge for all of us. We are trying our level best to accelerate growth in Indian economy. Because of Covid we are facing problems", he said.

Gadkari highlighted that digitalisation is equally essential, especially in gov-



Union Minister Nitin Gadkari

ernment departments. "Digitalisation can help us to be more transparent, corruption free and result oriented", he added.

Highlighting the Aatmanirbhar Bharat initiative, "The main area where CAs can play a role is how we can increase our exports while reducing imports," he said

Monetising infra projects

"We are already monetising road projects. We are getting excellent response from the market. Our idea is to do monetisation of ₹5-lakh crore in next two years. We are also planning monetisation of gas pipeline and power transmission lines. There is huge possibility of getting investment from abroad", he said. Gadkari also underscored the need to develop rural industries.

BusinessLine

New Delhi | Updated on January 09, 2022

Possible delay in filing of tax audit reports: ICAI bats for penalty waiver till March 31

BY KR SRIVASTAVA

New Delhi, January 9

In view of the prevailing Covid-19 situation, the CA Institute has knocked the doors of Central Board of Direct Taxes (CBDT) seeking waiver of penalty and other consequences for any delay in filing of audit reports (for AY21-22) of certain taxpayers beyond January 15, the recently extended due date for filing such reports.

No penalty or other consequences should be visited on taxpayers filing the tax audit reports between January 16 and March 31, the Institute of Chartered Accountants of India (ICAI) has suggested in a memorandum to the CBDT Chairman JB Mohapatra.

The ICAI representation detailed the issues and concerns faced by assesses in meeting the extended statutory timeline of January 15, 2022 for furnishing audit reports under the income tax law.

It may be recalled that CBDT had in September last year suo moto extended the various

due dates under the income tax law. It was then specified that the due date for furnishing audit report for the previous year 2020-21 would be January 15, 2022. The due dates for furnishing non-audit income tax returns (ITRs) was also extended from July 31, 2021 to December 31, 2021.

The ICAI has submitted that assesses continue to face difficulties in compliance given the consistent issues being faced in accessing the new IT portal, lockdowns and extremely fast spread of Covid-19. Clustering of due dates have also added to the problems already faced, ICAI has submitted.

Issues and concerns

Stating that lockdown-type situations are prevailing in the country post the recent surge in Covid-19 cases, the ICAI has noted that normal working of both CA firms and taxpayers has been restricted in recent months due to restrictions following the pandemic.

Also, due to lockdown type situation, there is almost no public transport for employees to travel to and from offices. This has also paralysed the functioning of government offices including income tax. Under this situation, the adherence to the extended due dates may not be possible, the ICAI representation said.

ICAI also highlighted that State government authorities overseeing co-operative societies and charitable trusts have already extended the due dates of compliance under respective statutes to ease compliance burden of concerned.

Six different CA bodies

Meanwhile, six different associations of chartered accountants across the country have urged the Finance Minister Nirmala Sitharaman to extend the due date for filing of income tax returns, tax audit reports and transfer pricing reports for all the taxpayers for assessment year 2021-22 to March 31, 2022.

THE HINDU

Accountants should spread financial literacy in country: Venakaiah Naidu

Special Correspondent, Kochi, January 03, 2022

Vice President Venkaiah Naidu called on chartered accountants to marry technology to financial accounting to improve ease of doing business and to make people's lives hassle-free. He was speaking after laying the foundation for the proposed Institute of Chartered Accountants of India (ICAI) Bhawan in Kochi on Monday.



Mr. Naidu, who began his address briefly in Malayalam, said the community of accountants should stay abreast of the times and be technology-savvy.

He said qualification alone was not enough and that chartered accountants should have character and make ethical decisions. Accountants should spread financial literacy in the country, he added.

Governor Arif Mohammad Khan said accountants from India had a global reputation, and should be part of the country's economic growth.

Union Minister of State for External Affairs V. Muraleedharan and Kerala Industries Minister P. Rajeeve were among those who spoke at the foundation laying ceremony. MPs Thomas Chazhikadan and Hibi Eden, Kochi Mayor M. Anilkumar, ICAI president Nihar N. Jambusaria, and ICAI vice president Debashis Mitra were present.

