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THE CHARTERED ACCOUNTANT

JOURNAL OF THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

**AATMANIRBHAR
BHARAT**

vasudhaiva kutumbakam



FOOD PROCESSING

ORGANIC FARMING

IRON

ALUMINIUM AND COPPER

AGRO CHEMICALS

ELECTRONICS

INDUSTRIAL MACHINERY

FURNITURE

LEATHER AND SHOES

AUTO PARTS

TEXTILES

COVERALLS, MASKS, SANITISERS AND VENTILATORS



Strengthening the **Economy** with Excellence, Independence and Integrity

ABOUT ICAI

The Institute of Chartered Accountants of India (ICAI) was established by an Act of Parliament in 1949 and since inception has proven its mark as an elite institution devoted to uphold the values of transparency, accountability and integrity. It has indeed come a long way, be it in terms of numbers, skills & utilities, recognition from society, or its role in nation building.

PROFESSIONAL COMPETENCE

- More than 10 Lakh Members & Students
- 164 Branches & 34 Overseas Chapters
- Promoter of Values, Virtues & Vision of Excellence
- Robust Regulator & Developer of Trusted Professionals
- Sharing Knowledge to Shape Policies
- Trusted Partner with Government Initiatives
- An Educator Par Excellence - Keeping Pace with New Era of E-learning
- Placing Indian CAs at Global Pedestal by entering into Mutual Recognition Agreements (MRAs) with Global Accounting Bodies



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Aatmanirbhar Bharat – Future is Ours

So far, it has been a rough and tumble year for global business. The pandemic that started in an infinitesimal portion of the mother earth acquired gigantic proportions engulfing each one of us and draining mankind both physically and emotionally. The deadly contagion jeopardised the existing economic structures and growth started descending across the board. In fact economic considerations took a backseat in comparison to health and life. The burgeoning Indian economy that enjoyed the highest rates of growth amongst emerging economies came to almost standstill amidst the lockdown. The lockdown period was necessary to augment health systems and control the spread of virus. After a stringent lockdown, economic activities are now being allowed in controlled manner with physical distance and work from home as new normal.

The International Monetary Fund in its June, 2020 World Economic Outlook Update – *A Crisis Like No Other, An Uncertain Recovery* – projected that the Indian economy is going to contract by 4.5 percent following a longer period of lockdown and slower recovery. It is no solace that the all regions are projected to experience negative growth in 2020 in the report. Former Indian President A. P. J. Abdul Kalam said *“When we tackle obstacles, we find hidden reserves of courage and resilience we did not know we had. And it is only when we are faced with failure do we realise that these resources were always there within us. We only need to find them and move on with our lives.”* India with its second largest population and seventh largest geographical area is land of mammoth resources, infinite potential and strong cultures. In past Indian economy has always moved ahead through thick and thin showing immense resilience to the stiffest vagaries. India has weathered severe economic challenges in the past to control inflation, unemployment, and financial stress. Time and again the country has risen up to challenges to uncover opportunities lying therein.

Even the present economic blizzard, will fade away in oblivion with the kind of steps being taken by the Government. There is liquidity infusion with special economic package of Rs 20 lakh crore, equivalent to 10% of India's GDP, with the aim of empowering the poor and providing boost to business. India is moving ahead with mission to

become Aatmanirbhar Bharat to have resilience and empower individuals, business and nation to endure the challenges without need for additional financial and non-financial external support. The five pillars of Aatmanirbhar Bharat are:

- o Economy
- o Infrastructure
- o System
- o Vibrant Demography and
- o Demand

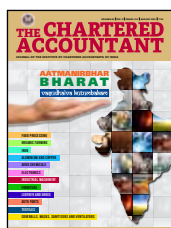
A series of steps are being taken in the interest of poor and farmers, thus providing a renewed impetus to growth. A major thrust has been provided to Micro, Small, Medium Enterprises (MSMEs) with several Government initiatives aimed at direct and indirect benefit to the sector. The industrial presence in the country is highly skewed with MSMEs providing opportunities to a large number of entrepreneurs to showcase their business talents and simultaneously providing employment to a significant part of skilled manpower available in the country.

Accounting, the language of business, is core to the development of MSMEs. While the country is seized with numerous challenges, the business can be immensely benefitted by the unparalleled contribution made by the accountants in accelerating economic growth. While the available accounting skills can be a great contributory to enhanced performance as such talents can help in record keeping and assist entrepreneurs to have proper financial management, these skills are seldom available within these enterprises. The role of accountancy and finance in achieving self-reliance and sustainable development of MSMEs cannot be undermined. Chartered Accountants as small and medium practitioners with their spread and reach can play a critical role to benefit the sector by providing exemplary and all-round consultancy in the domains of accounting, finance, business and strategy. They can help in creating systems to deploy resources and building a conducive environment for success. There are innumerable businesses requiring the professional services of members and we must help them with best of our knowledge and abilities in order to successfully achieve mission of *Aatmanirbhar Bharat*.

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

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From the President



CA. Atul Kumar Gupta
President, ICAI

Dear Professional Colleagues,

The mammoth world with all its beautiful bounties, geographical riches, scientific innovations, exotic cultures and vast army of extraordinary human capital is one large family interconnected with the common goal for global health, peace, prosperity and progress.

The present global challenges emanating from pandemic have only enhanced the need for global interdependence to address issues and identify solutions. After all, global problems requires global solutions. Various countries in the world are working to find solution to the virus in the form of vaccine and ways to produce it in a scale that is unprecedented.

India is being looked at as a mass manufacturer of vaccine by many. India has resources to meet the expectations. This is notwithstanding our own efforts to make vaccine and it is heartening that one of it has already entered the trial stage. United by integrated efforts and parallel objectives, the global world today is a true reflection of the ages-old Indian philosophy of *Vasudhaiva Kutumbakam* reflecting Indian ethos that the world is one family. *Vasudhaiva Kutumbakam*, a Sanskrit verse, used in Maha Upanishad is engraved in the entrance hall of the parliament of India. Working together is key to the future. Charles Darwin, known for his theory of evolution said – “*In the long history of humankind those who learned to collaborate and improvise most effectively have prevailed.*”

As these challenging circumstances trigger need for immediate action, Government has found an answer in *Aatmanirbhar Bharat*, and undertaken restorative

measures towards further expansion of economic activity, with special emphasis on the MSME sector in order to combat the widespread predicament of massive unemployment and once again stimulate the cycle of growth. As India spearheads towards having strong ties of kinship and kindred with the rest of the world it continues to undertake paramount efforts in the direction. After all, supreme success can only be attained when endeavours that transcend borders in order to, together, lead the world to newer heights of triumph, greater fortune and faster growth. Developing association and establishing partnership allow the harbingers of change and development to expediate the process *via* collaborative initiatives and reduce problems. Remember, *one can go faster alone but farther together!*

ICAI Celebrated CA Day

Amidst the lockdown and social distancing, ICAI celebrated its 72nd Foundation Day on 1st of July. The moment of joy was celebrated in form of 3 Days Virtual National CA Summit, 2020 on the theme – *Transforming the Future: Enabling Excellence, Augmenting Trust*. Time and again, with their inspiring words of wisdom and constant support, the representatives of the state have proved to be dependable allies to the functioning of ICAI. The special attraction of the event was the address from the *Chief Guest Shri Om Birla, Hon'ble Speaker of Lok Sabha* on the evening of July 1, 2020. Shri Birla, displaying his happiness on participation at the event, correlated CA Day with Doctors Day that also falls on first of July. He referred to Chartered Accountants as Doctors of economy and stated that Chartered Accountants help in maintaining the health of Business and economy. *In the knowledge enhancing 3 days virtual event, the accounting fraternity also had opportunity to listen to CA professionals from all walks of life, from entrepreneurs to leading experts, from top bureaucrats to members in public service, from industry stalwarts to past presidents, from notable women members to extraordinary student achievers who enthusiastically participated in this congregation of knowledge.* They shared their unique learning experiences and admirable journey through the profession and beyond, presented their viewpoints on myriad subjects germane to the current socio-economic milieu prevailing in the country. A report of the event is separately published in inner pages.

Five Representative Offices in USA Inaugurated

We, at The Institute of Chartered Accountants of India, firmly believe that as territories dissolve and the world becomes smaller, opportunities multiply and success expands. The world around us today is an interlinked

From the President

network of technological progress, exponential potential and promises for growth, where every small unified step paves a path for advancement and goes a long way. In sync with the same principle, ICAI inaugurated five Representative Offices of ICAI in USA during a program “*Unite in America*” on July 4, 2020. With the launch of representative offices in *Chicago, Dallas, Houston, New England Region and Washington D.C.*, ICAI has enhanced its strong presence to 7 major cities of USA including New York and San Francisco. CA. Piyush Goyal, Hon’ble Minister of Railways and Commerce & Industry, Chief Guest of the event complimented ICAI for this step and displayed his confidence that each one who has set up base in USA will work collectively to truly raise the flag of Indian Chartered Accountants, build up the credibility of our work and make sure the integrity that defines our profession is maintained.

The Representative Offices will act as focal point of contact bringing together ICAI members abroad and enable effective reach and service to its members, thus aiding to position the ‘Indian Accountancy Profession’ as a ‘Brand’ worldwide for generating more professional avenues for Indian Chartered Accountants and contribution in global economy. The event also witnessed the participation of *Ambassador H.E. Mr. Sudhakar Dalela, Deputy Chief of Mission, Embassy of India, Washington D.C.*, who congratulated ICAI on taking such an initiative to further strengthen the relation between India and USA and reaffirm the commitment to work closely to strengthen the trading ties & investment opportunities.

Profession for Aatmanirbhar Bharat

To make India Aatmanirbhar, the accounting fraternity needs to play a crucial role. We express our heartfelt gratitude to the *Foreign Secretary of India, Shri Harsh Vardhan Shringla*, for his insightful virtual address to the members of ICAI on Implementing the Vision of Atmanirbhar Bharat. In his address, he stated that organisations like ICAI are a critical part of our economic diplomacy and outreach. He added that CAs are important stakeholders in policy making and contribute substantially to showcase and promote our economic potential abroad.

The government has recently announced an economic package of ₹ 20 lakh crore, equivalent to 10 per cent of India’s gross domestic product, to fight the COVID-19 pandemic. Implementation of the package, particularly the areas targeting business will need the skills of Accountancy Professionals. Chartered Accountants, by virtue of their expertise in accounting and finance can play a crucial role in managing the cobwebs of business and industry to make India Aatmanirbhar. Their position in statutes bestows on them with the unequivocal responsibility to deal with a number of compliances and provide reports or attest them. Their proximity to the micro, small and medium enterprises

make them quintessential factor for Aatmanirbhar Bharat. Chartered Accountants can lead the growth of the sector as external advisors or internal managers. Chartered Accountants act as trusted advisors who can provide their expert services as accountancy practitioners or consultants to other businesses. They, as managers, steer businesses to the desired strategic direction and lead growth.

Accountancy Profession: A True Partner in Nation Building

ICAI has a strong tradition of service to the country for the sustainable development. In the year 2005, Dr. A.P.J. Abdul Kalam, then President of India gave a progressive vision to Indian accountancy profession and recognised ICAI as *Partner in Nation Building*. ICAI constituted under an Act of Parliament enjoys a special status wherein the Institute is responsible for the regulation of the accounting profession in the country. Over the years, ICAI has consciously worked to remain amongst at the top and delivered in providing quality education, training, examination, continuing professional education, standard setting, discipline and in functions that epitomises regulatory aspects. The strength of accounting profession has grown significantly with total number of our members surpassing 3,10,000 from a meagre figure of about 1700 members in the year 1949. With overwhelming interest of students in the profession and the needs of growing economy, this number will only grow.

As the nation celebrates 73rd anniversary of its independence on August 15, 2020, I greet you all at this momentous occasion. The day reminds us of the great freedom fighters who laid their lives, the colossal magnitude of combined efforts for liberation, the great statesmen who worked relentlessly to rebuild the nation. Accountancy profession always stood tall and contributed in national interest, and just like our forefathers, we all must continue to strive hard for the accomplishment of our goal and take our beloved country to new horizons. This day also reminds me first meeting of ICAI council that was held on the occasion of the *Independence Day* of the Country and addressed by the then Commerce Minister, *Shri. K. C. Neogy*. Addressing the Council, Shri Neogy then said: “*it was appropriate that a great and important profession in the country was launching upon a career of autonomy on Independence Day*”. He hoped that the “*Council would maintain a level of professional conduct and professional standards which would bring resounding glory not only to the profession but to the country as well*.” On these words, foundation of this illustrious profession was kept and with our activities and contribution, we remained true to the expectations of all. On the occasion of Independence Day, when the whole nation fills with the national spirit, I thought it fit to discuss the inspiring journey and

From the President

contributory role played by the accountancy profession over the years in succeeding paragraphs:

Meeting Regulatory Obligations

Per se, our basic existence, profile and actions are in national interest as when we act as regulator we catalyse building of India. Emerging Indian economy need strong and credible regulator and ICAI has never failed in its duty to deliver. ICAI as a prudent regulator strives to provide an ecosystem for quality financial information, improved market discipline, and foster confidence of various stakeholders. Benchmarking Indian standards to global principles and standards, ICAI has always focused to improve quality of financial reporting and assurance function. The accountancy function aims to serve the public interest by promoting an investment climate of trust, to lead growth and build a new India. In a recent major decision, the Institute has decided to open *Centre for Audit Quality at ICAI's Centre of Excellence, Jaipur*, to provide conducive environment for research and develop a systematic audit quality framework.

Quality Inputs to Government and Other Stakeholders

India is one of the fastest growing economies of the world. The Institute of Chartered Accountants of India's consistent record of success and splendid performance over the years can be credited to the pioneering guidance offered to the Government of India. As a partner to the activities at macro level, ICAI takes a number of conscious actions to provide services to the government machinery and other regulatory bodies in the domain area of accounting and finance. ICAI methodically provides incisive inputs on technical and other matters of relevance to various ministries and its departments and bodies like CAG, RBI, SEBI, etc. Our contribution on many national issues such as Price Fixation in Indian Industries, devaluation of Indian rupee, prepared Vertical Form of Balance Sheet, suggestions given on taxation structure in the country, suitable and effective company law system and efficient management of PSUs in initial years and very recently towards implementation of GST in India are a few such examples of our continuous engagement. The Institute in its role towards better governance is regularly called upon to interact with various regulatory and statutory authorities on issues of interest touching upon the profession and otherwise.

Union Finance Minister laying the budget on the floor of the Parliament is eagerly awaited event by every segment of the economy as it defines the financial roadmap of the country for the succeeding financial year. Due to the immense significance it holds for the economy's present and future, the ICAI takes keen interest in the process of the Budget development and

also render crucial pieces of suggestion to the Union Government for their esteemed perusal. The process involves collating views and suggestions from vastly spread members, considering them at central level and then documenting them in form of pre-budget memoranda both in case of direct and indirect taxes. Not only this, post the release of the Budget, Chartered Accountants fraternity across the nation dwell in detail, cognitively analyse and critically review the implied consequence of various policies on the industry and the world of finance. The information again collated, is further considered by expert committees, complemented by their own experience and passed on to the Ministry of Finance. It is satisfying that the tradition of submitting pre-budget and post-budget memoranda that we started in mid-sixties is still continuing and over the years many of our considered suggestions find place in budget proposals.

Augmenting Resources for Government

Chartered Accountants of India value integrity and undertake efforts to become Government aids in tax collection and revenue generation. Spread in every corner across the expansive length and breadth of the country having direct connect with crores of assesses as trusted financial advisors, our members offer individuals, businesses and others the best advice for efficient financial planning and guide, motivate and encourage them towards tax compliance with sincerity. They seek the best for their clients, while also ensure compliances, avoid evasions and cater to the interests of the Government; thereby benefiting the nationwide economy as a whole. I must say, we chartered accountants are the ones who are putting blood into the economic lifeline of the Country.

Accounting and Finance Services Improving Trade

India is globally recognised as a storehouse of overpowering potential and a treasury of unmatched calibre. The country continues to expand its horizons as well as internationally fulfils the needs and requirements for human resource, technological assets and natural capital. India has manifested itself as a solution for global needs and serves as a notable business *in-sourcing hub*. Many members and chartered accountants firms are taking up global assignments, rendering accounting and finance related services and contributing in the exports. The Government had declared Accounting and Finance services sector as one of the 12 Champion sectors.

Recently, ICAI has also signed an MoU with Service Export Promotion Council (SPEC) to work together for the growth of Accounting and Finance services in order to promote export of Accounting services at the International arena. ICAI has been working towards formulating & implementing an Action Plan for the Sector under the guidance of Ministry of Corporate

From the President

Affairs. The Committee for Export of CA Services & WTO (CESWTO) is taking various measures & initiatives to supplement Government of India's impetus on increasing the share of Accountancy & related services in trade.

Manage Business Strategy and Bring Efficiency

Chartered Accountants report on the financial performance of business organisations that greatly impact the decision making by various stakeholders. The profession plays a key role in the growth of business – whether it is organic or inorganic. The due diligence information provided by the profession for expansion strategies such as mergers and acquisitions help organisations to quickly deploy resources and grow. The coupling effect that is brought in by the domain expertise of Chartered Accountants is important to promote productivity and bring efficiency. Chartered Accountants are best suited to compare cost of alternative actions and the expected financial results. ICAI stresses on having budgetary control as a tool to enhance productivity. It is a normal business practice to compare actual performance with the targets both for physical and human resources. Chartered Accountants as strategist are structuring organisations and their finances, solving complex problems and implementing any desired changes. Understanding of overall organisational systems and depth to which they are associated, help Chartered Accountants to identify and provide unconventional solutions and innovate.

Ethical Values and Conduct

ICAI not only formulates accounting and assurance standards to remain in tandem with the changing economic-scenario but also enforces the ethical values enshrined in the Code of Ethics and implement provisions of the Chartered Accountants Act, 1949 and the Rules framed thereunder. The revised 12th edition of Code of Ethics has also come into effect from 1st July, 2020. ICAI proactively takes action against its erring members, found guilty of professional misconduct through a well-defined disciplinary mechanism. In our resolute to have strong disciplinary mechanism with convenience, we have also launched a separate website (<https://disc.icaai.org/>) for disciplinary function.

Profession with Social Touch

Through the adoption of model of integrating theoretical and practical experience, ICAI has been able to facilitate the development of not only professional knowledge and skills amongst large number of students but also inculcate professional values, ethics and attitudes. Accountancy profession is truly a catalyst of social-economic growth in India wherein equal opportunity has been provided to the every strata of the society to undergo professional course at highly economical cost. The training imparted to Chartered Accountants

enables him to conduct social cost and benefit analysis for sustainable growth. Chartered Accountants focus on triple bottom line where profits are considered along with the effect of organisation on people and planet. Using the services of Chartered Accountants many organisations are adopting *integrated reporting* where performance is represented in terms of both financial and other value relevant details.

ICAI is also keenly participating in socially beneficial activities. In the current times, when the world is facing fallout of pandemic, ICAI has resolved to provide all possible support to the Indian Government and committed itself to contribute rupees 21 crores. ICAI has appealed to its one million students and members to generously contribute to the national efforts in its fight against pandemic. Today, responding to the clarion call made by the Hon'ble Prime Minister and pursuant appeal by Ministry of Corporate Affairs, the Central Council of ICAI decided to contribute rupees 15 crore from ICAI. And this is not for the first time. Since its formative years, the accountancy profession always remained attentive to national interest and societal needs. In past also, ICAI has always stood with the government by collecting handsome contributions from the ICAI employees, members and students at time of national disasters. Social responsibility which is integral to inclusive growth is deeply ingrained in ICAI philosophy. 5 regions and 165 branches touch-base with the society to conduct a series of socially relevant events in form of blood donation camps, tree plantation and sanitation to improve health and hygiene for sustainable development of nation. ICAI has always prioritised the golden rule of service before self and undertaken uncountable endeavours to facilitate the society.

The secret of getting started is breaking your complex overwhelming tasks into small manageable tasks, and then starting on the first one" said Mark Twain. The present times offer invaluable opportunity to engage and develop an all-accommodating and all-inclusive global economy built on strong roots of shared interests, integrated ideas and multilateral solutions; equipped with modern digital revolution and contemporary research evolution. "The secret of getting ahead is getting started."

Best wishes. Stay Safe and Healthy.

Jai Hind, Jai ICAI.



CA. Atul Kumar Gupta
President, ICAI

New Delhi, 5th August, 2020

ICAI in Action

Educational Material on Ind AS 38, Intangible Assets

Ind AS 38 prescribes the accounting treatment for intangible assets that are not dealt with specifically in another Ind AS. It sets out the criteria for recognising and measuring intangible assets and requires disclosures about them. The standard provides guidance on treatment of costs incurred to generate intangible assets as well as those acquired separately or as part of business combinations or acquired by way of government grant. The Standards also deals with other aspects related to intangible assets, such as, amortisation, impairment, etc. The Educational Material on Ind AS 38, Intangible Assets addresses certain relevant aspects envisaged in the Standard by way of brief summary of the Standard and Frequently Asked Questions (FAQs) which are being/expected to be encountered while implementing the Standard. A copy of the publication is available at <https://www.icaai.org/resource/60293asb49121.pdf>.

Technical Guide on Accounting for Expenditure

The CSR Committee has released a Technical Guide on Accounting for Expenditure on Corporate Social Responsibility Activities. The publication provides detailed guidance on the accounting aspects of CSR spends and its presentation in the Financial Statement. It will be a useful guide for the accounting treatment of CSR expenditure and also covers the position after the amendments made to Section 135 by Companies (Amendment) Ordinance 2020, treatment for donations made in kind and treatment of excess expenditure than that specified under law, among others. A copy of the publication is available at <https://www.icaai.org/resource/60115csr48973tg.pdf>. Subsequent to the issue of the Technical Guide on Accounting for Expenditure on Corporate Social Responsibility Activities, the Guidance Note on Accounting for Expenditure on Corporate Social Responsibility Activities, issued on 15th May 2015, stands withdrawn.

MCQs on Guidance Note on CARO 2020

The Ministry of Corporate Affairs issued the Companies (Auditor's Report) Order, 2020 (CARO

2020) on 25th February 2020. CARO 2020 would be applicable for audits of financial year 2020-21 and onwards. CARO 2020 contains several significant changes and several new reporting requirements vis-à-vis CARO 2016. The Auditing and Assurance Standards Board (AASB) of ICAI has issued the Guidance Note on the Companies (Auditor's Report) Order, 2020 (Guidance Note on CARO 2020) under the authority of the Council of ICAI for providing detailed guidance to the members on CARO 2020. In continuation "Multiple Choice Questions (MCQs) on Guidance Note on the Companies (Auditor's Report) Order, 2020" has been brought out by AASB. The publication contains number of MCQs on guidance on various clauses of CARO 2020 given in the Guidance Note on CARO 2020. AASB has also developed supplementary resources on Guidance Note on CARO 2020 to provide support to the members. A copy of the publication is available at <https://resource.cdn.icaai.org/60285aasb49105.pdf>.

Technical Guide for Easy Incorporation of Companies Through SPICe+

Ministry of Corporate Affairs, Government of India in line with the overall objective of reducing cost of compliances and Ease of Doing Business in India has been bringing out a number of reforms. Such reforms have helped India to improve its ranking to 63rd position in the World Bank's Ease of Doing Business Report 2020 against the 142nd rank in the year 2014 and 77th in the year 2019. One such noteworthy reform is towards incorporation of a company for which the process has been greatly simplified with significant reduction in time to incorporate a company in the country. The Government has also brought in the advanced integrated form SPICe+ (eForm-32) which is an integrated web form offering 10 services by 3 Central Government Ministries & Departments (Ministry of Corporate Affairs, Ministry of Labour & Department of Revenue in the Ministry of Finance) and One State Government (Maharashtra), thereby saving as many procedures, time and cost for Starting a Business in India. Keeping in view the importance of this initiative Corporate Laws & Corporate Governance Committee of ICAI has released a "Technical Guide

on Incorporation of Companies through SPICE+” to provide detailed guidance on the procedural aspects of this integrated form for the benefit of all the members and other stakeholders. This Technical Guide has been designed and developed in an easy to understand language and is quite comprehensive which elaborates detailed process to incorporate a company. A copy of the publication is available at <https://resource.cdn.icai.org/60342clcg49153.pdf>.

Judicial Pronouncements under Insolvency and Bankruptcy Code, 2016

The Insolvency and Bankruptcy Code, 2016, since its implementation over the last three years has offered a much awaited successful structure for the Corporate Insolvency Resolution Process (CIRP) in the country. Creditors and Debtors both opted for the resolution process as provided under the Code. The Committee on Insolvency & Bankruptcy Code (CIBC) of ICAI and Indian Institute of Insolvency Professionals of ICAI (IIPI) are bringing out the series of the publication “Judicial Pronouncements under Insolvency and Bankruptcy Code, 2016” to help professionals understand the application and intricacies of the provisions of the Code. The Series 1 and Series 2 of the publication were earlier published and now the Series 3 is being brought out by the Committee.

A copy of the publication is available at <https://resource.cdn.icai.org/60208icai-jpibc2016series.pdf>

Valuation: Professionals’ Insight (Series-4)

Valuing a company is dependent on the type of business and the reasons for which valuation process is being done. A variety of valuation techniques are employed in practice, and there is no uniform method that clearly dominates others. The ICAI Valuation Standards 2018 recognise three broad approaches to business valuation, namely, the Income Approach, the Asset Approach and the Cost Approach. ICAI Valuation Standards encourage the use of multiple method/approaches for valuation in such instances to produce a reliable indication of value. Moreover, confidence in accuracy and reliability of single method is subjective. To guide Valuation Professionals the Valuation Standards Board of ICAI and ICAI Registered Valuers Organisation have taken a joint initiative to bring out the fourth Series of the publication titled- ‘Valuation: Professionals’ Insight’. The document contains various Articles from valuation professionals including the impact

of global crisis on Valuation.

A copy of the publication is available at <https://resource.cdn.icai.org/60163vsb48987.pdf>.

Representations submitted to the CBDT

In line with supporting government in various policy matters, ICAI undertakes various activities. The Direct Tax Committee made following representations to the

- Inputs of the ICAI w.r.t. issue of guidelines for section 206C and section 194-O of the Income-tax Act, 1961.
- Request to consider waiving off first installment of advance tax due on 15.06.2020.
- Suggestions of the ICAI pertaining to procedural & law issues arising due to spread of COVID19.
- Issues and suggestions of the ICAI on “The Direct Tax Vivad se Vishwas Act/Rules, 2020 and Forms notified thereunder”.
- Request to notify/issue Form for application u/s 12A(1)(ac) r.w.s. 12AB (Procedure for fresh registration) of the Income-tax Act, 1961.
- Request to extend the due date of various compliances under the Income-tax Act, 1961 and other related matters
- Concerns of ICAI in respect of newly notified ITR Forms for AY 2020-21.

CABF support to members to fight corona

The Managing Committee of the Chartered Accountants Benevolent Fund (CABF) ICAI has considered the difficulties being faced by Members in the time of pandemic and has decided to grant Medical Financial Assistance to the Members and their dependents suffering from CORONA. This help is going to be available to the Members and their dependents who are in distress and need financial assistance for treatment of Corona disease. To avail this help members/dependents may file request in prescribed Application Form-cum-Undertaking hosted on the website of the ICAI at the CABF Portal at the link <https://cabf.icai.org/>. The application is to be accompanied with the CORONA positive report and is available only for the cases of hospitalization. The financial assistance will be up to INR 1.5 Lakhs and will be returnable to CABF in full, if it is not utilized for treatment of CORONA. Persons seeking the support may also write to covidassistance@icai.in for details. ■■■

The Institute of Chartered Accountants of India Makes a New Mark as it Celebrates its 72nd Foundation Day with Great Fervour

Virtual Celebrations on July 1, 2020 Amid COVID-19 Pandemic

The Institute of Chartered Accountants of India (ICAI) celebrated its 72nd Chartered Accountants' Day to commemorate the foundation of the Institute in the year 1949. Shri Om Birla, Hon'ble Speaker Lok Sabha was the Chief Guest of the event and addressed the fraternity at large through virtual platform on July 1. The Institute took to virtual celebrations, owing to the pandemic situation, which requires all of us to remain vigilant and diligently observe the lockdown and social distancing measures. Reflecting on the magnificent past of the Institute and looking forward to its glorious future, CA Day was celebrated with great fervour on July 1, 2020 using digital platform. This year, the CA Day became even more special as Institute organised a three-day Virtual National CA Summit 2020, 'Transforming the Future: Enabling Excellence, Augmenting Trust' to deliberate on the need of Developing Resurgent India; Embracing Change, Leading Growth; and Aspiring to Inspire as part of celebrations from June 29 to July 1.

WORDS OF APPRECIATION

Tweet from Hon'ble Prime Minister of India Shri Narendra Modi :



“CAs Big Pillar of Indian Economy, they are like Doctors, Sages & Saints of Economic World”

The Prime Minister tweeted a video, wherein he described the Indian Chartered Accountants as doctors of the economic world who take care of health and well-being of society and who are known the world over for their excellent financial skills.

He stated “You (CAs), like doctors, take care of the economic health of the country and you are famous world over for your knowledge and excellent financial skills. ... In our scriptures there are four goals of a human life - dharma, arth, kama and moksh... When one thinks about Economy and Finance, no one else but you who come first in our minds. It would not be wrong to say that Chartered Accountants are ‘Rishi Munis’ (saints and sages) of the domain of arth (economy). To guide as to how to go about using wealth in the right way is the responsibility of you Chartered Accountants. You have the same important role of guiding the economic systems the way these saints and monks lead us to attain the ultimate truth Moksha. Today, is the Foundation Day of The Institute of Chartered Accountants of India, many congratulations to all of you.”

(Contributed by Editorial Board Secretariat of the ICAI. Comments can be sent to eboard@icai.in.)



Following is a brief report of the CA Day.

WELCOME ADDRESS



ICAI Acting Secretary, Shri Rakesh Sehgal on behalf of the ICAI extended a warm welcome to the Chief Guest Shri OM Birla Hon'ble Speaker of Lok Sabha, ICAI President CA. Atul Gupta and ICAI Vice-President

CA. Nihar Jambusaria, all members of the central council including Government nominees, past-Presidents of ICAI, members from regional council, members and students on the occasion of 72nd Foundation day of the Institute. He further added that it is an honour to have Hon'ble Shri OM Birla, the Speaker of the supreme institution of Indian democracy and further extended a very hearty welcome.

Shri Sehgal congratulated the members and students participating in the session and on their being part of the progressive journey of

the Institute. He said, *"the economies of today have recalibrated themselves from innovation to disruptive innovation and then to evolution."* What has been quintessential in this journey of ICAI in last 71 years has been upholding the element of trust and probity. He further added, *"Building trust and relevance has been the hallmark of this profession"*. He said that building trust is embedded in what the profession does and is not an externality to the profession. This is a day to ponder on how far the profession has come in all these years and how will be going further. He then welcomed ICAI President CA. Atul Kumar Gupta to deliver his presidential address.

PRESIDENTIAL ADDRESS

ICAI President CA. Atul Kumar Gupta extended a very warm welcome to the Chief Guest on the occasion, Shri Om Birla, Hon'ble Speaker of Lok Sabha referring him like an elder brother. President then proceeded to welcome ICAI Vice-President CA. Nihar Jambusaria, Acting Secretary, ICAI Shri Rakesh Sehgal, the past-Presidents of ICAI, Central Council colleagues along with members and students and all other viewers. CA. Gupta also



welcomed Shri OM Birla, Hon'ble Speaker of Lok Sabha to deliver his special address on the occasion of 72nd Foundation Day of ICAI and completing 71 years of its glorious and remarkable journey.

Addressing the Lok Sabha Speaker Shri Om Birla, CA. Gupta said that a small institute set up under the act of parliament in the year 1949 with only a few hundred members and students has now more than 3.5 lakh members and out of that more than 40 thousand members are located at the global jurisdiction. He also said *"the Institute started with only a few hundred students, and today, we have more than 7 lakh aspiring students who have joined this course to fulfil their as well as their family's dreams."* He also stated that *"the Institute started with one Head Office and now has 165 branches as well along with the 35 overseas chapters."*

ICAI President CA. Atul Kumar Gupta further added, *"the profession acts as a huge catalyst to our socio-economic reforms as we know that in a meagre fee of Rs. 65000/- and 3 years rigorous training a student can strive to become a successful chartered accountant and earn for himself a social status that opens up avenues for him to enter into the industry with high starting salary. There are always other avenues to choose from like taking-up entrepreneurship, enter civil services, start own practice, etc. Also, I would emphasise that the course is an important tool for women empowerment."* CA. Gupta, addressing Shri Birla, who is also father of a chartered accountant, said that the CA course is a great tool for empowerment of women CA students. He further added that 41% of the students and 27% of CAs are women.

Elaborating on the value the CA course offers, CA. Gupta said that the chartered accountancy course is instrumental in providing International Gateway as well. Furthering on the significance of the CA course, ICAI President CA. Atul Kumar Gupta said that the CA qualification is not only well recognised in India but also holds great importance in international arena. With several MRAs and

MoUs in place, the role the CA qualification plays in foreign jurisdictions, is exceptionally startling. An Indian CA can get professional degrees in 7 more countries by taking no examination or taking one or two papers. There are also a large number of unilateral recognition of our profession wherein our members can obtain the licence to practice audit services even without obtaining any additional qualification.

Talking about the role of ICAI as partner in nation building, ICAI President CA. Atul Kumar Gupta said that since the Institute was set-up under the act of parliament, it is a part of our Indian Government. As is well known that our former President of India, late Shri A.P.J. Abdul Kalam once said that the chartered accountants are partners in nation building. This is seen in their active role vis-à-vis emerging laws, new scheme or policy formulation. CA. Gupta also added that recently, ICAI is working on soon to be started new scheme in the MSME sector.

He urged the members of the profession to rise to the occasion and work towards rebooting the economy. He also requested professional colleagues to provide mentorship to adversely affected units and take the responsibility of 1 to 2 units in a quest to revive such units in the post-COVID period. He requested to provide guidance to them on how such units can become more and more export-oriented; thereby becoming a net exporter, which will further lead to fulfilment of the objective of becoming an *AatmaNirbhar Bharat*, in addition to the benefits coming from the revived MSME sector.

With this, CA. Gupta thanked the eminent presence of Shri Om Birla, Hon'ble Speaker of Lok Sabha on the occasion and further extended him a very warm welcome to deliver the special address on the 72nd Foundation Day of ICAI.

SPECIAL ADDRESS

Chief Guest Shri Om Birla, Hon'ble Speaker of Lok Sabha delivered a special address on the occasion of 72nd Foundation Day of The Institute of Chartered Accountants day of India. In his address Shri Birla congratulated the ICAI for completing 71 glorious and remarkable years of existence with fairness, accountability and transparency. On the occasion Shri Birla, said, *"Today, first of all, I want*



to congratulate ICAI on its 72nd Foundation Day. Best wishes and many congratulations to ICAI President CA. Atul Gupta. I am delighted to be a part of this momentous occasion and very unique occasion. I am also like a

member of your family. I have also seen how much hard work one has to put in order to earn the meritorious degree of Chartered Accountancy. I have always maintained whenever I visited at ICAI events that all these years your organisation has been conducting the CA examinations and there has never been a time where questions have been raised on the examination systems and this is the speciality and creditability of your organisation. And even today the same standards of speciality and creditability has been maintained by your organisation."

Drawing similarities between health professionals and chartered accountants Shri Om Birla said, *"today is the day celebrated as CA day and today also happens to be Doctors' Day. We see where doctors are the ones who serve the humanity, Chartered Accountants are also, like doctors, since they play a vital role in ensuring the economic health of the country."*

Shri Birla, Hon'ble speaker of Lok Sabha further added *"that ICAI, which has been set-up under the Act of Parliament, has emerged as the regulator and developer of trusted and independent professional world class competencies in the areas of Accounting, Assurance, Taxation, Finance, Business Advisory Services and alike."* He continued to add that ICAI has surpassed the objectives for which it was primarily created and continues to be a trusted partner and influence in accounting, auditing and educational standard setting processes.

Acknowledging the role of ICAI, Hon'ble Speaker of Lok Sabha said that he would like to thank the Institute giving him this opportunity to interact with its members, who are joining us from not only India, but also from overseas chapters spread across 35 countries. He said that the Institute with over 3.5 lakh members with more than 40000 members

overseas, can contribute significantly to the objectives of securing greater foreign investments, joint ventures, mergers & acquisitions in India.

He further added that the disruption caused by COVID-19 pandemic has caused severe economic hardship to our people. None of us has witnessed economic contraction of this magnitude in past many decades. The impact of the pandemic on the economy has been extremely sharp but that he is hopeful that with participation of ICAI as an enabler, efforts to resume economic activity will fructify to a great extent. He urged the audience to not to let their guards down during these challenging times. Instead, he asked ICAI and its members to proactively assess, embrace and deal with the challenges caused by COVID-19 and be an enabler to the initiatives in favour of the country taken by the Government.

He also reiterated that in order to deal with the economic challenges posed by the pandemic and to bring our economy back on track, we need to effectively implement the vision of *Aatmanirbhar Bharat* enunciated by our Prime Minister.

Chartered accountants and role of ICAI comes to fore when it comes to proceed with this forward looking economic approach to free the economy from the grapples of pandemic downturns. ICAI should also work towards successful assimilation and integration of factors like economy; infrastructure technology; demography; and demand to help India achieve rapid growth and development. Government has also announced stimulus package to facilitate this mission. Shri Birla further added that he is sure that ICAI can help government in mitigating the socio-economic impact of the pandemic as well as instil confidence in the businesses and industries. It can further facilitate manufacturing sector to become globally competitive; integrate agriculture economy; and embrace and be an enabler with equal ease for investment and technology sectors.

Talking about the structural reforms and relief measures, given the current challenges our economy is facing, Shri Birla stressed on the need to strive to consider every section of the Indian economy, including small farmers, migrant

workers, labourers, agriculture, MSME sector, start-ups, industrial infrastructure, healthcare, education, among others. He said that in initiative of Government, towards providing affordable capital easily to small businesses, an important economic engine and job creator, ICAI can play a key role by providing suggestions for formulation of hassle-free laws and regulations. He stressed on the MSME sector, the backbone of our industrial economy, which offers a huge opportunity, Shri Birla said that he has full confidence in the capacities of ICAI who will not help the sector but will also provide necessary guidance to other sectors viz. agriculture economy, emerging industries and service sector.

Shri Birla, Hon'ble Speaker of Lok Sabha also added that ICAI can be a big facilitator in implementing *Aatmanirbhar Bharat*, which essentially aims at ensuring India's position as a key participant in global supply chains. He further added that we need to build capacities in India and contribute in mitigating disruptions in the global markets. He also stated that though COVID-19 crisis has generated debate about the future of globalisation and the structural limitations of the international order, as the pandemic has greatly affected our professional lives and disrupted diplomatic channels, we should follow the lead of PM and work ourselves to emerging opportunities thereby living up to national and international commitments in line with the overall vision of *Aatmanirbhar Bharat*.

He concluded his address saying that he thinks, ICAI can play a vital role in making this idea of providing industries a compatible business environment, leveraging India's domestic demand, bringing investment and help in job creation within our country, a grand success. Over the years ICAI has played a critical part in economic development and outreach in the capacity of an important stakeholder in policy making processes.

ICAI Acting Secretary Shri Rakesh Sehgal thanked Shri Om Birla, Hon'ble speaker of Lok Sabha for his thought-provoking address and laying down the roadmap for the Institute. Shri Sehgal then invited ICAI Vice-President to deliver the vote of thanks.

VOTE OF THANKS



ICAI Vice-President CA. Nihar N. Jambusaria delivered the vote of thanks and reminisced the manner in which Institute celebrated the Day in the past years at Vigyan Bhawan. He said, "Normally the CA day is celebrated every year on 1st of July where around 1000 to 2000 members are able to attend, but in this mode this programme is being viewed by members in more than 41 countries."

Addressing the Hon'ble Speaker of Lok Sabha, Shri Om Birla, ICAI Vice-President CA. Nihar N. Jambusaria said that whatever expectations the Government has set on ICAI on how to attract more foreign investment in India, the Institute is working on it. He further added, "Our President CA. Atul Kumar Gupta has already submitted the first version of suggestions to Niti Aayog." Talking about the current pandemic situation, CA. Nihar N. Jambusaria stated that these are times of Corona and uncertain and indefinite period of lockdown, however, that shall not deter the ICAI from submitting the suggestions from time to time on a continuous basis to the government in its role as a partner in nation building.

Extending gratitude to Hon'ble Speaker of Lok Sabha, Shri Om Birla, ICAI Vice-President said, "You have provided such good support and has been an important link in enabling ICAI to work in favour of our country and facilitate Government in its initiatives." He further added that ICAI will make the most of pandemic situation by actively embracing the challenges arising out of this and turning them into opportunities. CA. Nihar N. Jambusaria thanked Hon'ble Speaker of Lok Sabha for gracing the occasion with his august presence and said, "Our PM has asked that we look for opportunities arising out of challenges in the country and work with the Government towards nation building. Thank you so much for giving your precious time to the cause of profession and addressing a large gathering in the virtual summit." Concluding the session he assured full support of the members of the profession towards the nation.

PANEL DISCUSSION

Masterstroke - Past Presidents Speak

A key aspect of three days event was a panel discussion that was held on CA Day on the topic 'Master Stroke - Past Presidents Speak'. The discussion was participated by five past-Presidents of ICAI CA. Y. M. Kale, CA. M. M. Chitale, CA. Ved Jain, CA. Amarjit Chopra and immediate past-President of ICAI CA. Prafulla P. Chhajed.

Following is a brief report.

On the occasion, ICAI President CA. Atul Kumar Gupta exchanged warm greetings with the panelists, ICAI Vice -President CA. Nihar N. Jambusaria and the Central Council colleagues CA. Shriniwas Joshi, CA. Charanjyot Singh Nanda, CA. Dayaniwas Sharma, CA. Rajendra Kumar P and Dr. Ravi Gupta (Government Nominee). Emphasising on the tremendous role of ICAI's past- Presidents in the glorious and remarkable journey of ICAI, ICAI President CA. Atul Kumar Gupta invited the past-Presidents one by one to share their words of wisdom with members, students and other stakeholders of the profession at large.



ICAI past-President CA. Y. M. Kale addressing the younger lot of Chartered Accountants across the nation, said, *"professional would have to think harder, quicker and closer."* Talking about the work place environment, CA. Kale

pointed how the same will undergo a transformation irrespective of the health hazards prevailing at present. He further added that the work place environment and culture has changed without retrieval and that how 75% of the new generation, irrespective of the present scenario, thinks that working remotely is a progressive policy. He further stated how such change will prove beneficial to certain segments of the professionals especially women professionals. He also talked about how to manifest the harder, quicker and closer concept by way of *Algorithmic* wave then *Augmentation* wave followed *Autonomous* wave. He felt that autonomous wave shall enter into all sorts of tasks and subsume various types of labour and. He further said, *"types of*

skills required to face the changing work environment will be being good knowledge of Artificial Intelligence, blockchain, cyber security, data analytics, robotic process automation and rudimentary knowledge of smart machines."

ICAI past-President CA. M. M. Chitale talked

about how he looked at the future of the profession, the Institute, members and the individuals. CA. Chitale highlighted that the most important aspect is quality of our Education and Training, second is the expectation gap between what the society wants and what we deliver and third is stability in accounting and auditing standards. He stated that *"I think it will be a great contribution to the society because frequent changes in the standards create trouble for understanding implementation and its maneuverability by the people who don't like those standards. And therefore, I think giving stability to our standards is extremely essential and all of us as chartered accountant should have a sense of ownership over the standards and I think that is very relevant."*

He further talked about risk management at individual level, firm level and Institute level. He added that *"he thinks that none of us advise clients on risk management and how to deal with it."* He further talked about how one can achieve excellence and augment trust by committing to ethics, excellence and quality. CA. Chitale further added that committing to ethics is a quality that has to be imbibed in every individual human being and not merely to be taken as a subject in the course curriculum. He also added that no unethical practices should be followed in the name of creative accounting and implement something that is not prohibited in the standards but poses danger to the accountancy profession. Concluding his address to the members of the profession at large, CA. Chitale urged the professional colleagues to keep the cause of profession in mind and work for the future their future, their organisation's future and that of our mother Institute's future.