Mr. Naidu left for Hyderabad from the Naval Airport in Kochi later in the day, in a special aircraft of the Indian Navy, ending his four-day visit of Kerala and Lakshadweep. He was seen off at the airport at 5 p.m. by Mr. Khan, Mr. Rajeeve, Mr. Anilkumar and Mr. Eden among others, said a communication from the Public Relations Department here.

mint
LIVINGMINT.COM

New Delhi, January 7, 2022

'Bring back audit of GST annual returns'

Gireesh Chandra Prasad
gireesh.p@livermint.com
NEW DELHI

Accounting rules maker Institute of Chartered Accountants of India (ICAI) has asked the government to bring back the audit and certification provisions relating to goods and services tax (GST) annual returns, saying that doing away with the audit will disrupt compliance.

GST authorities last August dropped the provision for mandatory audit of annual returns for businesses with sales of ₹2 crore and above and introduced self-certification of a reconciliation statement for those with ₹5 crore sales and more, replacing the certification needed by a chartered or cost accountant. This self-certified statement reconciles the value of supplies declared in returns furnished for the financial year with the audited annual financial statement. Self-certification puts the responsi-

bility on taxpayers to furnish true and accurate details in their annual returns. The idea was to encourage voluntary compliance and improve the ease of doing business. The change is applicable for FY21 and beyond.

In a proposal to the finance ministry, the ICAI suggested that amendments made to the Central GST Act through the Finance Act last year should be withdrawn and the requirement of getting annual accounts audited and reconcili-

ation statement certified by a chartered accountant be reinstated in law because GST audit by a chartered accountant ensures taxpayer compliance and helps in plugging revenue leakages.

"Doing away with the audit will lead to large scale disruption of compliance resulting in demand notices, and the taxpayers will be burdened with tax, interest, and penalties that could have been avoided had there been a system of audit to identify the lapses in time, the ICAI said in its proposal.

ICAI suggested amendments made to the Central GST Act via the Finance Act should be withdrawn



**Connect, Collaborate and Enrich your
Knowledge & Professional Excellence**

<https://learning.icai.org/>



**OUR
STAKEHOLDERS**

Members

Students

MRA/MOU/SAFA Members

ICAI Digital Learning Hub is an integrated Learning Management System (LMS) which brings a new knowledge ecosystem in a collaborative pedagogical model and with participatory learning to improve learner outcomes.

Knowledge Repository
for Professional &
Academic Learning

Learning Content in
Multiple Formats

Tailored to Suit
Every Learner

What's new in the Digital Learning Hub...



**Leaderboard feature
showcasing credits
achieved**



**Badges to Members
based on CPE Hours
Earned**



**Assessments to
evaluate learning
outcomes**



**Communities to
share Ideas**



**Web Cast Channels
for Professional
Updates**



**Virtual Coaching
Classes Recorded
Lectures for Students**



**Course Access to Government
Officials, Bank Officials,
MRA/MOU/SAFA Members**



**Skill India
Courses for
Non-Members**



The Institute of Chartered Accountants of India

(Setup by an Act of Parliament)

Follow us on :





The Institute of Chartered Accountants of India

(Set up by an Act of Parliament)

Discover Wealth of Financial Knowledge



Financial
and
Tax Literacy

— An Awareness Initiative by ICAI —

In line with the Government of India's national mission on **Vitiya Saksharta**, The Institute of Chartered Accountants of India (ICAI) on the occasion of 73rd CA Foundation Day had launched an innovative Financial & Tax Literacy Drive to promote financial planning and tax related guidance nationwide. This Drive includes awareness creation through the knowledge hub of seminars & lectures, articles & activities, booklets & video guides by the large community of Chartered Accountants who will act as **Vitiya Mitras**.

Visit www.vitiyagyan.icai.org

A one-stop destination for information and learning assets in 12 vernacular languages on various topics



...and many more