ICAI past-President

CA. Ved Jain stated that Institute has come a long way as we entered the 72nd year and that the role of Chartered accountants is recognised in every sphere of economy. Speaking of the Indian chartered accountants he said, *"Our accountants are world class accountants."* He further added, *"The continuing education programmes of our Institute has created a sense of belonging, updated the skills and makes a professional to say that the profession belongs to me."*



He further stressed on 3 points. How to win the confidence of the society, how to win the trust of the society and also earn respect and regards from the society at large. He said, *"trust is where people repose confidence in you."* He urged the members to contribute to the cause of profession. He also said, *"Individually we can contribute a lot and we need to think it over in a manner in which perform our functions."* In his message to CA students he emphasised the importance of hard work in 3 years that will guarantee them lifelong success.

**ICAI past-President**

CA. Amarjit Chopra in his address stated that the biggest masterstroke happened in 1949 when forefathers of our esteemed profession earned the word CA for us. He said, *"Earning of the name CA*

was the biggest masterstroke." He said that we now need to carry forward this legacy and glory ahead. Talking about the present times of COVID-19, CA. Chopra said that these times had taught us many things. Addressing the students, CA. Chopra emphasised on the importance of training. He said, *"training cannot take backseat."* He said that three years of hard work will manifest and show results in their career. He stressed that the eligibility of the article should be based upon the work available and not solely on the number of years spent. He said that the articles should be provided to the principals who can train them as their own children. CA. Chopra further added that there is a need that the entire examination system should focus on being case

study based, which would not only help to test the accounting and auditing skills of the students but also their interpretation skills.

Further, he explained that governance and accounting failures are different and should not be treated alike. He said, *"it is high time that the Chartered Accountants become the leaders in the accounting and auditing standards. To some extent they already are."* Talking about pandemic CA. Chopra said, *"The offices of brick and mortar will go away. Training pattern will also undergo a change."* CA. Chopra also said that ethical practices needs to be imbibed in the people and that it is something that cannot be fortified. He also emphasised on the need of consolidation of firms to provide a range of services under a single roof itself.

ICAI past-President CA.

Prafulla P Chhajed stated that the foundation of the profession is based on the independence, ethics and integrity which is still relevant and all members of the profession must observe this as long as the profession lasts. He stressed, the need to bridge the generation gap as members who have qualified the CA course in the last five to seven years have outnumbered the professionals who completed their course long ago.



Assuring professional colleagues, he said, *"the Institute is continuously improving. Today with five MRAs and MoUs, the profession is well recognised and highly respected in the most advanced countries."* Emphasising gender equality he stated that there are a very large number of women Chartered Accountants coming forward taking the leadership positions and contributing to the cause of the profession.

He also talked about profession expanding its wings with Chartered Accountants who are being trained in India, going overseas and making their marks in the prominent places such as local governments etc. and that international Chapters of ICAI spreading from Canada to Australia to New Zealand, vouch for the same. He added Indian chartered accountants across the globe are acting as brand ambassadors of the profession. CA. Chhajed said, *"we all must*

build a solid foundation for ourselves and we must follow the path of the Excellence, Integrity and Independence because that is the whole foundation."

Before conclusion of the session **ICAI President CA. Atul Gupta** updated the members of the profession about the development of new concept of opening of Representative Offices of ICAI in jurisdictions where ICAI overseas Chapters cannot be formed. The objective of setting up the Representative Office is to have a nodal point of ICAI in that jurisdiction and work towards the formation of an ICAI Chapter, over a period of time. He also informed that with the inauguration of Institute's chapter in Fujairah, UAE, very soon, the number of chapters will increase to 36 overseas. He added, *"this makes the profession available in 50 different jurisdictions a global level."*

He further invited member of the Central Council **Shri Ravi Gupta** (Government Nominee) to address the CA fraternity.



Central Council Member (Government Nominee)

Shri Ravi Gupta, in his address complimented ICAI for adoption of New Code of Ethics as it will go a long way in enhancing the image of the Institute.

He also pointed how the environment in which we all work has radically changed in the last few decades and that many more changes will surface in the times to come. He said, *"Technological and regulatory changes in the last decades have been transforming the professions large scale, giving rise to new and innovative areas of expansion for the profession."*

Shri Ravi Gupta stressed on the significance of the prestigious Institutions like ICAI and how they are instrumental in facilitating the stakeholders at large, i.e., the Government, industry and the public at large in overcoming the present difficult times where pandemic situation prevails. He further added that the Institute can play a key role by proving financial consultancy to the MSMEs to overcome financial challenges by hand holding the affected organisations.

He also lauded the ICAI's robust disciplinary mechanism and substantial reduction in the number of pending disciplinary cases.

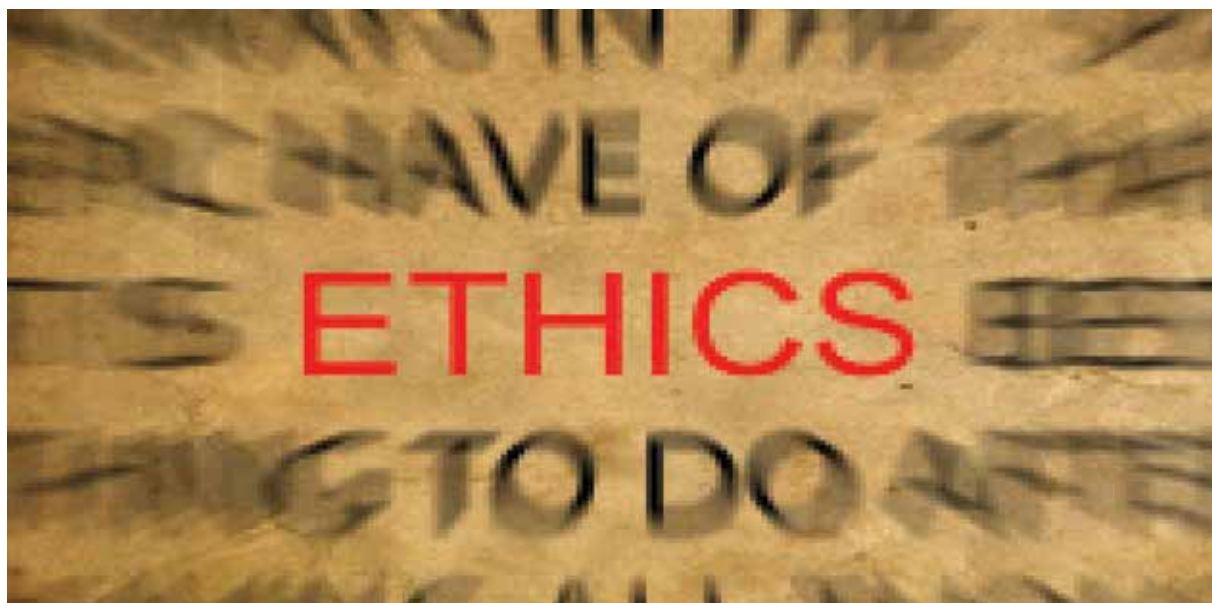
ICAI Vice-President CA Nihar Jambusaria concluded the session and conveyed thanks to the ICAI past Presidents, Government Nominee and Central Council members for their gracious presence, active participation and for providing guidance to the professional colleagues at large. CA. Jambusaria stated that the benefit of this event has passed on to the members as the entire gamut of profession was discussed during the summit. He briefly touched upon the key points discussed by the past-Presidents while drawing conclusions from the enriching session and thanked the panel for the valuable contributions made by them for the cause of profession.

CA My Passion—Success Stories of Achievers of Profession

The elite panel of CA Achievers was graced by CA. Prema Jayakumar, CA. Gaurav Pandit, CA. Rahul Agarwal, IRS, DCIT, CA. Sarika Jain, IRS and CA. Ritu Sharma. These Chartered Accountants from various walks of life, excelled in their fields despite all odds; showed the world their grit, determination and will to rise above circumstances and make an impact on the society. The participants shared insights on their success journey of becoming extraordinary from ordinary; moving -up on the corporate ladder; of being powered by determination, dedication and discipline; turning obstacles into opportunities; succeeding on will power, and on how to keep a winning attitude in life.



Know Your Ethics



Books, Articles and Presentation

Q1. Whether a member in practice may mention his name, along with the prefix “CA” in a book or an article published by him, or a presentation made by him?

A. Yes, a member in practice may mention his name, along with the prefix “CA” in a book or an article published by him, or a presentation made by him.

Q2. Whether a member may mention his name along with the prefix “CA” in a book or an article published by him, or a presentation made by him, along with the name of Chartered Accountants Firm, wherein he is a partner?

A. Yes, the name of member can be mentioned along with the prefix “CA” in a book or article published by him, or a presentation made by him, along with the name of Chartered Accountants Firm, wherein he is a partner. The member may also choose to use only his name, or only the name of the said Chartered Accountants Firm.

Q.3 Whether the same rule would apply to a member running a presentation at the platform of the Institute (e.g. in a

Programme conducted by a Committee of the Institute) and at other platforms?

A. Yes, the same rule as mentioned above would apply to running a presentation at the platform of the Institute (e.g. in a Programme conducted by a Committee of the Institute) and at other platforms.

Q4. Whether the member may mention other details of the Firm on the presentation, besides the name of the Firm?

A. No, only the name of the Firm of Chartered Accountants may be mentioned. No other details, whatsoever, are permissible.

Q5. Can a member use his photograph on the Book or Article published by him, or a presentation made by him?

A. No, it is not permitted for a member to use his photograph on the Book or Article published by him, or a presentation made by him.

Q6. Can a member indicate his designation other than “CA”, like “Associate Director”, “coordinator” etc.), or his association with private company in a book, article or presentation contributed or published by him?

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Know Your Ethics

- A. No, it is not permissible for a member to indicate his designation (other than “CA” like “Associate Director”, “coordinator” etc.), or his association with private company in a book, article or presentation contributed or published by him, as it would be violative of Section 7 of Part-I of First Schedule to The Chartered Accountants Act, 1949.

Q7. Whether the names of other partners of the Chartered Accountants Firm can be mentioned on the Presentation?

- A. No, the names of other partners of the Chartered Accountants Firm cannot be mentioned on the Presentation.

Q8. Whether the presentation with the name of an individual member along with the prefix “CA” along with the name of Chartered Accountants Firm would be permissible in physical Programmes only, or also through online mode?

- A. The presentation with the name of an individual member along with the prefix “CA” along with the name of Chartered Accountants Firm would be permissible in physical Programmes as well as through

online mode. It must however be noted that files with .pptx extension will only be reckoned as presentation.

Q9. Whether a presentation can be part of an online educational video uploaded by member in practice?

- A. As per the revised Volume-II of Code of Ethics, 2020, while the videos of educational nature may be uploaded on the internet by members, no reference should be made to the Chartered Accountants Firm wherein the member is a partner/ proprietor.

Accordingly, a presentation may be a part of an online educational video only in so far as it does not depict the name of Firm of Chartered Accountants, wherein he is a partner/proprietor.

Q10. Whether the Logo of Firm of Chartered Accountants can be used on the presentation?

- A. No, the use of logo/monogram of any kind/ form/ style/design/colour etc. is prohibited. Use/printing of member/firm name in any other manner tantamounting to logo/ monogram is also prohibited.



Accounting Treatment of Certain Indirect Administrative Overheads (*i.e., salary of the KMPs, Directors' Sitting Fees, Audit Fees, Statutory and Other levies*) Incurred During Construction Phase of the Power Plant

A. Facts of the Case

1. A company (hereinafter referred to as 'the company'), a joint venture of ABC Limited (Government of India enterprise) and XYZ Ltd. (State Government enterprise) is setting up a coal based supercritical thermal power plant with a capacity of 1980 MW (3 X 660 MW) with 51:49 equity participation.
2. The company was incorporated in the year 2012 to construct and operate 3 x 660 MW Thermal Power Project in Uttar Pradesh. The electricity tariff of the Power Plant will be decided by CERC as per the applicable CERC regulation. The Government of India (GoI) has accorded sanction for the project on 27.07.2016 with the sanctioned cost of ₹17,237.80 crores and the schedule for completion of the project is 52 months, 58 months and 64 months from the date of GoI sanction for the 1st, 2nd and 3rd unit of 660 MW each respectively.
3. The company prepares its annual financial statements as per the provisions of the Companies Act, 2013 as amended from time to time. The financial statements are audited by the statutory auditors appointed by the Comptroller and Auditor General of India (C&AG). The C&AG auditors had also undertaken supplementary audit under section 143(6) of the Companies Act, 2013. The company being a power generating company, tariff of the company will be as per regulations of Central Electricity Regulation Commission (CERC).
4. As informed by the querist, presently the construction activities of the power plant are going in full swing and a capital expenditure of ₹ 6590.70 crores is spent till 30.06.2019. All expenditure incurred till March 2018 was booked under capital work in progress in balance sheet except the pre-incorporation expenditure of ₹ 200.21 lakh. During the year 2018-19, as per the provisions of Indian Accounting Standard (Ind AS), ₹ 28.40 lakh of indirect administrative overheads was charged to the statement of profit and loss.
5. The querist has further informed that C&AG auditors have expressed the following views during their supplementary audit:

"Balance Sheet as on 31.03.2019

Assets

Capital Work in Progress – ₹ 4,988.34 Crore.

Sub-para (a) of paragraph 17 of Ind AS 16 provides that the costs of employee benefits (as defined in Ind AS 19 *Employee Benefits*) arising directly from the construction or acquisition of the item of property, plant and equipment would form the directly attributable cost of an item of property, plant and equipment.

During the review of the expenditure charged in the profit and loss account for the year ended 2018-19, it was noted that it includes mainly the salary of the Company Secretary, certification fees, and other employees related

benefits. It was noticed that the company is in the construction phase of its only plant. All the concerned staff is deputed at construction site including the company secretary and other related sections. As still the major construction work is in progress, the main agenda of different meetings (BoD etc.) is construction work only. In the light of the facts, it can be determined that the mentioned expenditure are directly related to project. Hence, same should have been capitalised instead of charging it off in the profit and loss account.

Non-capitalisation of the mentioned expenditure has resulted into understatement of Capital Work-in-Progress and over statement of expenditure by ₹ 0.28 crore.”

6. The company has submitted the following reply to above Half Margin of C&AG:

“As per Ind AS 16, in paragraph 16 (b), Elements of cost under Measurement at recognition, the cost of an item of property, plant and equipment comprises: “any costs *directly attributable* to bringing the asset to the location and condition necessary for it to be capable of operating in the manner intended by management”.

As defined in paragraph 19 (d) of Ind AS 16, administration and other general overhead costs are not costs of an item of property, plant and equipment.

In view of the above paras, indirect administrative overheads like, Company Secretary Salary, Board Meeting Expenditure, Audit Fees totaling ₹ 28.40 lakh are charged to Profit and Loss Account instead of transferring the same to Capital Work in Progress.

It is proposed to seek opinion from experts including our Statutory Auditors, Expert Advisory Committee of the Institute of Chartered Accountants of India, Peer

companies during the year 2019-20 and accordingly treat such expenditure in Financial Statements.”

(Emphasis supplied by the querist.)

B. Query

7. On the basis of above, the opinion of the Expert Advisory Committee is requested on whether indirect administrative overheads (i.e., salary of the key management personnel (KMPs), directors’ sitting fees, audit fees, statutory and other levies related to the company etc.) incurred during the construction phase of the power plant shall be capitalized along with the cost of the project or to be charged to the profit and loss account of the respective year even though there is no income generated by the company during its construction phase.

C. Points considered by the Committee

8. The Committee notes that the basic issue raised in the query relates to the accounting treatment of certain indirect administrative overheads (i.e., salary of the KMPs, directors’ sitting fees, audit fees, statutory and other levies related to the company etc.) incurred during the construction phase of the project. 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 for any other expense incurred by the company in relation to the power plant project, accounting for pre-incorporation expenditure, consideration of materiality, etc. The Committee has also not examined whether the use of the expression ‘Key management personnel (KMP)’ by the company is the same as defined in Indian Accounting Standard (Ind AS) 24, ‘Related Party Disclosures’ or the Companies Act, 2013. The Committee wishes to point out that the opinion expressed hereinafter is in the context of Indian Accounting Standards, notified under the Companies (Indian Accounting Standards) Rules, 2015 as amended from time to time.

9. At the outset, the Committee wishes to point out that various expenses are incurred during construction phase. However, it is not necessary that all expenses incurred during construction phase are eligible to be capitalised to the plant/project being constructed. The capitalisation of an item of cost to a plant/project depends upon the nature of such expenses in relation to the construction activity in the context of requirements in this regard laid down in the applicable Indian Accounting Standards. Further, the Committee also wishes to state that just because the company is engaged in construction of a single plant at present does not mean that all the costs incurred by the company are directly attributable costs to the construction of the plant/project in accordance with the requirements of Ind AS 16.

10. The Committee notes the following paragraphs of Ind AS 16, 'Property, Plant and Equipment', notified under the Companies (Indian Accounting Standards) Rules, 2015:

"16 The cost of an item of property, plant and equipment comprises:

...

- (b) any costs directly attributable to bringing the asset to the location and condition necessary for it to be capable of operating in the manner intended by management.

..."

"17 Examples of directly attributable costs are:

- (a) costs of employee benefits (as defined in Ind AS 19, *Employee Benefits*) arising directly from the construction or acquisition of the item of property, plant and equipment;

...

- (f) professional fees."

"19 Examples of costs that are not costs of an item of property, plant and equipment are:

...

- (d) administration and other general overhead costs."

From the above, the Committee notes that the basic principle to be applied while capitalising an item of cost to a property, plant and equipment (PPE) is that it is directly attributable to bringing the asset to the location and condition necessary for it to be capable of operating in the manner intended by management. The Committee is of the view that 'directly attributable' costs are generally such costs which are necessary to enable the construction activity, i.e. these costs are directly related to the construction activity and without the incurrence of which the asset cannot be brought to the location and condition necessary for it to be capable of operating in the manner intended by management.

11. The Committee notes that paragraph 17 of Ind AS 16 gives examples of directly attributable costs and it includes costs of employee benefits (as defined in Ind AS 19, *Employee Benefits*) arising directly from the construction or acquisition of the item of property, plant and equipment. Therefore, the Committee is of the view that the employee benefit expenses arising directly from the construction of the plant/project should only be capitalised and rest should be charged to the statement of profit and loss as and when incurred. With regard to employee benefit expenses relating to KMPs and directors fee, the Committee is of the view that there is normally, no direct relation between the meetings of BoD or activities undertaken by KMPs and the construction activity as the BoD or KMPs are involved in overall supervision, strategic planning and other

related activities which are not directly related to construction as such. Further, in this context, the Committee also notes that the company, itself is considering this as administrative overheads. Accordingly, the Committee is of the view that the employee benefit expenses relating to key management personnel and directors' sitting fees in the extant case are not directly attributable to the construction of project; rather are of the nature of administration and general overheads and therefore, should not be capitalised with the item of PPE.

12. With regard to audit fees, the Committee is of the view that it is purely in the nature of administration expenses, as given in paragraph 19(d) of Ind AS 16, which cannot be considered as 'directly attributable cost' of construction of the project and therefore, it cannot be capitalised as cost of an item of property, plant and equipment. Further, with regard to statutory and other levies, the Committee is of the view that to the extent these levies are directly attributable to construction e.g. fees/charges paid for obtaining license or seeking mandatory approvals/clearances for construction etc., the same should be capitalised and the rest should be recognised as expense in the statement of profit and loss.

D. Opinion

13. On the basis of the above, the Committee is of the opinion that the employee benefit expenses relating to key management personnel and directors' sitting fee, are not directly attributable to the construction of project; rather are of the nature of administration and general overheads and therefore, should not be capitalised with the item of PPE, as discussed in paragraph 11 above. Further, audit fee is purely in the nature of administration expenses, and therefore, it cannot be capitalised as cost of an item of property, plant and equipment, as

discussed in paragraph 12 above. Statutory and other levies, to the extent, these are directly attributable to construction e.g. fees/charges paid for obtaining license or seeking mandatory approvals/clearances for construction etc., should be capitalised and the rest should be recognised as expense in the statement of profit and loss, as discussed in paragraph 12 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 November 21, 2019. The Opinion must, therefore, be read in the light of any amendments and/or other developments subsequent to the issuance of Opinion by the Committee.
3. The Compendium of Opinions containing the Opinions of Expert Advisory Committee has been published in thirty six volumes. A CD of Compendium of Opinions containing thirty six volumes has also been released by the Committee. These are available for sale at the Institute's office at New Delhi and its regional council offices at Mumbai, Chennai, Kolkata and Kanpur.
4. Recent opinions of the Committee are available on the website of the Institute under the head 'Resources'.
5. Opinions can be obtained from EAC as per its Advisory Service Rules which are available on the website of the ICAI, under the head 'Resources'. For further information, write to eac@icai.in.



Disciplinary Update

ICAI - A Regulator Committed To Strong Ethical Values

The Institute of Chartered Accountants of India, a statutory body set up by an Act of Parliament in the year 1949 is responsible for the regulation and development of the profession of Chartered Accountancy in the Country and works for ensuring that the presence of its members is felt across the globe. ICAI imbibes in its students strong conceptual understanding of the accounting and finance subject through rigorous theoretical education and practical training and its members through continuous professional education so that they work in the best interest of the profession and the society at large and thereby deliver professionally and significantly contribute towards the economic and social development. The increasing expectations of the stakeholders have cast immense responsibility on the ICAI to ensure enhanced compliance of professional ethics and Code of Conduct in terms of the provisions of the Chartered Accountants Act, 1949 as well as the various pronouncements issued by it so that the highest disciplinary standards are maintained and the values of the profession are upheld. ICAI has never fallen short, even when there is need to act on few professionals who have gone astray. Read on...

The Institute of Chartered Accountants of India through 'The Chartered Accountants Act, 1949' is mandated to regulate the profession of chartered accountancy in the country with the mission to place the Indian Chartered Accountants on a higher pedestal and equip them with such competencies to be valued as world class trustees of Good Governance and Competitiveness. All through its sagacious journey of more than seven decades, ICAI has supported Indian business, economy and society. Through its various standing and non-standing Committees, ICAI has been able to perform its functions as a regulator and standard setter, by promoting and developing strong benchmarks and by having quality chartered accountancy education system in India. To meet its regulatory compliances, ICAI pursues a number of deliverables as follows:

- Lay down actionables in accounting and audit with well-defined system of education practical training and examination.
- Register members and practising firms.
- Issue standards on accounting, audit, tax, ethics.
- Provide guidance on technical matters to ensure service quality.
- Assure quality and carry oversight on the extent of compliances in performing professional work.
- Discipline and take action against delinquent members.
- Enable proactive measures through Peer Review Board, Financial Reporting Review Board, Tax audit review Board and Quality Review Board.

(Contributed by Disciplinary Directorate with support from Editorial Board Secretariat, ICAI. Comments can be sent to disc@icai.in and eboard@icai.in)

Disciplinary Update

All professions are part of society with individuals of different ideologies and nature and accordingly have challenges that are inherent within the social structure. The noble profession of chartered accountancy is no exception as it is part of the same society where there are certain individuals or groups who are guided by ill-motives and do not adhere to the moral values of the society. ICAI in accounting profession has always taken such errant members to task who have been found guilty of professional and/or other misconduct as part of its larger role of regulator. The scams that have been unearthed in recent past, with their huge coverage in the news as well as social media have casted further responsibility calling for a deeper foray into the provisions and procedures in the disciplinary mechanism of ICAI and ensure compliances. While ICAI has unblemished record of decisions in disciplinary matters while ensuring principles of natural justice that has evolved over decades, however, sometimes the public outcry about the financial misgivings reflect to expectation gap. Evidently, this gap is a perception gap which has been well explained by Honorable CA. G.P. Kapadia, the first President of ICAI in the year 1951 itself and which stands true even in the current situation – *“it has become a fashion to ask for the name of an auditor of a particular company when something goes wrong with the company without paying any attention to the fact that the auditor under the present Companies Act would have discharged his obligation in a proper way and the bad results with regard to the Company may be entirely due to some planned fraud or other cause.”*

Disciplinary Mechanism

ICAI has a robust disciplinary mechanism to regulate the professional acts of its members and is amended from time to time keeping in view the changing economic scenario. The Chartered Accountants Act, 1949 has undergone large scale amendments in the year 2006. The existing mechanism functions under Sections 21 and 22 of the Chartered Accountants Act, 1949 as amended by the Chartered Accountants (Amendment), Act, 2006 read with the provisions of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and

Conduct of Cases) Rules, 2007. As a part of self-regulation, ICAI exercises disciplinary jurisdiction over its members through two independent quasi-judicial authorities, namely, Board of Discipline (constituted under Section 21A) and the Disciplinary Committee (constituted under Section 21B). Besides, Disciplinary Directorate, the regulatory wing of ICAI, has been established by the Council (Under Section 21) to investigate into matters of professional and/or other misconduct alleged against its members, which have been received either in the form of a “Formal Complaint” or through the “Information” route as provided under the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases), Rules, 2007.

During the last few years, the ICAI by strengthening the Disciplinary Committees, i.e., by having additional benches (Two Benches in 2016 & 2017 and Three Benches in 2018) apart from two benches of Board of Discipline in 2018 and 2019) has shown its determination to increase the pace of disposal of its disciplinary cases. With a view to sustain the process of expeditious disposal of cases under enquiry and consideration of the Prima Facie Opinions formed by the Director (Discipline), recently, an additional bench of the Disciplinary Committee under Section 21B of the Chartered Accountants Act 1949 has been Constituted Accordingly, now there are four benches of the Disciplinary Committee to accomplish the aforesaid tasks. In addition, the Disciplinary Committee under Section 21D headed by the President, ICAI has also been constituted to look into any residual old cases that are/may be referred back by the Council.

Work executed under Disciplinary Directorate

The Board of Discipline (BOD) and the Disciplinary Committee (DC) of the Institute have been expeditiously working for disposal of the cases which come before it so that while on the one hand the stress and anxiety of non-guilty members are resolved quickly and on the other hand, action on the errant members is quick and impactful.

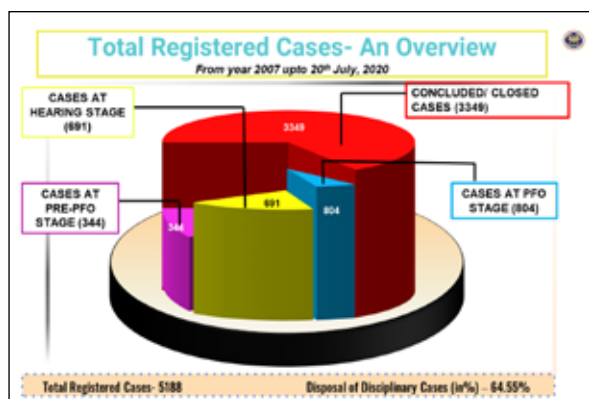
Disciplinary Update

The below stated statistical figures speak for themselves in this regard:

DISPOSAL BY BOD/ DC DURING LAST FIVE COUNCIL YEARS				
Year		Cases Concluded under Rule 9 of CA Disciplinary Rules 2007	Cases Concluded under Rule 14/18 of CA Disciplinary Rules 2007	Punishment Orders passed under Rule 15/19 of CA Disciplinary Rules 2007
2016-17	DC	38	43	23
	BOD	142	30	8
	Total	180	73	31
2017-18	DC	196	56	33
	BOD	524	58	8
	Total	720	114	41
2018-19	DC	259	77	29
	BOD	383	45	25
	Total	642	122	54
2019-20	DC	228	294	56
	BOD	161	119	38
	Total	389	413	94
2020-21*	DC	79	9	29
	BOD	94	0	18
	Total	173	9	47

*The data related to Council Year 2020-21 is up to 20th July, 2020)

The statistics clearly reflect that the membership by and large follows the laws and the Code of Ethics, considering that there are around more than 3,10,000 members out of which majority are practising:



All complaints/allegations are not professional irregularities

Incidentally, a large chunk of the disciplinary complaints pertain to inter-professional disputes, misunderstanding of facts and evidences and differences at the Management level. Some of the

complaints also relate to marital disputes, family misunderstandings, etc. and do not specifically pertain to any irregularities committed by a member of ICAI in the course of his professional assignments. Such cases despite not related to professional work are treated as "Other Misconduct" and subject to penal provisions, as the profession expects very high ethical and moral standards and it is seen as bringing disrepute to the profession. In the context of the present provisions of the Act and Rules framed thereunder, all such cases have to be taken cognizance of and dealt with.

ICAI Acts Suo-Motto

There is a well-defined system to receive complaints against the members. The complaint and its enclosures should be filed in triplicate and duly signed by the Complainant. Further, as per Rule 4 of the aforesaid Rules, the Complaint should be accompanied by a Total fee of Rs. 2,950/- (including 18% GST on Rs. 2,500/-) (Rupees Two thousand nine hundred fifty only). However, the Directorate in a progressive manner also acts suo-motto in cases of claimed information of misconduct received from any source including newspaper / media reports.

Disciplinary Update

Recent Initiatives

The Disciplinary Directorate has taken a number of initiatives in recent past. The amendments relating to appearance of the parties/witnesses through video conferencing before the Disciplinary Committee/Board of Discipline have already been made in the Chartered Accountants (Procedures of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007. Thereafter, the meetings of Board of Discipline and Benches of Disciplinary Committee have been held through video conferencing apart from the physical meetings. Parties to the cases now have an option to attend the Board of Discipline (BOD) / Disciplinary Committee (DC) hearing through Video Conferencing to be held at respective Regional Offices. However, considering the COVID-19 situation and the travel related restrictions/ apprehensions, an initiative has been taken whereby the parties/their authorised representatives are permitted to appear in the disciplinary hearings from their respective residence/ offices/ place of their choice with their own device / infrastructure.

It is rightly said, '*necessity is the mother of invention*'. The current pandemic has led to a change in the e-hearing modalities and so is working style at office of the Disciplinary Directorate so that physical absence does not act as a deterrent in the execution of the tasks of the Directorate/conduct of the meetings of the BOD/DC. During the COVID-19 Pandemic that caused misery and brought the world to a standstill, despite of numerous hardships and limited resources, significant efforts have been made by the Disciplinary Directorate and the members of the Board of Discipline/Disciplinary Committees to contain the level of pendency, for example, approximately in 213 cases prima facie opinions were formed by the Director (Discipline) during the current Council year (up to 29th July, 2020) out of which 182 PFOs were formed during the lockdown period. In the present Council year, the BOD as of now (up to 29th July, 2020) conducted 8 meetings, out of which 6 were conducted during lockdown period through video conferencing. Similarly, the DC conducted 9 meetings, out of which 6 were conducted during lockdown period through video conferencing. Following are some key initiatives undertaken by ICAI to strengthen its disciplinary mechanism:

- Constitution of fourth bench of the Disciplinary Committee under Section 21B of the Chartered Accountants Act 1949.
- Necessary steps initiated for digitisation of the entire disciplinary mechanism which is a mammoth task keeping in view its voluminous and complex nature of work.
- Successful implementation of E-hearing.
- A separate portal (<https://disc.icai.org>) specifically meant for disciplinary mechanism launched wherein all pertinent information is readily available like the procedure to file complaint (physically or through e-filing), Cause List, Reports / Orders passed by the Disciplinary Committee, Committee compositions, details of meeting(s), amongst others for the benefit of various stakeholders.
- Online training of the staff of the Disciplinary Directorate on technical and legal matters to keep them abreast with the challenges posed by the changing professional environment.

Endnote

ICAI has strong systems in place to continuously demonstrate its efforts, willingness and capacity to regulate the profession. In fulfilling the endeavour, the Council for expeditious disposal of disciplinary cases and to make the disciplinary mechanism more robust by removing bottlenecks in the existing mechanism has last year approved certain amendments in the provisions relating to Disciplinary mechanism as envisaged under the Chartered Accountants Act 1949. In this regard, the draft amendments have been sent to the MCA for their finalisation which as and when enforced is expected to ensure a more expeditious deliverance of justice which is neither delayed nor denied.

Needless to mention that the performance of ICAI in upholding public trust has provided a strong foundation to growth of Indian Economy, which has been credibly served by the Chartered Accountancy profession. CA profession takes pride in providing selfless service to all segments of the society. The profession has acted as one of the most vibrant forces of socio-economic growth which is integral to the success of the nation. The Indian dream to become a \$5 trillion economy has been ably supported by ICAI and its members with no frequent or significant abruptions. The profession has moved much beyond being an accountant to play the role of a strategist in the business and industry. The profession has lived up to the vision and expectations of the society and will continue to do so in the years to come. ■■■

Rebooting MSMEs in the COVID 19 Era - MSME Business Continuity Checklist

Managing your finances and working capital

The COVID 19 pandemic era shutdown seemed like a long cut off period with no change in the results of operations of the entity- with even the impairment quantification not being easily measured reliably. Businesses may take longer to sell their inventories and that period could be say 15 months instead of the 1 year or shorter time period assumed up until now. MSMEs should reassess their normal operating cycle and reassess their current and non-current assets and liabilities. This would be helpful in the preparation of financial statements and the new working capital would help in the better presentation of the state of affairs of the business to the bankers, suppliers and shareholders.

Task	Points to ponder	Comments / Next Steps
➤ Have you reassessed the normal operating cycle of your entity?	<ul style="list-style-type: none"> The normal operating cycle of an entity is defined as the time between the acquisition of assets for processing and their realization in cash or cash equivalents. Non-current assets and liabilities may be classified as current assets and liabilities 	Important to consider depreciation and credit exposure
➤ What is your working capital requirement?	<ul style="list-style-type: none"> Does your stock require a write-down? How much reduction in turnover is expected? Review the customer to whom you were supplying to assess the future order Re-assess the debtor payment cycle Re-assess what extra time can be obtained for payment to creditors Can we postpone some payment to wages and salary and other statutory dues? Analyze availability of cash flow for next three- six months to sustain even in reduction of turnover Assess gap funding required for 6 months to 1 year Consider giving a discount to your customer if they issue you a postdated cheque (PDC) 	

Task	Points to ponder	Comments / Next Steps
	<ul style="list-style-type: none"> Is your PDC a proper document otherwise the benefit will be lost? Have you considered bill discounting? Do you see red flags in the credit payments to your supplier or customer who pays on credit? Have you considered obtaining a credit report from your customers and suppliers? 	Just-in time manufacturing is an effective tool to consider.
➤ Do you need to improve your liquidity situation?	<ul style="list-style-type: none"> Would you like to avail a loan? Have you considered the 'pari passu' clause? If you are taking a loan (with a previous existing loan) then due to a 'pari passu' clause the original loan security would reduce as 'pari passu' stands for 'equal footing'. Would you like to go for benefit in availing relaxation on working capital by banks? Do you know your credit rating which can easily obtained through CRISIL? Consider maintaining a good credit score which will help you get a better loan and better business Have you considered asking your shareholders for equity infusion? 	<ul style="list-style-type: none"> Government is prioritizing lending to MSMEs from banks by including small enterprises in the earmarked priority sector and raising sub-target limit to 10% from 7.5% The Government is offering loans of up till 3 lakh crores to MSMEs without collateral at a rate of 9.25% Collateral free & MUDRA small loans to encourage self-employment
➤ Are you aware about the credit support for MSMEs?	<ul style="list-style-type: none"> RBI has allowed a moratorium period of 6 months for repayment of MSME loans and other forms of debts, together with a provision of 'no change' in the credit rating during the said period. Norms for declaring NPA period in banks be extended to 180 days for at least next 2 years as the MSMEs need uninterrupted banking assistance to deal with this crisis situation. Interest rate subvention @ 3% on loans to MSMEs that are healthy and not NPAs. 	<ul style="list-style-type: none"> Have an active dialogue with bankers

Aatmanirbhar Bharat

Task	Points to ponder	Comments / Next Steps
	<ul style="list-style-type: none"> IBC suspended for a year, Covid-19 related debt exempted from default Interest from Mar – August may be added to principal from September or paid off before March next year Notify the bank if the business is expecting the breach of a covenant in the near term 	
➤ Have you analyzed the financial statements and important ratios for decision making?	<ul style="list-style-type: none"> Re-assess crucial ratios such as working capital ratio, debtor turnover ratio and average collection period, creditor turnover ratio and average repayment period, and stock/inventory turnover ratio in pre COVID period and post COVID period for remedial actions. 	<ul style="list-style-type: none"> Better information leads to better decisions

Entering the formal economy

MSMEs which are part of the formal economy have better access to finance and are able to reap the benefits of export, including refund of GST paid as taxes are not exported.

Task	Points to ponder	Comments / Next Steps
➤ Have you registered your MSME with the Udyog Aadhar website?	<ul style="list-style-type: none"> Having registered the MSME has other benefits like the recipient of goods/services from MSME is bound to pay within 45 days of such receipts. Registration is free. 	Government is proposing to do away with the distinction between 'services' and 'manufacturing' category of MSME.
➤ Would you like to corporatize your MSME or convert it into an LLP?	<ul style="list-style-type: none"> YES/NO 	Benefits of LLP / Corporatisation: <ul style="list-style-type: none"> Limited Liability Separate identity from owner Once your MSME is a part of the formal economy it will be able to get access to finance and to export. Lack of accounting systems are a deterrent for investors putting their money in the business.

Task	Points to ponder	Comments / Next Steps
		<ul style="list-style-type: none"> MSMEs need accounting standards and systems to export and receive tax refunds. Owner managed businesses have no proper accounts.
➤ Are you aware about the dedicated helpdesk for MSMEs?	<ul style="list-style-type: none"> YES. ICAI is in process of developing this helpdesk. In the meantime, various department and ministry are also looking forward in this direction. 	Look out for government grant/ subsidy
➤ Are you worried about issues of Financial/ Statutory Compliances and feel relaxation in statutory compliances like filing of GST returns in time, timely refunds of GST payments and some other measures need to be taken?	<ul style="list-style-type: none"> Government is examining the matter and providing suitable relief measures. 	

Liquidity is the lifeline

In today's time liquidity is the lifeline. MSMEs need to conserve cash and reduce capex and wastage over wanted or excessive costs. It is time to separate the wheat from the chaff and go lean.

Task	Points to ponder	Comments / Next Steps
➤ Do you need to prepare short-term, medium term and long term forecast as per various scenarios? Analyze	<ul style="list-style-type: none"> Which expenses could be reduced such as travel and marketing? Which expenses could be saved? Which could be the additional expenses? Which operations/line of operations can be temporarily paused? Which assets may not be purchased currently taking benefit of reduced price? Focus on products that provide more cash flow 	Important to analyse how long the cash resources will last and consider availing financing accordingly

Task	Points to ponder	Comments / Next Steps
	<ul style="list-style-type: none"> Have you considered reducing your capex? Have you considered renting less building space as per your optimum needs? 	
➤ Would you like to take a sensitivity analysis or shock analysis to help prepare better for scenarios?	<ul style="list-style-type: none"> Analyse the impact of the loss of a major customer or supplier or the prospects of a drop in sales by a significant margin of say 20% Prepare best and worst case scenarios Consider the impact of COVID 19 returning again after a period of time Consider the possibility of developing new customers Consider the possibility of developing new and lateral products 	Consider worst case scenario as well.
➤ Are you struggling to meet the Delivery Schedule in respect of Government orders, PSUs, Railways etc. where Liquidated Damages (LD) clause may apply as per contract terms?	<ul style="list-style-type: none"> Are you in a contract where Liquidated damage clause is applicable? If Yes, have you proposing to take benefit of DPE, Railway Board and other Ministries having PSUs to be approached to allow relaxation in applicability of LD clause for a period of from the schedule date of delivery/execution of order? Consider that liquidated damages clause works both for and against you 	LD clause waiver in cases can help avoid impairment
➤ Are you suffering due to delayed collection for supplies made to any Government department/ PSU	<ul style="list-style-type: none"> Government is proposing that DPE, Railway Board to be approached for immediate intervention and release of all pending payments by CPSEs and Railways to the MSME, even if the related matter is pending with MSEFC 	Follow up where required
➤ Are you worried about meeting fixed costs including on leases? The	<ul style="list-style-type: none"> Negotiate rent agreements applying the 'Force Majeure clause' implying treating COVID 19 as an Act of God 	Keep bankers informed of your efforts and look out for reliefs offered by state governments.

Task	Points to ponder	Comments / Next Steps
most emerging challenge during the lockdown period as well as in the post COVID-19 period	<ul style="list-style-type: none"> Consider that the 'Force Majeure clause' works both for and against you 	
would be meeting fixed costs. While this will be burdensome in absence of regular funds flow, the problem will be more intensified if Banks/NBFC create pressure on MSMEs for repayments of the dues.	<ul style="list-style-type: none"> Consider lease break options Explore payment deferrals Explore lean manufacturing by sharing infrastructure like packaging facilities 	
➤ Are you facing an escalation of product Prices? In the post COVID-19 period	<ul style="list-style-type: none"> Yes/NO. If yes, then need to represent with CBIC for reduction in GST Rate or search for alternative vendor for continuity in supply of products 	Consider sourcing locally and reducing cost excesses
➤ Go lean?	<ul style="list-style-type: none"> Use the optimal level of staff and other resources like water, gas, electricity, fuel etc. Switch to more local suppliers Identify inefficiencies Waste recycling to reduce costs 	

Data is the new oil- Digitisation, internal controls and risk management

For many businesses the lockdown was pivotal in their digitisation drive. Many businesses were worried about internal controls in the circumstances and many more planned to take insurance and improve the security of their data.

Task	Points to ponder	Comments / Next Steps
➤ Have you assessed the weaknesses in your internal control which got highlighted during lockdown	<ul style="list-style-type: none"> Which internal controls are weak? Do you need to set up standard operating procedures in areas like approval and payments? Is your data secure at the time of remote working? 	Important to invest in cyber security
➤ Do you need to carry out a due diligence lost the lockdown?	<ul style="list-style-type: none"> Would you like to take a stock of your assets post lockdown? Would you like to value your assets? Which assets may be sold off to raise cash? 	Important to assess fraud risk in more areas other than cash and revenue

Aatmanirbhar Bharat

Task	Points to ponder	Comments / Next Steps
➤ Have you got your trademarks registered	<ul style="list-style-type: none"> It is important at this time to protect your Intellectual property. 	Consider the geography in which you wish to protect your IP- whether within India or abroad as well
➤ When did you last review your IT systems?	<ul style="list-style-type: none"> Invest in cyber security Be aware of scams, Phishing and cyber crime Use current version of software Use a good quality firewall Take back up of data Do frequent trainings on IT tools Do virtual meetings What percentage of your business is digitized? Do you use cloud-based accounting software? 	
➤ Have you taken insurance?	<ul style="list-style-type: none"> Consider what your insurance policy covers Does your insurance policy cover loss of business and insolvency? Are your assets covered? Is the life and health of the owner/ entrepreneur covered? Is the life of the employees covered? What additional insurance do you think your business would be better off taking? 	

Government schemes for MSMEs

The Government is responding very fast to the product requirements in the country like personal protective equipment for medical staff which needed to be sourced from within India in the lockdown. MSMEs should keep a look out for schemes, subsidies and grants provided by the government for various products.

Task	Points to ponder	Comments / Next Steps
➤ Are you an MSME manufacturing medical items and auxiliary items?	<ul style="list-style-type: none"> Government Technology Centres are undertaking practical demonstrations on sanitizer manufacturing, sharing details of Mask, PPE manufacturing, formulations, Product Suppliers, Quality Standards, Testing labs etc. 	Take advantage of the government support to grow this line of business

Task	Points to ponder	Comments / Next Steps
	<ul style="list-style-type: none"> Faster Approvals: May require relaxed terms & conditions especially for the items which fall under medical/auxiliary categories Government Emphasis on quick Industrial Infrastructure Development Government supporting Mass Production CFCs for mass production of such products/intermediaries by MSMEs Government giving priority in manufacturing of COVID Related Items such as masks, gloves, PPE, ventilators, Testing Equipment, Infrared Thermometers, etc. 	
➤ Are you aware of the initiatives of the Khadi and Village Industries Commission?	<ul style="list-style-type: none"> Release of INR 1,000 per month to each registered artisan from the Artisan Welfare Fund Trust Khadi institutions directed to release AWF contribution to the bank accounts of artisans in three instalments Release of funds under Market Development Assistance (MDA) to Khadi Institutions and Artisans through DBT 	Look out for government grant/ subsidy
➤ Are you aware about the initiatives undertaken by National Small Industries Corporation Ltd NSIC?	<ul style="list-style-type: none"> MSMEs availing Product Assistance against Bank Guarantee prior to 01/03/2020 allowed moratorium of 03 months for repayment of outstanding dues Accounts of MSMEs to be frozen to avoid outstanding in the books in cases where outstanding is going to touch 99.99% of BG value. SPRS enlistment certificates expiring between 01/03/2020 to 30/06/2020 to be continued. 50% discount offer on Annual membership in MSME Mart extended. 	Look out for government grant/ subsidy

Task	Points to ponder	Comments / Next Steps
	<ul style="list-style-type: none"> Godowns of essential commodities like Polymers in Field Offices allowed to carry out operations 	

Social distancing at workplace, remote working and taking care of employees

The MSMEs need to take care of the rearrangement and sanitization of their office spaces once they unlock their business. They need to ensure that the staff have a minimum 6 feet physical distance between them, have staggered office and meal timings, are allowed remote working where possible, provided sanitizers and their workplace is kept clean.

Task	Points to ponder	Comments / Next Steps
➤ Have you thought about physical distancing of minimum 6 feet of your employees at workplace? Have you provided them with sanitizers, soap and PPE where required?	<ul style="list-style-type: none"> Do you get the office premises sanitized? Do you ensure the use of masks, sanitizing and social distancing? Do you provide your employees with PPE where needed? Have you rearranged the office furniture so that a distance of 6 feet is maintained between employees at workplace? Have you thought through staggered working hours and staggered meal timings? 	Important to take good care of your people
➤ Are you allowing work from home to those who have the infrastructure to do so?	<ul style="list-style-type: none"> Have you provided laptops and other IT equipment to your employees? Do your systems and processes need to change? Do you allow flexibility? Do your sick leave and vacation policy need to change? Have you considered paying 'sick leave' to your employees instead of showing the payments as salary? Have you considered giving leave to employees without pay? 	Important to take good care of your people
➤ Do you boost the morale of your staff?	<ul style="list-style-type: none"> Involve staff by asking for ideas on how the business can succeed Express faith in staff 	Important to take good care of your people

Task	Points to ponder	Comments / Next Steps
	<ul style="list-style-type: none"> Keep in touch through virtual meetings and keep the morale up Be transparent about the state of affairs 	

Reinvent your business to adapt to changing customer habits

The pandemic has accelerated certain trends in consumer behavior like a spike in online purchases, use of chatbots etc. E-commerce is the cheapest way for an MSME to showcase its products and maybe it's time to take the business online and improve the social presence of the business. It is also a good time for MSMEs to think of improving their productivity and accessing new markets to sell the increase in production

Task	Points to ponder	Comments / Next Steps
➤ Would you like to export your goods?	<ul style="list-style-type: none"> IEC number is needed from the Directorate General of Foreign Trade GST number is needed Authorised Dealer code is needed from the bank of the exporter The exporter needs to be registered with Customs to be able to export through the port Trademarks may need to be protected in foreign lands by registering them outside India as well Taxes are not exported so MSMEs would get refund of GST paid as input tax credit 	Consider export as growth of products would need new markets
➤ With COVID 19 the changes in the social habits of people have accelerated and online purchases are booming. Would you like to take your business online?	<ul style="list-style-type: none"> 50% discount offer on Annual membership in MSME Mart extended. Consider making a website or using Government e-commerce portal For exports many online platforms could be explored Improve social presence 	Consider changing your business operating model to suit changing consumer needs
➤ Are you thinking about serving your customers better?	<ul style="list-style-type: none"> Improve packaging and quality of products Improve market image Give prompt delivery Ask for feedback and post online 	Adopt a customer centric approach as the customer habits are changing fast
	<ul style="list-style-type: none"> Leverage Customer relationship management systems and data Consider using chatbots 	

Making of Aatmanirbhar Bharat - Role of Banking Industry

Self-reliant, i.e. 'Aatmanirbhar' has been extolled as virtuous path to follow for individuals by thinkers from Aristotle to Gandhi. The idea, however, runs into controversy when contrasted with wisdom of economics, which extols benefits of specialization and trade/exchange for meeting needs of individuals as well as communities. Economists argue that Nations can prosper by becoming efficient in producing goods/services, doing it better than everyone else, building a competitive advantage, and trade with others who are comparatively better at producing other goods & services. This thinking underpins most of modern day market economies. This wisdom could indeed serve mankind well if world was not so divided on political and cultural lines. Nation states have often discovered the limits to specialization, and trade becoming a weapon of



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economic subjugation, which led to social and political unrest. Accordingly, there has been a parallel quest of becoming self-sufficient in some domains of economic activities, if not most, to address any such eventualities, to protect lives and livelihoods and to lead life with dignity in comity of Nation states. Read on....

War, and Pandemic often come as a grim reminder that there are times when one is left to the own means; During Covid-19, for example, dependency on China for life saving apparatus, e.g., testing kits, protective equipment, and drugs, etc. could make a difference of life and death for millions. Mankind is discovering the virtues of being self-reliant or "Aatmanirbhar" again.

Aatma-nirbhar Bharat: Then and Now

India's aspirations of becoming



self-reliant is not new. India had witnessed systematic destruction of her productive capabilities under two centuries of British rule: from being a major contributor to Global GDP (16 percent by as late as 1820 A.D.), India got reduced to become mere supplier of primary goods, especially agriculture produce and minerals. Local manufacturing was destroyed to the advantage of British manufacturers. Post-Independence, it was evident that India had to pursue self-reliance in her early developmental journey. We had some success, especially in becoming food self-sufficient under Green Revolution. However, overall, pursuit of self-reliance didn't yield the desired benefits as economy remained mired in low growth, low trade volume, lower productivity, and innovations stifled under bureaucratic inefficiency. The current calls of becoming self-reliant therefore needs to be distinguished by the changed context over last seven decades.

The erstwhile 'self-reliance' pursuit was motivated by desire for saving scarce foreign exchanges through "import substitution", emphasizing localized production of goods, top down, wherein the Heavy Machinery works were reserved for public sector (the Commanding Heights of Economy), and most of consumer goods were sought to be produced by private players at relatively smaller scale of operations (popularly referred as the cottage industry

or the small scale industries). The import substitution meant protecting domestic enterprises from external competition, by increased tariff and reducing foreign ownership in certain sectors. The lack of competitive pressure amidst a captive domestic market meant little incentive to innovate, and upgrade quality, which undermined productivity of our firms. Price controls were instituted to protect consumers from profiteering. It led demand outstripped supply in absence of market clearing prices. The shortages would call for rationing of limited produce, the genesis of license-quota system. The growing imbalances resulted in balance of payments crisis in 1990, which forced a course correction in policy by restoring the role of markets, liberalizing trade and financial flows. India was seen swimming against the stream when world was harvesting gains



India is fifth largest economy today with aims of becoming USD 5 trillion in gross domestic product (GDP) by 2025. India has a massive forex war chest of USD 500 billion plus, sufficiently covering a year of imports. We are among the most open countries for trade, with few checks on capital flows.

of trade, and liberalization post the Second World War. Development experience of Japan, South Korea, and later China, are examples of India's policy-making gone wrong.

Our growth experience since 1991 is validation of pro-market reforms bearing fruit. India is fifth largest economy today with aims of becoming USD 5 trillion in gross domestic product (GDP) by 2025.

India has a massive forex war chest of USD 500 billion plus, sufficiently covering a year of imports. We are among the most open countries for trade, with few checks on capital flows. India trusts private sector to deliver goods efficiently as evident from constant push towards privatization. India is more confident and outward looking in its approach. India wish to gain her rightful place in global order, becoming the export powerhouse while meeting her domestic needs. The Covid-19 pandemic has only strengthened the resolve to become self-reliant, sooner than later. What is more interesting is India is perfectly attuned to global winds of change as she is pursuing self-reliance again.

Self-sufficiency quest is well aligned to macro winds of change

From a global macro perspective, three trends have been at play: Digitization, Rescinding of globalization, and Rise of private enterprise. Technology and regulations are both driving changes towards de-centralized living. Digital,

in particular, has empowered everyone, more so at the bottom of pyramid to help them access basic life necessities without having to undergo institutional hassles. India, for example, has a billion plus citizens, who are having cellphone and digital identity in AADHAR, which empowered them to access Finance through Jan-dhan accounts and social security benefits. We are witnessing digital deepening in all walks of life. Indians used about 12 GB data per month on average in 2019, the highest consumption globally, and it is expected to double to over the next five years. We are consuming data for socializing, entertainment, e-learning, shopping, mobile banking, seeking legal, medical advice, as also expert tips on organic farming, connecting with markets for better price discovery, etc.

Advances in information and communication technology, powered through artificial intelligence, machine learning and robotic process automation has meant that those having control on data could do wonders, both to the advantage as well as detriment of people. Data could be a tool to empower as also interfere in making a political choice, say disrupting voting behavior, and thereby influencing policy-making like never before. With so much at stake, Governments across the globe are calling for localized storage of data, within their territorial sovereignty. India has also been firm in her stance to



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mandate data storage within country.

Likewise, there has been growing discontent on benefits of globalization, especially the one where benefits are seen to be cornered by a privileged few while masses continue to toil hard. Global inequalities are on rise, which fuels rise of populist leaders and policies that favor home country over others. Brexit is the most popular example of this. We are witness to rise of protectionist tendencies, with tariff war making headlines for much of year. India has not been immune to it as it seeks to redress growing trade deficit with China. 'Aatmanirbhar Bharat' has a long time in its making.

Third is the growth of the private sector, its ability to participate in activities of national importance, and the

potential of public-private partnerships. Private sector, including small enterprises in the household sector, account for about two-thirds of investment in India today, as against one-third share some three decades ago. Governments of all hue and color have been supportive of enhanced role for private sector, and Covid-19 has not altered it a bit. We have just witnessed Government allowing private sector to independently build satellites and rockets and launch them from Indian soil. India is home to second largest start-up ecosystem in world with 14000+ firms registered under Start-up India scheme.

Continuing structural reforms imperative to raise growth potential

While addressing the Covid exigencies of the day, India must not lose sight of future, investing in building capacities and capabilities to raise growth potential on a sustainable basis. India needs to continue the reform momentum, unshackling markets and nurturing enterprise. The Covid crisis has underscored importance of Government capacity in delivering public goods, say health. We do need better universal healthcare as safety of one is ensconced in safety of all. Besides, healthcare and education are seen building human capital of economy, which over time becomes biggest driver of productivity growth.

India has made substantial gains in easing bureaucratic hurdles; it reflects in India reaching to 63rd position in the World Bank's Ease of Doing Business ranking. There are still areas where lot of work is needed, say contract enforcing (163rd Rank) and registering property (154th Rank). Besides, we must enable enterprises to grow and acquire scale over time. It is found that larger enterprises have more capacity to invest and thus grow on productivity frontier. The Government, in Aatmanirbhar Bharat package, has accordingly unveiled a new definition for micro, small & medium enterprises (MSMEs), emphasizing turn-over as criteria and raising the investment limits in plants & machinery. It will help address the perverse incentive of enterprises opting to stay small in order to stay recipient of policy benefits. Likewise, Government has empowered



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The crisis may have arrived too soon to let the underlying changes power India to global high table of manufacturing. It is important that we derive right lessons as we rediscover self-reliance. We may need protection to begin with, but to dominate the global markets, we have to become competitive.

the farmers to reach global markets for right price of their produce by amending essential commodities act. There are reforms in land sector for industrial usage, defence production, commercial mining in coal sector, migrants' access to public distribution system through One Nation, One Ration Card, etc. This builds on to earlier set of reforms like Goods & Services Tax (GST), Insolvency & Bankruptcy Code (IBC), Inflation Targeting Monetary Policy through Monetary Policy Committee, etc.

There was felt need to unshackle creative enterprise of Indians, and direct it towards productive pursuits. Covid-19 has proved again that crisis becomes an opportunity for those who stand prepared. Today, India is shining example of converting crisis to opportunity. India just built a billion dollars plus sized

Personal Protective Equipment (PPE) industry in a matter of couple of months. It shows if Government and industry come together, wonders can happen. India has already a success story in getting mobile manufacturing at home. We don't have yet a major home grown mobile manufacturer but we are second largest mobile manufacturers in world.

The crisis may have arrived too soon to let the underlying changes power India to global high table of manufacturing. It is important that we derive right lessons as we rediscover self-reliance. We may need protection to begin with, but to dominate the global markets, we have to become competitive. We must invest in innovations and technology up-gradation to remain competitive. As honorable Prime Minister says, 'Made in India' should be synonymous with Zero Quality Defects and Zero Environmental Effects. We can certainly do so.

Plugging-in the Global Value-Chain

The Pandemic born disruption is also an opportunity for enterprises, especially the MSMEs, to get in global value chains. Multi-National Companies (MNCs), which earlier had distributed production base across continents, discovered to their detriment that having too much exposure in any particular geography, say China, for example, could severely hold up their production if Wuhan-

lockdown like disaster happen. Besides, with growing acrimony in USA and China, there is geo-political push for MNCs to diversify their suppliers. India, with a 1.3 billion population and USD 2.9 trillion GDP, is a natural choice for firms looking to diversify as it could meet their input requirements, say labor and raw material at a scale as well as absorb their produce. With 60 million plus strong ecosystem of MSMEs, India has sufficient entrepreneurship in country to plug in the place being vacated by China. The current disruption is the opportunity to strategize and reinvent. Our MSMEs need to look proactively for any horizontal or vertical diversification opportunity. We should also look for new geographies to serve, products to launch or strategic tie-ups possible.

Banking: the enabler of dreams and enterprise

Indian banking has been a trusted ally for people and enterprises in their developmental journey since Independence. Banking has gone far and deep to mobilize resources and making available funds for productive pursuits of economy. It has been empowering masses through developing savings habit as also helping them fund their aspirations of better living, be it owning a home, car or education. Similarly, banks are first port of call for millions of entrepreneurs to finance their ventures, creating value



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through enterprise. Banks have partnered Governments in funding infrastructure, a sector having distinct risk-return profile which makes it unattractive for private sector to make a beginning on its own. It is essential for growth in economy, however.

Covid-19 has put a spanner in growth engines of economy. When Covid reached India, the Government responded with lockdowns. Businesses had obvious difficulty in sustaining their debt repayment. There were no customers to serve so there was no receivable to gain. It was a hard time to keep workspaces shut and bade time. However, the debt-meter keeps ticking, and if left to its rhythm, it could cause permanent shutting down of businesses. Banks do understand concerns of their customers and therefore they have come with schemes to grease the wheels of enterprise with emergency working capital, while also giving the choice of

debt moratorium. A third of bank customers have opted for debt moratorium, while others, having wherewithal to serve, chose to pay their installments.

Government and regulators have come with enabling provisions, both in terms of providing liquidity, easing cash-flows and market access. Governments are undertaking public works to pay wages to workers which will lift demand for produce of companies. Banks and financial institutions are empowered to serve the vulnerable through credit guarantee schemes, rolling out subsidized loans for micro enterprises, and farmers. Likewise, restructuring of debt is permitted for stressed businesses.

While we hope that no business goes under, if Covid-19 disruption continues for long, say a year, many businesses may not be able to tide through. Some will survive and few will emerge stronger. These



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developments will reflect on banks' balance-sheet in terms of asset quality and will determine the profitability. It is good that banks are adequately capitalized, and some have raised capital from markets to buffer up their war chest. At present, banks are willing to help, and not extra burdened with future consequences. Together, we can swim in uncharted waters.

Banks could help ease MNCs shifting manufacturing base to India by coming with innovative financing solutions for companies contemplating so. Banks can also help digitize trade financing, thus lowering the intermediation costs for exporters, and enabling the Indian produce become globally competitive. Pooling new data flows to reduce underwriting and documentation costs, banks can enable lower cost of financing for enterprises, especially MSMEs, which will be new suppliers, thus making more firms commercially viable. Interest rates are already trending southwards. If banks can bring down credit costs by addressing information asymmetry through technological solutions, it will bring the cost of capital down in Indian economy, on a sustained basis.

Covid crisis is also an opportunity for conventional banks to do necessary makeover and become agile institutions. Digital banking has been long hailed as future. Indian Banks are at varied



Indian banks are actively supporting the people and enterprises in these difficult times. More importantly, the banks have built sufficient capital and provision buffer to approach the crisis from a position of strength. They are thankfully a part of solution, and not the problem.

stage of digital evolution. This crisis is expediting the digital transition. It has consequences for banks in the way they source credit, underwrite risks, monitor risk and service clients. It will change the way banks organized themselves for internal efficiency. It will have ramifications for human resource management, audit, sales and service, as also the ways of recovering loans gone badly. As emergency measures, insolvency proceedings are suspended for a year. However, we can't wish away bad outcomes when we are in business of risk intermediation. Banks will need to invest in Data Analytics for better control and data driven decision-making. Many of roles will undergo automation with new technologies like Artificial Intelligence, Machine Learning, Robotics and 5G powering

changes. A new banking paradigm is emerging; it could become dominant sooner than later.

To conclude,

India is home to a billion plus aspirations. We have largest working age population on planet. Our demographics is a blessing, and more so in these trying times, as youth are seen less vulnerable to virus. Businesses are opening up with necessary safety measures. Indian banks are actively supporting the people and enterprises in these difficult times. More importantly, the banks have built sufficient capital and provision buffer to approach the crisis from a position of strength. They are thankfully a part of solution, and not the problem.

As Government focuses on building India's production capacities to harness our demographic opportunity, Indian banks have a greater role and responsibility to empower weaker sections of society, nurture enterprises, help them gain economies of scale over time, and connect with global markets. Pandemic or not, India can count on her banks to enable citizens and enterprises financially. We must let our creative enterprises flow and solve the problems of society, meeting the needs of country and raising the expectations of world. India will win against the virus, for sure, and realize her goal of becoming 'Aatmanirbhar', sooner than later. ■■■

Stimulate Growth through Direct Tax

The Hon'ble Prime Minister announced the Atma Nirbhar Bharat Abhiyan vide his address to the Nation on 12.05.2020. Thereafter, a series of Press Releases were addressed by the Hon'ble Finance Minister to unleash various measures to further that objective. The total relief package as per Government estimates is around ₹ 20 lakh crore which is approximately 10% of the GDP of the Country. The Vocal for Local slogan is also visible now.

In this write-up, we discuss the direct tax measures taken by the Government over the past one year to stimulate growth which has come down substantially due to Covid19 pandemic and resultant lockdowns all over the Country. Read on....

I. Introduction of Section 115BAA (reduction in corporate tax rates) in the Income-tax Act, 1961

Two new provisions were inserted under the Income-tax Act, 1961 vide the Taxation Laws (Amendment) Ordinance, 2019 dated 20.09.2020 to promote growth and investment. Section 115BAA provided for reduction in corporate tax rate for all existing domestic companies. It, inter alia, provided a concessional tax regime of 22% for all existing domestic companies from FY 2019-20 if they do not avail any specified exemption or incentive. Further, such companies have also been exempted from payment of Minimum Alternate Tax (MAT).

II. Introduction of Section 115BAB (Incentive for new manufacturing domestic companies) in the Income-tax Act, 1961

On similar lines, in order to attract fresh investment in manufacturing and thereby to boost 'Make-in-India' initiative of the Government, another new provision was inserted in the Income-tax Act, 1961 w.e.f. FY 2019-20 which allows any new domestic company incorporated on or after 01.10.2019 making fresh investment in manufacturing, an option to pay income-tax at the rate of 15%. This benefit is available to companies which do not avail any exemption/incentive and commences their production on or before



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31.03.2023. The effective tax rate for these companies is 17.01% inclusive of surcharge & cess. Also, such companies are not be required to pay MAT.

III. Reduction in MAT rate

In order to provide relief to the company assessee which continues to avail exemption/ deduction and pay tax under MAT, the rate of MAT has also been reduced from 18.5% to 15%. It was also done vide the Taxation Laws (Amendment) Ordinance, 2019 dated 20.09.2020.

IV. Enhanced surcharge not to apply in certain cases

In order to stabilise the flow of funds into the capital market, it is now provided that enhanced surcharge introduced by the Finance (No.2) Act, 2019 shall not apply on capital gains arising on sale of equity share in a company or a unit of an equity oriented fund or a unit of a business trust liable for securities transaction tax, in the hands of an individual, HUF, AOP, BOI and AJP.

The enhanced surcharge shall also not apply to capital gains arising on sale of any security including derivatives, in the hands of Foreign Portfolio Investors (FPIs).

V. Exemption from income-tax to individuals earning income up to ₹ 5 lakh and increase in standard deduction

The Finance Act, 2019 exempted an individual taxpayer with taxable income up to

₹ 5 lakh by providing 100% tax rebate. This was done to provide complete relief from payment of income-tax to individuals earning taxable income up to ₹ 5 lakh. Further, to provide relief to the salaried taxpayers, the Finance Act, 2019 enhanced the standard deduction from ₹ 40,000 to ₹ 50,000. This would put more money in the hands of tax payers and would lead to generation of demand leading to increase in growth rate.

VI. Section 115BAC and Section 115BAD - Option to Individuals and Co-operatives

On personal income tax front and to leave more cash in the hands of specified tax payers like individuals and co-operatives assesseees, the Finance Act, 2020 has provided an option for paying income-tax at concessional rates if they do not avail specified exemption and incentive.

VII. Abolition of Dividend Distribution Tax (DDT)

In order to increase the attractiveness of the Indian Equity Market and to provide relief to a large class of investors in whose case dividend income is taxable at the rate lower than the rate of DDT, the Finance Act, 2020 removed the Dividend Distribution Tax under which the companies are not required to pay DDT with effect from 01.04.2020. The dividend income shall be taxed only in the hands of the recipients at their applicable rate.

VIII. Introduction of the Direct Tax Vivad se Vishwas Act, 2020

In the current times, a large number of disputes related to direct taxes are pending at various levels of adjudication from Commissioner (Appeals) level to Supreme Court. These tax disputes consume a large part of resources both on the part of the Government as well as taxpayers and also deprive the Government of the timely collection of revenue. With these facts in mind, an urgent need was felt to provide for resolution of pending tax disputes which will not only benefit the Government by generating timely revenue but also the taxpayers as it will bring down mounting litigation costs and efforts can be better utilized for expanding business activities. The Direct Tax Vivad se Vishwas Act, 2020 was enacted on 17.03.2020 under which the declarations for settling disputes are currently being filed. The Hon'ble Finance Minister announced vide his Press brief/meeting on 13.05.2020 for extension of date for making payment without additional amount to 31.12.2020. Concerned tax payers are hereby urged to make maximum benefit of this Scheme. The saving in time of the tax payers would lead to better utilisation of their resources.

IX. Encouraging digital transactions

In order to facilitate the digitalisation of the economy and reduce unaccounted transactions, various measures have been taken by the government which include reduction in rate of

presumptive profit on digital turnover, removal of MDR charges on prescribed modes of transactions, reducing the threshold for cash transactions, prohibition of certain cash transactions, etc. Such digitisation measures would go a long way in boosting demand as more transactions take place through formal channels providing much need revenue to the government for welfare schemes.

X. Simplification of compliance norms for Start-ups

Start-ups have been provided hassle-free tax environment which includes simplification of assessment procedure, exemptions from Angel-tax, constitution of dedicated start-up cell etc. A start up has multiple benefits to the economy. It leads to generation of employment and thereby rise in income levels and living standards for the masses.

XI. Raising of monetary limit for filing of appeal

To effectively reduce taxpayer grievances/ litigation and help the Income Tax Department focus on litigation involving complex legal issues and high tax effect, the monetary thresholds for filing of departmental appeals have been raised from ₹ 20 lakh to ₹ 50 lakh for appeal before ITAT, from ₹ 50 lakh to ₹ 1 crore for appeal before the High Court and from ₹ 1 crore to ₹ 2 crore for appeal before the Supreme Court. This has substantially reduced the existing litigation paving for more focus on

operations by the concerned assesseees.

XII. Expansion of scope of TDS/TCS and reduction in TDS rates

For widening the tax base, several new transactions were brought into the ambit of Tax Deduction at Source (TDS) and Tax Collection at Source (TCS). These transactions include huge cash withdrawal, foreign remittance, purchase of luxury car, e-commerce participants, sale of goods, acquisition of immovable property, etc.

Further, the TDS rates for all non-salaried payment to residents, and tax collected at source rate is reduced by 25 percent of the specified rates for the period 14.05.2020 till 31.03.2021. Such measures would leave more cash in the hands of deductee and would ultimately lead to generation of demand and growth for the economy.

XIII. Constant/regular issue of refunds by the Government

In pursuance to the Government's decision vide Press Note dated 08.04.2020 to issue pending income tax refunds in order to help taxpayers in a Covid-19 pandemic situation, the Income Tax Department has already issued tax refunds at a speed of 76 cases per minute from 08.04.2020 to 30.06.2020. During this period of just 56 weekdays, the CBDT has issued refunds in more than 20.44 lakh cases amounting to more than

₹ 62,361 crore as of 03.07.2020. Such brisk issue of refunds means release of cash in the hands of tax payers which would improve business sentiment and would lead to more investments.

XIV. Extension of timelines to ease compliance burden

More recently, the Government vide Press Release and Notification No. 35/2020 dated 24.06.2020 provide certain reliefs to the tax payers and extended due date of various compliances to ease burden on tax payers. Some of them are as follows:

- (a) The returns of income which are required to be filed by 31.07.2020 and 31.10.2020 can be filed upto 30.11.2020. Consequently, the date for furnishing tax audit report has also been extended to 31.10.2020.
- (b) In order to provide relief to small and middle class taxpayers, the date for payment of self-assessment tax in the case of a taxpayer whose self-assessment tax liability is upto ₹ 1 lakh has also been extended to 30.11.2020.
- (c) The date for making investment/ construction/ purchase for claiming roll over benefit/ deduction in respect of capital gains under sections 54 to 54GB has also been further extended to 30.09.2020. Similar benefit extended for compliance of section 10AA of the Income-tax Act, 1961.

- (d) The date for passing of order or issuance of notice by the authorities and various compliances under Direct Taxes which are required to be passed/ issued/ made by 31.12.2020 has been extended to 31.03.2021.

XV. New procedure for registration, approval, etc. of certain entities deferred to 01.10.2020

In view of the unprecedented humanitarian and economic

crisis, the CBDT decided that the implementation of new procedure for approval/ registration/notification of certain entities shall be deferred to 01.10.2020. This will reduce compliance burden on concerned tax payers.

As can be seen from above, such aforesaid measures were brought with an objective to achieve propelling growth in current and future times.

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Accounting and Finance Services as Champion Sector

In the last few decades, rapid industrialization and globalization has been witnessed around the globe, encompassing several business sectors and units. The worldwide demand for specialized professional services, such as accounting and auditing, has increased considerably because of expanded international trade activities including M & A activities, relaxed regulatory regime for foreign investors and regularly changing global accounting and auditing standards. Owing to the large base of low-cost talent pool and technology-driven outsourcing capabilities, emerging economies such as India, are expected to cater to the growing global demand of accounting and auditing services, contributing significantly to the sector in the near future. Read on...



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On 15th May 2018, Mr. Ramnath Kovind, Hon'ble President of India, during the inauguration of Global Exhibition on Services wherein the Institute of Chartered Accountants of India was one of the knowledge partners, launched 12 Champion Sectors (the new brand identity for the services sector) for promoting their development and realizing their potential in Indian exports. Accounting and finance services was identified as one of the Champion sectors, being one of the largest and most critical sectors with the

highest potential for global trade and investment, growth and employment, ranked 4th in terms of its export potential out of these 12 sectors. In fact, the demand for expertise in international accounting and auditing standards, strong quality control and professional personnel is increasing in order to maintain one's reputation and avoid potential litigation risks.

Exports of Accounting and Finance Services

The Indian services sector accounts for about 55 per cent of the economy and gross value

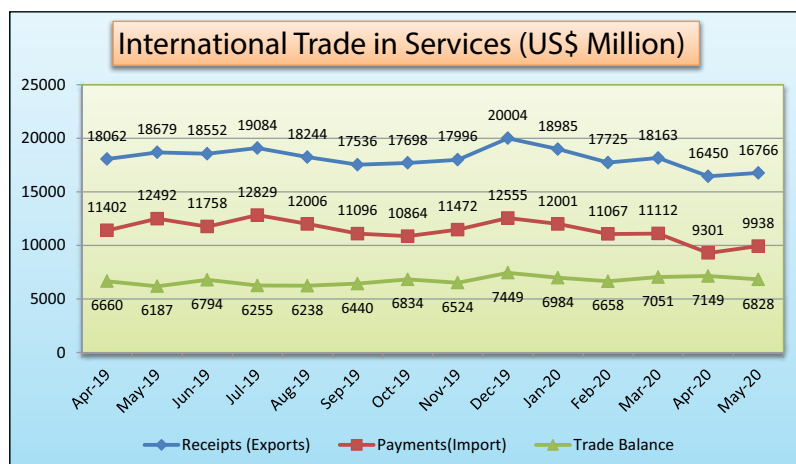


added (GVA) growth, according to the Economic Survey 2019-20. The sector accounts for two-thirds of total foreign direct investment (FDI) inflows into India and about 38 per cent of India's exports.

The market size, measured by revenue, of the Global Accounting Services industry is \$528.7bn in 2020 with the growth rate of 4.8% in 2020 and annualized market size growth rate of 3.8% from 2015-

by 2022, owing to the factors such as growing professional workforce, increased Foreign Direct Investments, government initiatives to boost and attract businesses such as Start-up India, Make in India, Goods and Services Tax (GST), Digital India, Skill India Program etc. which paves a robust pathway towards achieving the vision of "Aatmanirbhar Bharat" by our Hon'ble Prime Minister.

Growth in demand for auditing and accounting services in India is also attributed to the increasing cross-border mergers and acquisition activities even though Indian M&A activity during 2019 surpassed \$67 billion in aggregate deal value. This meant that 2019 was India's second-best year for deal activity despite a 34.4% slowdown in deal value from 2018. In recent years, however, public M&A has accelerated, and public market exits in 2019 were up approximately 45% from 2018². This is expected to increase the demand for transfer pricing services.



Source: RBI Website



It is expected that Indian Accounting Services Market is going to witness robust growth by 2022, owing to the factors such as growing professional workforce, increased Foreign Direct Investments, government initiatives to boost and attract businesses such as Start-up India, Make in India, Goods and Services Tax (GST), Digital India, Skill India Program etc.

2020¹. The Indian accounting and finance service industry anticipated to see 8% CAGR over 2016-2021 due to India's rapid economic development, proliferation of digital accounting, and changing business regulations.

It is expected that Indian Accounting Services Market is going to witness robust growth

Parameters	India's Position	Vision 2022
Finance and Accounts Business Process Management (F & A BPM) Exports	\$ 5.72 bn (0.003% of Global Market Size of USD 1803 bn)	\$ 10 bn
Total number of Accounting and Finance Professionals	29 lakh	54 lakh

Source: Ministry of Commerce Communication

¹ Global Accounting Services Market Size Outlook 2005–2025 by IBIS World, December 2019

² M&A Report 2020: India by International Financial Law Report dated 25th March 2020

Expectation of Government of India from the sector

With an aim to target \$5 trillion Indian economy, increasing the ranking in the Ease of doing business (EoDB) index by World Bank & the Global Competitiveness Index (GCI) by World Economic Forum, boosting growth to startups with a support to MSME sector along with promotion of SEZs, the Government of India has chalked out its Vision

2022 marking 75th year of independence giving target to each of the Champion sectors.

What includes Accounting and Finance services?

Accounting and auditing services constitutes a major part of professional services covering wide range of activities like evaluation of reliability and credibility of financial information, Book keeping, financial audits and consultancy services on accounting and

finance, etc.

For enhancement of exports of these services, under current regulatory regime and subject to land of law of various countries, the broad bifurcation of the illustrative services which can be rendered under the Accounting and Finance Sector are:

Sr. No	Broad Services	Inclusions
1.	Accounting Services	<ul style="list-style-type: none"> Reviewing annual and interim financial statements and other accounting information. Compilation of financial statements from information provided by the client. preparation of business tax returns compilation of income statements, balance sheets, etc. - analysis of balance sheets, etc. - other accounting services such as attestations, valuations, preparation of pro forma statements, etc.
2.	Financial auditing services	<ul style="list-style-type: none"> Examination services for the accounting records and other supporting evidence of an organization for the purpose of expressing an opinion as to whether the financial statements of the organization present its position fairly and accurately as at a given date and the results of its operations for the period ending on that date, in accordance with generally accepted accounting principles.
3.	Bookkeeping services	<ul style="list-style-type: none"> Classifying and recording business transactions in terms of money or some unit of measurement in the books of account.
4.	Payroll services	<ul style="list-style-type: none"> payroll processing, including on-line direct deposit or cheque preparation services remission of taxes and other deductions preparation, viewing and storage of payroll ledgers, reports and other documents

Sr. No	Broad Services	Inclusions
5.	Tax consultancy and preparation services (Direct and Indirect tax)	<ul style="list-style-type: none"> providing advice and guidance concerning corporate taxes, as well as preparing and filing of tax returns of all kinds tax preparation and planning services for unincorporated business & individuals
6.	Financial management consulting services	<ul style="list-style-type: none"> providing advice, guidance and operational assistance concerning decision areas that are financial in nature, such as: <ul style="list-style-type: none"> ➤ working capital and liquidity management, determination of an appropriate capital structure ➤ analysis of capital investment proposals ➤ asset management ➤ development of accounting systems and budgeting and budgetary controls ➤ financial consulting services related to mergers, acquisitions, etc. such as advice on methods of valuations, methods of payment, methods of control, international finance
7.	Project management services	<ul style="list-style-type: none"> project management services, which can involve budgeting, accounting and cost control, procurement, planning of time scales and other operating conditions, coordination of subcontractors' work, inspection and quality control, etc. Assist in the preparation of feasibility studies of new project and expansion schemes.
8.	Business consulting services	<ul style="list-style-type: none"> providing advice, guidance and operational assistance concerning performance of the business.
9.	Information technology (IT) consulting and support services	<ul style="list-style-type: none"> provision of technical expertise to solve specialized problems for the client in using a computer system, such as auditing or assessing computer operations without providing advice or other follow-up action including auditing, assessing and documenting a server, network or process for components, capabilities, performance, or security.
10.	Mergers and acquisition services	<ul style="list-style-type: none"> services of counsellors and negotiators in arranging mergers and acquisitions Advising management on amalgamations, reconstructions, takeovers and expansion schemes.
11.	Corporate finance and venture capital services	<ul style="list-style-type: none"> services of arranging corporate financing, including debt financing, equity financing and/or venture capital financing.



ICAI, being the nodal agency for promotion of accounting and finance services in India, has been in continuous dialogues with Ministry of Corporate Affairs and Ministry of Commerce and Industry with an aim to enhance the competitiveness of India's accounting and finance services sector through the implementation of focused and monitored Action Plans, thereby promoting GDP growth, creating more jobs and promoting exports to global markets.

ICAI Initiatives on Champion Sector

ICAI, being the nodal agency for promotion of accounting and finance services in India, has been in continuous dialogues with Ministry of Corporate Affairs and Ministry of Commerce and Industry with an aim to enhance the competitiveness of India's accounting and finance services sector through the implementation of focused and monitored Action Plans, thereby promoting GDP growth, creating more jobs and promoting exports to global markets. The proposal

submitted by ICAI to the Ministry includes following sub-proposals on which ICAI, either directly or through its various arms, is taking various initiatives in focused and time bound manner:

1. Overseas Campus Placement for Accounting professionals
2. Foreign Language courses for members and students
3. Start-up initiatives/ incubation Centres
4. Proposal for Development and Training to set Accounting Process Outsourcing (APOs)
5. Specialized Short-Term courses/ Certificate Courses/ Modules through E-learning
6. Capturing Global Students through International Curriculum
7. Strengthening and Mentoring Accounting Profession abroad
8. Offering Training Courses to Foreign Nationals under Indian Technical and Economic Cooperation (ITEC) Programme, Ministry of External Affairs, Government of India
9. Promoting Brand Indian CA globally through Chapters and Representative offices
10. Promoting ICAI Digital Learning Hub Globally

In addition to above initiatives and including various MRAs and MoUs with foreign accounting bodies for

qualification recognition and technical collaborations, two MoUs were being signed by ICAI under the aegis of the Committee for Export of CA Services & WTO with Invest India and Services Export Promotion Council (SEPC) ; both the bodies under the Ministry of Commerce and Industry, with an aim to work for promoting awareness on various initiatives of the Government of India in various countries towards action plan for Champion Sector, with regard to Accounting and Finance Services and for export promotion of such services. Further, Committee is also envisaging entering into MoU with Export Promotion Council for Export Oriented Units (EOUs) and Special Economic Zones (SEZs) soon with a view to open up vast opportunities for accounting professionals to serve them with their technical expertise.

We are happy to inform you that all the proposals of ICAI have been, in principle, approved by both the Ministries and that ICAI is working towards achieving the vision of 2022 wherein the technically and ethically strong professional group of our members and students (as semi qualified) would be the delivery agents and would support us in achieving the said vision in the years to come and helping ICAI for making India a global hub of accounting professionals showcasing the "Aatmanirbhar Bharat" in service sector as well apart from manufacturing sector. ■■■

A Mighty Five Road to Aatmanirbhar Bharat

MITI-V popularly known as Mighty-Five comprises of five countries: Malaysia, India, Thailand, Indonesia and Vietnam that are emerging as new hub of global economic activities. These five countries have been getting recognized for their undying passion and perseverance to persuade the investors and win investments. It, however, has become inquisitive to learn the reason behind their rise towards attaining strategic importance in recent times. Read on...

The world economy is changing and acquiring new dimensions. Apparently, after the US-China trade war, companies started bearing the brunt for their overdependent relationship with a single country for their supply chains. The Covid-19 scenario only further intensified the brunt. The changes in various variable led to the rise of the MITI-V as a set of countries that are being looked as future of business growth.



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Rise of China

Over the decades, China has been playing a dominant role in the global supply chain. Its total exports in the January-December 2019 was \$ 2.4984 trillion¹ with a trade surplus of \$ 421 Billion¹. China's transformation from an "Agrarian Economy" to a "World Powerhouse" portraying its economic rise dates back to the 1980s when Deng Xiaoping started opening up China's economy for the global

enterprises. Prior to 1979, Mao Zedong Government's focus was to control through the state i.e. centrally planned economy. After 1979, the new Government started reducing the control of the state & increased the role of the market mechanism. It made an ambitious "Four Modernisations" goal which was to scale up agriculture, industry, defence, science and technology. The Government started building up the requisite



¹ Ministry of Commerce: People's Republic of China

infrastructure such as Special Economic Zone (SEZ) near the coastal region i.e. Shenzhen, Shantou, Guangdong & Xiamen. Shenzhen spread over 2050 square km which is roughly equivalent to the size of Delhi plus Mumbai & the GDP of this city surpassed many Country's GDP. The focus was to make few but strategically significant manufacturing hubs to captivate Foreign Direct Investment.

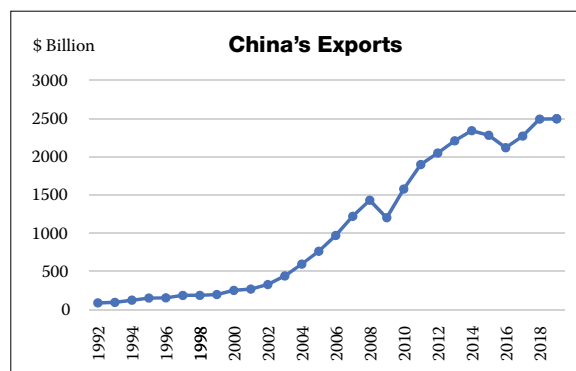
These four areas were made the centre of foreign investment because of liberalised policies like tax incentives, liberty from the Central Government Laws & export incentives. However, these policies were unevenly implemented which created gaps in the economic development between the coastal and the inland areas. After 1990, another push for the Foreign Investment was experienced when Deng Xiaoping expanded these policies to the other cities by following in the success of the SEZ areas.

Eventually, 1991 was the inflection point for China when it became the candidate for the 21st-century superpower, as shown in Figure.

In 2001, China's entry into the World Trade Organisation (WTO) augmented its economic growth and made it a landmark moment for the Country. The Merchandise exports grew exponentially as the Chinese Government relaxed its laws according to the WTO agreement and the Country climbed the ladder of economic and political power.

terms of economic size on a purchasing power parity (PPP) basis & value-added manufacturing.

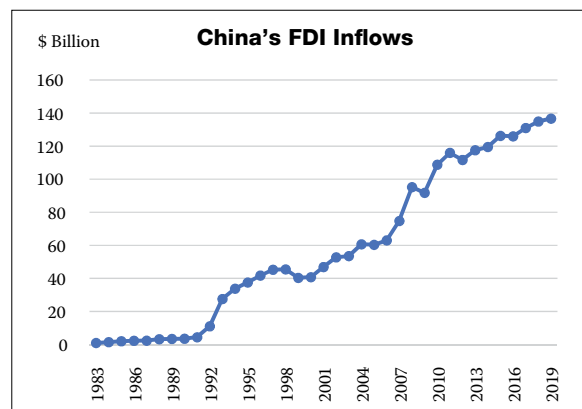
But as the Country triumphed the economic path, the people of China prospered and their standard of living improved. Unfortunately, what was believed to be China's winning formula i.e. affordable labour is not affordable now.



Source:
Ministry of
Commerce:
People's Republic
of China

Yet with accelerated GDP till 2006, China's economy started to mature and was about to get caught in a "middle-income trap" because of no new source of economic growth. But in 2006, China's state council outlined a 15-year plan to set aside 2.5% of the nominal GDP for Research and Development. Soon, China ranked first in

Last year, the US-China trade war escalated the tension between the two countries which started hampering the global supply chain. The current sentiments because of Covid-19 have further emboldened the plans for diversifying the manufacturing base to improve the resilience of the supply chain and absorb future risks.



Source:
Ministry of
Commerce:
People's Republic
of China

The major countries that can pierce at this time are MITI V. These 5 countries can capitalise this stressed situation as they are the islands of untapped opportunities. These countries are characterised by their strong demographic dividend, affordable labour, manufacturing infrastructure, surplus skilled & unskilled worker.

But the question of “Which Country will take the 1st mover advantage” still persists. Below are the comprehensions about the policies and measures by these five countries.

Malaysia

Malaysia, with a population of only 31 million people, attracted a net \$ 7.3 Billion Foreign Investment² & a Gross National Income per Capita of \$ 10,590³ in 2018. Malaysia has seen encouraging economic growth in the last two decades & belongs to the upper-middle-income group of countries. Malaysia ranked 12th in the “Ease of Doing Business” ranking of 2020 report & imposes a 24%⁴ corporate tax rate.

Malaysia’s Budget 2020 strike the right chords to influence foreign investors as it announced tax incentives for new investments. To attract “Fortune 500 companies & Global Unicorns in high technology, manufacturing, creative and new economic sectors”, their Government announced customised tax incentives. The Government allocated RM1 billion (\$ 234 Million) per year for a period of five years for Malaysian exporters proving their global capabilities and worldwide impact.

Compounding Electronic components & goods imports incited other countries to substitute these imports. Malaysia’s Government

announced a 100% tax exemption for up to 10 years for Electrical and Electronics (“E&E”) Industry for companies investing in selected knowledge-based services.

To strengthen the “Promoted activities & Products for manufacturing sector” like agriculture, advanced electronic & computing, hotel business & tourism industry, textile etc., the company shall be eligible for Pioneer status (PS) or Investment Tax Allowance (ITA) incentive. PS incentive provides an income tax exemption of 70% -100% of statutory income for 5 to 10 years. ITA provides an allowance of 60% - 100% on qualifying capital expenditure i.e. plant, machinery, or factory to be utilized against 70% of the statutory income.

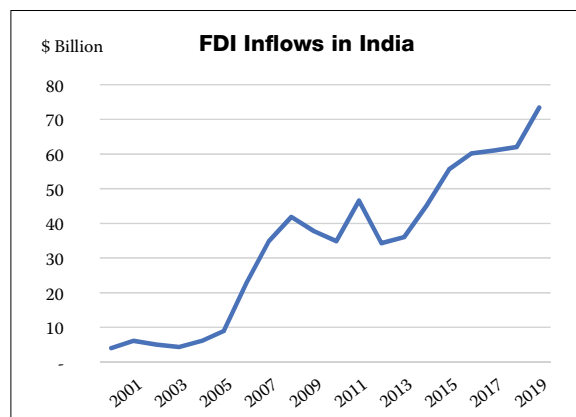
The primary driver of the growth of Malaysia is the Service sector which contributes more than 50% in the Country’s GDP. Wholesale & Retail Trade, Food & Beverages and Accommodation segment

dominates in the service sector. The tourism industry which contributes more than 15% of the Country’s GDP, has been pushed up further by including it under the “Promoted Activities” making it eligible for PS or ITA.

Malaysia, a member of the Association of South East Asian Nations (ASEAN), will play a strategic role to garner foreign investment.

India

India, a land of more than 1350 million people and one of the youngest populations in the aging world, is a home of many flourishing opportunities. This 3.287 million km² area provides the 3rd largest consumer base & the rising domestic private consumption will captivate foreign investment. India has been steadily improving its ranking in “Ease of Doing Business” & jumped to the 63rd position. India’s sustained economic growth and burgeoning FDI shall checkmate this uncertain time.



Source:
Department
for Promotion
of Industry &
Internal Trade

² Department of Statistics, Malaysia

³ World Bank National Accounts Data

⁴ Inland Revenue Board of Malaysia

With the Government opening plethora of sectors under 100% FDI under automatic route & following the path of red tape to the red carpet, India is considered to be an emerging superpower.

With the aim to enthrall the foreign investors, the Government reduced the corporate tax rate to 22%⁵ & made Indian companies globally competitive. Additionally, new manufacturing firms setting up on or after 1st October 2019 & before 31st March 2023 have an option to pay tax at 15%⁶.

manufacturing ecosystem, thereby sweeping the way to make pillars of “Make in India” firm, the Government will provide a financial incentive of 25% on the capital expenditure.

To advance Large Scale Electronics Manufacturing, financial incentive on incremental turnover shall be awarded. These schemes will act as a catalyst to make India part of the global supply chain.

The aim of the Government of “whatever it takes” to make India a “Manufacturing Powerhouse” has given rise to

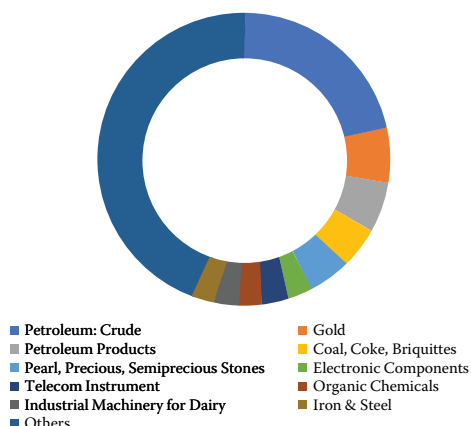
activity before opening brick & mortar stores. These amendments were a game-changer move, thereby fostering multinational brands to set up their stores in India.

The Government’s vision of making India a “Manufacturing Hub” has been given a further boost by announcing \$1 trillion investment in infrastructure over the next 5 years to reduce the transportation & port logistics cost.

The Government also provides lucrative incentives on the FOB value/ Net foreign Exchange earnings of the Merchandise & Service exporters under the Foreign Trade Policy. The policy also offers duty free import of capital goods & raw materials for exported products manufacturing.

India’s Service Sector contributes approximately 55% to the Country’s GDP & accounts for two-thirds of the FDI inflows. The boundary-less global economy has led India to capitalise its advantageous position in superior competencies, affordable cost & economy of scale to make the Country a preferred location for BPO companies. It has been given an additional gravity by announcing 12 champion service sectors to promote their development & make it globally competitive. Accounting and Finance Services are also part of this list. Indians are leveraging their technical skills set which have

In India’s Imports: Commodity Wise



Source:
Directorate
General of Foreign
Trade, April-Feb,
2020

Government’s quest to make *Aatmanirbhar Bharat* has started sowing seeds with the introduction of incentives for Electronic Components & Medical Device manufacturing. Electronic Components forms part of the top 10 commodities imported into India, out of which China accounts for roughly 38% of this commodity import. In order to strengthen the electronic components

easing the FDI regulations for many sectors. The Government gave the nod to allow 100% FDI⁶ under automatic route in coal and lignite mining for captive consumption by Power Projects, Iron and Steel and Cement units and Coal Processing Plants. The Government alleviated the concerns of FDI under Single Brand Retail Trading (SBRT) by easing their local sourcing norms & allowed e-commerce

⁵ Ministry of Finance: Government of India

⁶ Ministry of Mines: Government of India

led to a steady rise in India's share in world's service exports reaching 3.5% in 2018, making it amongst the top 10 countries in global commercial exports. In a flagship programme by the Government "Skill India", world-class skill development programmes are provided to create a productive workforce matching international quality standards. This will stimulate more value addition in service as well as manufacturing in the Country.

These Government's policies can induce foreign investors to make India their manufacturing & service base.

Thailand

Thailand is strategically located at the centre of ASEAN countries, facilitating an easy entry for foreign investors. The Country's objective of creating a conducive environment for business development has been successful as its ranking has leaped by 6 spots to 21 in the latest "Ease of Doing Ranking". "Thailand 1.0" aimed for expansion through agriculture now has unveiled an ambitious "Thailand 4.0" economic model which is in line to make the Country an "Innovation-driven Economy". Thailand's exports account for approximately 67% of the GDP⁷.

The Corporate Income Tax (CIT) is at 20%⁸, which is lower in comparison to the other ASEAN countries.

In the direction to promote investment by encouraging Research & Development, Value addition & Innovation, the Thailand Government provides an exemption from CIT for 3-10 years⁹ depending on the industries, state of the art technology & minimum capital investment. List of activities that are eligible for the incentive includes Knowledge-based, Infrastructure, High technology activities, Technology and Innovation Development & supporting industries. The incentive also includes exemption of import duties on machinery & raw materials used for the production of exports.

To uplift the provinces with the lowest per capita within Thailand, the companies are offered additional exemptions of CIT.

Thailand also announced the "Thailand Plus Package"⁹ to spur the Large-scale project investment in Knowledge-based, Infrastructure & High technology activities. The package provides a 50% CIT reduction for an additional 5 years for the application submitted before 30th December, 2020 which was hailed as a welcome move by the industries.

Thailand's Government revamped approach of development of Special Economic Zone (SEZ) covering 10 border areas in order to garner Foreign Investment

which has been reaping the desired results. SEZ promises exemption for 13 targeted industries from CIT for upto 8 years & additional exemption of 50% CIT for the succeeding 5 years.⁹

The service sector which forms the most significant part of the Thai economy, is the prime focus of the Government in its "Thailand 4.0" model. Investment in the advanced "S-Curve Industries" comprising of Technology & Innovation, Medical tourism, Robotics, Biotechnology, Logistics, Digital, Education etc. will be given the privilege of CIT exemptions & Non-Tax incentives. Focus on these industries will steer the Thai economy which is currently highly dependent on the Tourism sector.

An open economy country with investor-friendly economic policies shall furthermore enhance its competitive advantage.

Indonesia

A thriving & majorly service economy, the "Republic of Indonesia" has witnessed sterling growth in its GDP in the last 3 years. The Government renewed the Country's structure by primarily focusing on economic liberalisation and easing the investment barriers to reach the 73rd position globally in the "Doing Business" report by World Bank.

⁷ World Bank National Accounts Data

⁸ The Revenue Department, Thailand

⁹ Thailand Board of Investment

Seeking positive reforms in Budget 2020, Indonesian Government introduced tax cuts in the fields of Income tax and Value Added Tax in order to boost Investment competitiveness.

Eyeing the Value Added Tax, tax reduction has been provided on the import of strategic goods like machinery and factory equipment. Ministry of Finance also offers zero import duty for varied specific sectors having high labour absorption, high investment value or have an export out-front.

Indonesia's CIT stands at 25%.¹⁰ However, 50% concession would be provided for new capital infused amounting to IDR 100 bn (\$7.14 Million) - IDR 500 bn (\$35.7 Million) for a period of 5 years following with 25% concession in CIT for subsequent 2 years. 100% reduction in CIT would be given for infusing capital summing more than IDR 500 bn for a span 10 years following a 50% cut during the subsequent 2 years.¹¹

Apparel, leather goods and footwear industries enjoy a remunerative incentive of deduction of 30% from taxable income, a 10% withholding tax on dividend paid and compensation losses increased from 5 to 10 years after certain conditions.

To achieve its targeted GDP growth rate of 7%, the Indonesian Government has

furnished various stimulus for FDI's inflows defining reduced time for acquiring land and permits, speeding up procurement of goods and government services, building strategic infrastructure. In "Making Indonesia 4.0", the Government hastened the business license process, reduced energy tariffs for labour-intensive industries, new soft loan programmes for SMEs and remunerative tax incentives for projects undertaking in SEZ.

Indonesia has also offered to reduce the minimum equity requirement for foreign investors and eased various approvals for business transactions. Indonesian Investment Coordination Board (BKPM) is further on a roll to build high class infrastructure at Java island which currently accounts for 58% of GDP.

The rising service sector in Indonesia contributes to 58% of GDP, stimulated by high-growth sectors comprising information and communication, transportation and financial services.

The service sector has seen major FDI Inflows in Financial Services in 2019 by Multinational Enterprises from Japan and Republic of Korea, according to the World Bank Investment Report 2020. Tourism being the main source of revenue has seen reforms like increasing the list of visa-free visiting countries, Government's

efforts to enhance promotional campaigns to negate the negative image of the Country and build a magnetic brand for the Country as a whole.

The proposed Omnibus Bill is supposed to nurture better investment climate for service sector through across-the-board relaxation of income tax & also intends structured bureaucracy and reformed labour markets to attract more investments.

Strong variables for the attraction of FDI may be abundant natural resources, high biodiversity, the sound banking system and growing domestic demand.

Vietnam

Vietnam has been in the headlines after the Government ratified a significant trade deal regarding the Free Trade Agreement with the European Union (EU). The EU will lift 85% of its tariffs on Vietnamese goods, gradually cutting the rest over the next seven years. Vietnam will lift 49% of its import duties on EU exports and phase out the rest over 10 years.¹² Vietnam opened its door to the outside world by joining WTO in 2007 which was a turning point in their exports. Its cost-effective labour with the tax and non-tax incentives has been the economic growth driver. Vietnam has been ranked as 70 in the "Ease of Doing Business" ranking.

The Country has been shifting gears towards electronic goods

¹⁰ Directorate General of Taxes, Republic of Indonesia

¹¹ Ministry of Finance, Republic of Indonesia

¹² European Commission

& components manufacturing which is the topmost exported commodity from the Country.

The standard CIT rate in the Country is 20%¹³ but the Government has provided preferential tax rates at 10% for first 15 years with 4 years of tax exemption & 50% reduction in subsequent 9 years to specific encouraged sectors including scientific research & high technology, infrastructural development, environment protection & software production & certain economic zones, high tech zones & socio-economic areas.

Newly infused capital in manufacturing of high-quality steel, salt production, equipment for agricultural & irrigation activities, development of traditional crafts etc. will be taxed at a preferential rate of 17% & allowed 2 years of tax exemption & 50% tax exemption for subsequent 4 years. Tax incentives are also allowed to large scale manufacturing projects investing above the required threshold limit.

In Vietnam, as the land is owned by the owner and the Government collectively for which the owner has to provide land rental fee, the Government has relaxed rental norms & provided exemption period for specified locations and sectors.

Service Sector, the major driving force contributed 42.74% to the

Country's GDP, engaging 36% of the workforce. Information & Communication Technology is the spearheading service that has showcased growth because of affordable labour cost. The Government has concentrated on high-valued activities including high technology, healthcare, education, scientific research etc. and rewarded these industries with tax holidays.

These favourable conditions have improved their investment climate and with their lower barriers to trade, it will offer promising conditions for foreign investment.

Summarised

CATEGORY	Malaysia	India	Thailand	Indonesia	Vietnam
EASE OF DOING BUSINESS (2020 Report)	12	63	21	73	70
GROSS DOMESTIC PRODUCT (GDP) (2019) (\$ Billion) ¹⁴	370	2800	520	1126	255
MEDIAN AGE (2020) ¹⁵	30.3	28.4	40.1	29.7	32.5
FOREIGN EXCHANGE RESERVES (Mar '20) (\$ Billion) ¹⁶	103.88	475.56	226.46	121	84
FREE TRADE AGREEMENTS (Signed & In Effect) ¹⁷	16	13	14	11	12
CORPORATE INCOME TAX ¹⁸	24%	25.17%	20%	25%	20%
Service Sector Contribution to GDP	56%	55%	56.9	58%	42.74%

In the current situation, when our planet calls for an integrated combatting solution, it is time to foster the growth of MITI V and give an elbow room to the newly developed pool of talents emerging in these countries. And as the world has started "looking towards East", this will enhance these countries' significance in the Global Market.

India should bet upon this opportunity to turn the events in its favour by creating world class infrastructure to capture the global market in its roadmap of becoming Aatmanirbhar Bharat.

¹³ General Department of Taxation- Ministry of Finance, Vietnam

¹⁴ World Bank

¹⁵ United Nations, Department of Economic and Social Affairs

¹⁶ Central Bank of respective Countries

¹⁷ Asia Development Bank

¹⁸ Respective Ministry of Finance

Revisiting Boardroom Priorities During COVID-19 Crisis

As the COVID-19 pandemic sweeps the world at large, the corporates are facing unprecedented challenges from every aspect with severe disruptions brought in by the crisis in all domains viz. finance, marketing, human resources, technology and the like. Almost all industrial sectors are bearing the brunt due to massive collapse in business activity. The Board of Directors is the key constituent of the governance framework of any company. It plays a pivotal role in keeping the functioning of business on track. This role encompasses various responsibilities which are extremely challenging at all especially in these tough times of ongoing pandemic crisis. Faced by the unanticipated crisis, the companies are experiencing a paradigm shift in the way of doing business. Business-as-usual is not plausible at present and also in near future. Given these uncertainties, the article predominantly tries to



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revisit the Boardroom priorities in terms of the strategies and activities undertaken or that needs to be undertaken during the crisis. At the final stage, it also attempts to briefly touch upon certain major transitory relaxations provided by the regulatory authorities in India in the domain of corporate governance to deal with the significant challenges posed by the pandemic. Read on...

Introduction

The world has been shaken suddenly with the COVID-19 pandemic for which no one was prepared for. The quandary brought in by the contagion calls for redefining our fundamental understanding of business, livelihood, survival and progress. As India and the rest of the world are earnestly trying to batter the virus with no one with the knowledge of how long the struggle will continue, all businesses irrespective of their strength and stature are suffering serious downturn. There is an urgent need to look at how the corporates plan to manage



and carry on their activities at present. Hence, this article tries to concentrate on the priorities of the Board of Directors in configuring business strategies to take forward a firm's business as effectively as possible through this turbulent time. In this endeavour it tries to shed light on various aspects of the corporate governance framework with a focus on the Board's roles and priorities during the pandemic.

The Ministry of Corporate Affairs highlights the key roles of the Board of Directors (BOD) as exercising strategic oversight over the operations of the company, complying with the legal framework, ensuring the veracity of financial reporting as well the reporting systems to all its stakeholders, measuring the performance of managers and rewarding them accordingly¹. Amidst the current COVID-19 crisis as the world is experiencing unprecedented and unanticipated testing times the directors' role call for a reconsideration as there is a shift in the priorities.

The market is extremely volatile and unstable at present due to the uncertainty posed by the contagion. There is even a huge threat to the endurance of several companies. In this challenging scenario especially for a country like India which was already going through a rough patch prior to the pandemic in terms of declining GDP, immense pressure has come up on the company

leadership team as maintaining business-as-usual does not appear to be plausible or easy amidst stringent government interventions in the form of prolonged lockdown. Daily receipt of information on operational activities and financial impact thereof appears to be extremely important for the directors keeping in view the plans that need to be implemented with immediate effect. The monitoring role of top executives like the Managing Directors, the CEOs, the CFOs, in all industrial sectors are fraught with the concerns with respect to keeping financials under control. Tracking cashflows generated from the business operations is also of utmost importance. The pandemic happened in the last quarter of the financial year 2019-20. During this time the companies are busy observing the past performance and drawing the annual financial statements at the same time being involved in the budgeting process for the next financial year. The Board of a company is armed with members with diverse perspectives, knowledge and expertise. As the corporates face an unprecedented uncertainty, their diverse perspectives can assist in combating the challenges posed. Revisiting the purview of the responsibilities on a continuous basis, developing a culture of trust, brainstorming collectively to come up with judicious decisions and



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recommendations to handle the present circumstances and estimate future performance are indispensable today.

Role of the Senior Leadership Team of the Company

The Board of the company assumes a very important role during any crisis and certainly in the backdrop of a pandemic like COVID-19. The management of the day to day affairs of the company continues to be the responsibility of the management team. In times of crisis, the Executive Directors of the Board including the CEO and CFO assume higher responsibility of managing the company and often the

¹ <http://www.mca.gov.in/MinistryV2/management+and+board+governance.html>

Corporate Governance

Board gives them more powers to ensure they do not face hindrances while taking decisions as time and urgency of decision making are critical. The Board especially the Chairman of the company has to work very closely with the CEO and CFO to support the management in dealing with the crisis.

The CEO and CFO of the company take the role of crisis managers in any crisis and the COVID-19 pandemic is no different. In these unprecedented times, where managing the company as a going concern is so critical, it is up to the CFO to take the lead in developing scenarios and preparing cash contingency plans on a war footing. The global best practices in crisis management in such situation are as follows:

- Immediately setting up a war room under the leadership of the CFO who would bring in a cross functional team including senior leaders from operations, commercial, and procurement.
- All cash management powers are centralised with the CFO who would create a dashboard of cash management and set up the protocols in the company for managing cash. Daily war room calls are undertaken to review the position including inflows and outflows, the banking relationships, the working capital flows and

all operating decisions are pivoted on cash flows.

- The CEO and the CFO develop the short-term strategy with the team and frequent reviews are done to ensure the governance of the plans are appropriate and the risks and controls are in place.
- The CEO and the CFO brief the board of directors at an agreed frequency on how the company is being managed and the critical issues on which it needs the approval of the board.

Board Meetings

It is also important to set the right balance of the frequency of the board meetings at this juncture as the meetings should be efficient and decision focused as time is of the essence for the management. The mode in which the meetings are being convened during the pandemic also needs serious attention in terms of whether online discourse is actually productive. Videoconference or teleconference carried on with directors dispersed at various places may not always lead to desired or essential decisions or outcomes because of lack of face-to-face interaction. Thus, there is a need to strategise how to make the meetings more effective, more engaging, keeping in view the perilous time the organisation is going through. A provision to record the discussions held during each meeting to circulate to all especially the absentees is also imperative at this

moment. Seeking views from each board member on every aspect may lead to important remedies to a concern. Here, the extent of being conversant with technology also matters. If majority of the board members in a firm are tech-savvy, are well-conversant of the technological advancements, the firm is able to harness the advantages offered by modern technological platforms efficaciously. This is expected to assist the company to move ahead of the peers that are less technologically conversant.

Remote Working

Remote working is the ideal way to conduct business during the pandemic. As it emerges as the well-accepted norm across industrial sectors, supervision of data/information security and privacy is extremely crucial. Cyber security concerns attract enormous attention amidst the mayhem. A *Technology Committee of the Board* may be helpful at this stage from the point of view of exercising



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oversight on proper handling and dissemination of data, data security and other related concerns.

While for certain sectors like IT, work from home is common and has been found to increase efficiencies at times, for most of the other industrial sectors like manufacturing, banking etc. this is essentially difficult. Again, if we consider the banks, they deal with people's money and critical information. The Indian banks mostly lack necessary infrastructure for working on a virtual mode. If that becomes a norm for the sector, enormous investment will be needed to put the necessary infrastructure and cybersecurity in place which is not possible amidst a crisis. Hence the Board needs to take key decisions based on various dilemma on how to handle the operations.

From the perspective of external audit, which play a significant role in ensuring the accuracy of financial reporting, the auditors may not be expected now to visit companies to certify. Data and information, confidential or otherwise, therefore are expected to be sent online. A competent Technology Committee is thus of utmost importance in ensuring data privacy and

security. Artificial Intelligence, if prudently employed as an effective companion without the risk of job losses, may be helpful in prompt decision making and processing of large volumes of varied datasets during these trying times when the businesses are compelled to pursue different and unusual modes of operations.

Crisis Management Subcommittee

One of the global best practices on governance is the creation of a subcommittee of the Board comprising the Chairman, one independent director who can devote substantial time on the company and has risk management or crisis management expertise along with the CEO and the CFO.

This subcommittee on crisis management has empowered delegation from the main board and meets at frequent intervals and helps the management in taking material decisions for example, reviewing capex decisions to decide on go-no go on approved capex, reviewing the business continuity plans and IT readiness, level of operations during the crisis, liquidity and balance support decisions to illustrate a few. The subcommittee also reviews the scenario planning work undertaken by the management and advises the management on contingency planning and stress test for solvency.

Integrity at Place

Pay cuts are taking place in every sector as the pandemic has led to a global recession.

Some companies have even put in place leave without pay as of now. Hence, at this crucial juncture the BOD should also take care that management does not manipulate information to safeguard the legitimacy of the company and avoid massive reduction in their compensation package. Thus, the BOD needs to be extremely well versed and careful about the actions taken by one and all. Transparency and effective communication of accurate information will help the stakeholders to empathize as well.

Remuneration and Other HR Functions: With pay cuts taking place across the globe the role of the remuneration committee of the board calls for a relook at this moment. The remuneration committee needs to now focus on the wellbeing of the people as one of its top priorities. If there is pay cut, it should be handled in a manner that the morale of the management and other employees should not be hurt in any way. The social dimension of the business cannot be overlooked even in this severe crisis. The committee is expected to play a pivotal role in striking a balance between declining performance and retaining employees and employee morale.

Again, high job losses are also estimated worldwide due to the pandemic. Instead of laying off people or bringing forth substantial pay cuts, a company may choose to consider to operate at reduced profit or breakeven in the current scenario. The Boards

of companies may consider cutting capex, incentives and other discretionary expenses. Companies in India have already started revisiting their capex programmes as reported by The Times of India on April 25, 2020². However, every industrial sector is unique in its own terms and are impacted differently. So, a firm's governance framework is actually in the right position to consider the pros and cons of such endeavours. All these initiatives should be undertaken prudently with proper disclosures in the financial and other reports so that the external stakeholders' sentiments are not hurt at the same time.

At times when the economy is flourishing and has many opportunities to offer, it becomes a challenge for companies to hire best talents in the domain or to retain talents. But the present grim situation has placed the corporates in deep trouble with drastically declining revenues. Thus, employees are confronting severe threat pertaining to losing their jobs as well as dearth of employment opportunities in home and abroad. They now want the companies to retain them as every family is facing enormous health, financial and psychological risk. The senior leadership should consider this factor with compassion at this juncture.

Effective commination is even more important now. All managers or senior personnel

need to be provided with ongoing updates which may call for a change in the way the employees and the company operate.

How to get the maximum benefit from the services of managerial personnel and other employees in the new format of conducting business also calls for attention by the Board. New training and working modes and schedules need to be discussed by the members of the board for effective deployment. It is also noteworthy here that some businesses (viz. online media and entertainment, e-learning, healthcare, medical equipment, digital payment, financial technology, online shopping etc.) are witnessing increase in demand and new job opportunities amidst the pandemic. Nevertheless, the senior leadership and the management team in all industrial sectors are now focused on keeping the employees optimistic and engaged. Recruitment, training, upskilling etc. are all thought of now from a different perspective with a focus on leveraging technology in the best possible way, focus on effective distant working.

Risk Committee

The risk committee of the board now is expected to play an increasingly important role in monitoring the identification of significant disruptions and potential threats to businesses as well as the risk management policies and practices undertaken by the firm. The

committee's role may be redefined keeping in view that certain unanticipated risks or disruptions faced at present may re-emerge later as well.

Corporate Social Responsibility Committee

In India, Section 135 (5) of the Companies Act 2013 specifies that the Board of every eligible firm shall ensure that the firm spends, in every financial year, at least 2 per cent of the average net profits made during the three immediately preceding financial years in pursuance of its Corporate Social Responsibility (CSR) policy. The government in March 2020 specified that spending CSR funds for COVID related activities shall qualify as CSR expenditure. Contributions to the PM-CARES fund would be also considered a CSR spending. The Boards of highly profitable firms may now consider increasing their CSR spending much above the current prescribed norm to benefit the society at large amidst the pandemic. There may an amendment in the provision stating that any such increased spending (i.e. above the prescribed norm) by a company for COVID-19 related activities may be noted at present, and set-off by decreasing the contribution in future if the companies then need to retain the profit for other purposes. The focus of the CSR programmes should be on lives and livelihood and raise the bar on corporate citizenship.

² <https://timesofindia.indiatimes.com/business/india-business/cos-see-cash-as-king-cut-capex-plans/articleshow/75362580.cms>

Other Responsible Practices

It is absolutely essential for the Board to monitor that the company considers responsible business practices during crisis and engages in meaningful discourse with all stakeholders. For instance, contractual obligations may be deferred if required in consultation with the creditors but not denied.

Relaxations Offered in the Corporate Governance Domain in India to Deal with the Challenges Posed by the Pandemic

In the backdrop of the discourse held, this article now tries to present a glimpse of the current developments in the corporate governance milieu in India. Several temporary relaxations have been notified by the regulatory authorities like the Ministry of Corporate Affairs (MCA) and Securities and Exchange Board of India (SEBI) to address the challenges faced by the corporates amidst the pandemic. The Boards of the companies are able to decide on availing such relaxations to steer their companies in the best possible way and for the benefit of all in the midst of the unprecedented crisis. These include due date extension for various filings and compliance requirements. For the listed firms, the compliance requirement on time gap between two board meetings or two audit committee meetings has also been eased till July 31, 2020. However, the boards as well as the audit committees need to

ensure that they meet at least four times a year. Companies now have been allowed to conduct extraordinary general meetings and annual general meetings (AGMs) through videoconferencing and other audio-visual means. They have been allowed to send financial statements and other important reports through email. September 30, 2020 has been fixed as the deadline for the top 100 listed entities by market capitalization whose FY ended on December 31, 2019 to conduct their AGMs. For FY 2019-20, nonfulfillment of minimum residency in India for a period of at least 182 days by at least one director of every company will not be treated as a violation of prescribed norms. If the independent directors have failed to hold even one meeting in FY 2019-20, it will also not be viewed as a violation. The timeline for implementation of the Stewardship Code for mutual funds and all kinds of Alternative Investment Funds has been extended from April 1, 2020 to July 1, 2020. Applicability of Companies (Auditor's Report) Order, 2020 has been deferred to FY 2020-2021 from FY 2019-2020 as previously notified.

In the domain of rights issue, SEBI has come up with various temporary relaxations with respect to the eligibility requirement pertaining to the fast track rights issues, minimum subscription, and threshold requirement for not filing draft letter of offer with SEBI.



Innovation, overhaul and technological upgrading on a continuous basis to combat the disruptions faced are again the priorities now.

Conclusion

The coronavirus has brought in a paradigm shift in the way of living, the way of doing business, business preferences, business priorities. On the basis of several clinical trials going on across the world to bring in a vaccine or medicine to save humanity, various predictions are being made. As the transitions brought in by the pandemic are anticipated to persist even when the crisis is over, the corporates are trying hard to survive and sustain. The mode of functioning has already suffered a sea change. The article tried to underscore the priorities of the Board of Directors to keep a company on track at present and in the future. Innovation, overhaul and technological upgrading on a continuous basis to combat the disruptions faced are again the priorities now. The various determinants of the corporate governance framework of a firm thus call for a relook in the context of its survival and sustenance. We feel a competent BOD which sets its priorities right can definitely assist a firm to sail through this turbulent time effectively.



Competition in Times of Pandemic and Its Aftermath

Much of the innovation and growth that has taken place in the business is on account of competition. Competition in the business activities induces organizations to deliver better products at reasonable cost, improve customer experience and satisfaction. There is wide spectrum of implications that the present pandemic has over our daily life and an important aspect that needs to be considered by business is its impact over competition and how it is going to shape up the future business activities. The Constitution of India, 1949, guarantees the fundamental right to carry on any occupation, trade or business. A competition law is required in order to ensure this fundamental right is not curbed due to anti-competitive practices. Read on....



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The Monopolies and Restrictive Trade Practices Act, 1969, (MRTP Act) was introduced in order to restrain the adverse effects of the Industrial licensing policy i.e. concentration of economic power in the hands of few large industrial houses. The MRTP Act contained provisions pertaining to prohibition and control of monopolistic practices and prohibition of restrictive and unfair trade practices.

Large scale reforms, post 1991, such as liberalization of the Industrial policy and accelerated globalization paved the way for forming a legislative and regulatory framework which

would harmonize the conflict between the competition policy and other government policies including safeguards to consumer interest. The Government felt that the MRTP Act had become obsolete in certain areas in light of the international economic developments relating to competition laws. Further, the focus needed to shift from curbing monopolies to promoting competition¹.

Accordingly, a high-level committee on Competition Policy and Law (Raghavan Committee) was formed in October, 1999, which provided recommendations on a suitable



¹ <https://www.indiabudget.gov.in/doc/bspeech/bs19992000.pdf>

legislative and administrative framework relating to competition law. Pursuant to its recommendations, the MRTP Act was abolished and the Competition Act of India, 2002 (Act) was introduced which covered provisions pertaining to bid rigging, forming of cartels, price fixing and predatory pricing which were missing in the MRTP Act. The four pillars of the Act are (i) anti-competitive agreements, (ii) abuse of dominance, (iii) regulation of combinations and (iv) competition advocacy. Also, an expert body, the Competition Commission of India (CCI) was established as an independent regulator for enforcing the Act. The CCI is vested with investigative, regulatory, adjudicatory and advisory powers as per the scheme of the Act².

Considering the critical role of the CCI in the economic framework, the policymakers must ensure that the Act does not in itself become anti-competitive. Hence, the law is required to be precise and dynamic. In such unprecedented times, most of the businesses are stuck between a rock and a hard place. Hence, the probability of collaboration with competitors, discriminatory pricing may be some extreme measures resorted to by businesses. This Paper outlines certain suggestions to cope with the current economic crisis and its aftermath within the realm of the Act.

Suggestions to cope with current pandemic and its aftermath

Price control and effective penalty mechanism

Price gouging is the practice of increasing prices of certain goods or services to an unfair level, especially during an emergency. Globally, regulators are under pressure to act against such unreasonable price increase. For instance, Canadian regulators are condemning alleged 'price discrimination' and vowing to crack down on price gouging during the pandemic. The Competition and Markets Authority, United Kingdom (CMA, UK) has set up a taskforce to tackle negative impacts of businesses charging excessive prices or making misleading claims about their products³. The Turkish Competition Authority (TCA) as well gave its heads up to undertakings that it was closely following the price increases, which it referred to as opportunistic during the pandemic⁴. The TCA, besides levy of highest fines allowed by the Turkish Competition Law on all the undertakings, also initiated a full-fledged investigation against twenty-nine undertakings, including major supermarket chains, operating in the food and cleaning/ hygiene products market⁵. The Italian competition authority is investigating Amazon and eBay for unjustified price increases of

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hand sanitizers and protective masks⁶. Due to fear of anti-trust violations in USA, Amazon suspended four thousand seller accounts over complaints of price gouging⁷.

Amidst the global anti-trust measures, the Indian regulators were quick to exercise the power under the Essential Commodities Act, 1955, to include hand sanitizers and masks as essential commodities. Thereby, a restriction was imposed on the stocking of such products to prevent its shortage and avoid artificial demand resulting in artificial price rise. As India already has a dedicated legislation to prevent price gouging, a separate action by the CCI was not undertaken. However, issues such as coordination between players on distributors' margin, control on supplies, etc. are under the purview of the CCI.

² CCI v. Steel Authority of India Ltd. (2010) 10 SCC 744

³ CMA coronavirus taskforce <https://www.gov.uk/government/publications/cma-coronavirus-taskforce-update-21-may-2020>

⁴ The Turkish Competition Authority's Announcement Regarding the Extreme Price Increases During the Pandemic <https://www.rekabet.gov.tr/tr/Guncel/kamuoyuna-duyuru-3b18d865266dea11811700505694b4c6>

⁵ <https://www.rekabet.gov.tr/tr/Guncel/alarlarinda-zincir-marketlerin-de-bulundu-8828c79f5f90ea11811a00505694b4c6>

⁶ <https://www.reuters.com/article/us-health-coronavirus-italy-antitrust/italian-antitrust-watchdog-probes-amazon-ebay-over-price-spikes-in-virus-crisis-idUSKBN20Z3BZ>

⁷ <https://www.bnnbloomberg.ca/amazon-suspends-almost-4-000-seller-accounts-over-price-gouging-1.1411181>

Competition

In order to keep anti-competitive measures in check the Act imposes a maximum penalty of ten percent of the average turnover or three times the profits in certain cases. However, the current penalty framework lacks transparency and effectiveness. As of March 2018, the CCI had levied a total penalty of Rs.13,523 crores in 135 cases, however, the recovery rate is only 0.4%⁸. Currently, in the absence of guidelines there is lack of clarity in penalty estimation methodology which leads to high litigation and low recovery levels.

A robust and effective penalty regime with suitable guidelines that imposes an optimal



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level of fine to enforce the provisions of the Act must be adopted on a fast track basis to deter businesses from taking advantage of the current crisis and indulging in anti-competitive measures.

Support of CCI to other regulatory bodies in revival of economy

The stimulus package provided by the Government does not act as a fillip to the economy during the pandemic as it mainly contains government loan / guarantees, credit extensions by banks and regulatory amendments. The new spending under the stimulus package is only 1.8% of India's Gross Domestic Product (GDP) which is meagre in comparison to other countries. A substantial stimulus to facilitate economic growth has been provided by other countries, for instance, Japan - 21% of GDP, USA - 11% of GDP, China- 11% of GDP and Brazil - 8% of GDP¹⁰. Hence, regulatory bodies of ailing sectors are pushing for selective aid to facilitate rebound in the absence a bigger and wider stimulus package which covers the demand and supply side of economy.

Support to capital-intensive sectors

The CCI must support other regulatory initiatives which can help businesses revive in these times of crisis. A boost for survival is required in case of capital-intensive sectors. One such sector requiring immediate attention is the telecom sector.



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This sector was under pressure before Covid -19 and the current situation has made matters worse. In response to the consultation paper issued by Telecom Regulatory Authority of India (TRAI) in

December 2019, all the telecom operators of India have favored a floor price for data tariffs for at least two years till the financial stress in the sector eases. The think tank of the Indian Government, NITI Aayog, considering the added burden on the sector caused by pandemic reversed its initial opposition and supported the floor price. However, the CCI is entirely against a floor price in order to keep competition alive in the sector. The TRAI has recently stated it shall continue open discussion on this subject after the lockdown has completely lifted and normalcy returns.

Fixing a floor price can be a red flag for a healthy and competitive market as it may disincentivize

⁸ <https://economictimes.indiatimes.com/news/economy/policy/can-cci-be-more-agile-like-its-eu-and-us-counterparts-in-disposing-of-cases/articleshow/72201833.cms>

⁹ <https://economictimes.indiatimes.com/news/economy/policy/indias-mammoth-covid-19-package-much-smaller-than-it-seems-says-fitch-solutions/articleshow/75823604.cms>

¹⁰ Statista - Value of COVID-19 fiscal stimulus packages in G20 countries, as a share of GDP as of May 2020

innovation and improvements in services. However, extreme situations call for extreme measures, hence a short-term closely monitored relief with periodic review for such capital-intensive sectors is the need of the hour. This will also enable continuation of firms which is equally critical to maintain competition in the sector.

Support in privatization of sectors

Another initiative by the Government which needs support of the CCI is the public private partnership in railways. The Raghavan Committee's report (supra), which laid the groundwork for enacting the competition law in India had recommended privatization of state owned monopolies like railways in order to bring in economic efficiency and market discipline through competition. A blueprint for privatization of railways to implement in the medium term is required in order to ease the added strain on government finances caused due to pandemic and an economy which is on a standstill. The Competition authorities must pro-actively support the plan of Niti Aayog and Ministry of railways, to establish a well-functioning, profitable, competitive and customer-oriented privatization of railways.

Dynamic approach towards combinations in the time of Covid – 19

Globally there has been a spike in collaborations, for instance,

USA drug maker Pfizer and Germany's BioNTech are working together on a potential vaccine for Covid-19. Such collaborations, otherwise, may have been subject to scrutiny by anti-trust regulators of both jurisdictions. On 8 April 2020, the European Commission published a temporary framework communication to provide antitrust guidance to companies in the critical medical goods space. It also issued a comfort letter to assure 'Medicines for Europe' against levy of heavy cartel fines.¹¹

The Indian economy is seeing a variety of collaborations, most of which have been triggered solely due to the pandemic. A tie-up for delivery of essential commodities by consumer goods majors, for instance, ITC Ltd has tied-up with Jubilant FoodWorks (franchisee of Domino's Pizza)¹², Marico Limited has tied-up with food technology platforms (Zomato and Swiggy)¹³. Similarly, cab-aggregator Uber is offering its fleet to Flipkart and Big Basket for delivering essential items. Also, Uber has tied up with Medlife for delivering medicines¹⁴. However, as per the provisions of section 3(3) of the Act, coordination amongst vertical players is also presumed to cause Appreciable Adverse Effect on Competition (AAEC). Accordingly, the CCI in its advisory issued on 19 April 2020¹⁵ to businesses, stated that at the time of competition assessment amongst other factors, it shall consider pro-

competitive effects. The CCI in its advisory has stated that it will not consider such businesses which are necessary and proportionate to address concerns arising from Covid-19 to cause AAEC. With the advisory, the CCI has showcased flexibility for collaboration during these difficult times, however, it has not provided any relaxation with respect to the approval mechanism.

Relaxation in approval mechanism

Two ways in which the CCI may consider providing relief to businesses collaborating in order to accelerate economic recovery i) providing speedy automatic approvals under its 'green channel route' or ii) Central Government exercising its power under the Act and providing exemption in public



The European Commission published a temporary framework communication to provide antitrust guidance to companies in the critical medical goods space. It also issued a comfort letter to assure 'Medicines for Europe' against levy of heavy cartel fines.

¹¹ https://ec.europa.eu/competition/antitrust/medicines_for_europe_comfort_letter.pdf

¹² <https://www.thehindubusinessline.com/companies/itc-dominos-pizza-in-tie-up-for-door-delivery-of-essential-commodities/article31239202.ece>

¹³ <https://www.financialexpress.com/industry/sme/marico-ties-up-with-swiggy-zomato-to-deliver-goods-during-lockdown/1918414/>

¹⁴ <https://www.uber.com/en-IN/newsroom/uber-partners-medlife-to-ensure-medicine-deliveries-across-5-cities/>

¹⁵ https://www.cci.gov.in/sites/default/files/whats_newdocument/Advisory.pdf

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interest due to the pandemic.

As per the current provisions, parties having horizontal overlap, vertical overlap or complementary business are not eligible for such automatic approvals under green channel route. In such trying times, an exception maybe made by the CCI for providing 'green channel approvals' to firms in research and development sector, health care sector and pharmaceutical sector to create a resilient and sustainable environment in such sectors.

As per the provisions of section 54 of the Act, the Central Government has power to exempt any class of enterprise or any enterprise from the applicability of the provisions of the Act in the '*interest of security of the state*' or '*public interest*'. The Ministry of Corporate Affairs (MCA) has utilized its power under the aforesaid section to exempt nationalized banks and regional rural banks in the banking sector¹⁶ from merger control regulation. Such exemption has also been provided in case of vessel sharing agreements between shipping companies for a specific period of time¹⁷. Such exemption may be exercised by the Central Government in public interest in order to the overcome the crises caused by pandemic.

Relaxation of competition principles to the extent of compete exemption may lead to exploitation by businesses and have adverse effects on

the economy in the long run. Therefore, widening the scope of the green channel route may be provided as a temporary measure to hasten economic recovery.

Regulating cartels

It is important that businesses do not take advantage of the market volatility and disruptions caused by the lockdown to enter into 'crisis cartels' i.e. agreements among most or all competitors to restrict output and/ or reduce capacity to increase profitability and prevent market exit in times of crisis. Such acts are prohibited under section 3 and section 4 of the Act. One such sector bearing the brunt of cartelization of raw materials like cement and steel is the real estate sector. Additionally, this sector is facing liquidity crunch and stagnation of demand. The CCI's immediate intervention and penal action against such cartels in cement and steel industry could help the sector kick start and set an example for other opportunistic cartels. While the Confederation of Real Estate Developers' Associations of India (CREDAI) is seeking assistance from the Government for their revival¹⁸, the Competition authorities must proactively champion competition principles to safeguard a level playing field and avoid market distortions.

Radical approach towards digital markets

This economic crises requires a dynamic and forthcoming

approach by the Competition Authorities to ensure that the economy is out of the clutches of recession. The growth of the digital market is turning out to be the mantra for economic growth. With most firms switching from offline to online mode of business, the transactions in the digital space are likely to increase. The CCI needs to adopt a framework which effectively assess mergers in the digital market. Previously, transactions in the digital market which were notified, like the merger between Flipkart and eBay¹⁹ or Walmart and Flipkart²⁰, a standard approach was adopted by the CCI by measuring market shares, barriers to entry, extent of vertical integration, extent of competition likely to remain after the combination etc. The



Relaxation of competition principles to the extent of compete exemption may lead to exploitation by businesses and have adverse effects on the economy in the long run. Therefore, widening the scope of the green channel route may be provided as a temporary measure to hasten economic recovery.

¹⁶ https://www.mca.gov.in/Ministry/pdf/Notification_31082017.pdf

¹⁷ http://www.mca.gov.in/Ministry/pdf/VSAExemption_16072019.pdf

¹⁸ <https://www.outlookindia.com/newscroll/credai-seeks-urgent-support-for-realty-sector-in-letter-to-pm/1845557>

¹⁹ https://www.cci.gov.in/sites/default/files/Notice_order_document/C-2017-05-505O.pdf

²⁰ https://www.cci.gov.in/sites/default/files/Notice_order_document/Walmart%20PDF.pdf

CCI, however, did not assess the transactions with respect to the dynamic nature of the digital markets or the potential anticompetitive conduct arising from combinations of data held by the parties.

In 2018, Apple acquired Shazam, a developer and distributor of music recognition applications for USD 400 million²¹. The European Commission and Federal Trade Commission approved the merger without any inquiry. They based their approval by eliminating data concentration concerns on the basis of legal and contractual limits for the acquirer to use the information about the customers of its competitors and documentary evidence reflecting no clear incentive to undertake any possible anticompetitive conduct using the combined data. Also, information similar to that collected could be gathered by the competitors of the parties to the merger.

The CCI may adopt a similar approach and place more importance to factors like collaborations in digital market promoting efficiency, innovation, competition and consumer protection. The CCI published a report on the “Market Study on E-commerce in India” on 8 January 2020²², with an objective to understand the functioning of digital markets in India and their implications

for competition, akin to other antitrust regulators globally. Also, the Competition Law Review Committee (CLRC) which was set up to review and recalibrate the Act has provided key recommendations in this sector²³. The need for rapid implementation of such forward-looking approach in the digital markets shall provide confidence among firms and pave the way for economic growth in India.

Certain flexibility in case of critical mergers

‘Rescue mergers’ also known as the ‘failing firm defense’ is used by parties to the merger seeking approval, irrespective of potential competitive issues, by claiming that the target firm would exit the market but for the merger and that would be more harmful to competition than the proposed merger. The document produced in Organisation for Economic Co-operation and Development (OECD) Competition Committee’s Roundtable Discussion on the Failing Firm Defense, 2009²⁴ highlights that during the times of financial distress and economic crisis, it is likely that there are increased numbers of claims for the application of failing firm defense.

The European Commission in its guidelines on the assessments of horizontal mergers²⁵, points out than an otherwise problematic merger

may be authorized if one of the companies is a failing firm, however, evidentiary thresholds must be high. Three cumulative conditions are required to be met: (i) absent the merger, the failing firm would exit the market in the near future as a result of its financial difficulties; (ii) there is no feasible alternative transaction or reorganization that is less ant-competitive than the proposed merger; and (iii) absent the merger, the assets of the failing firm would inevitably exit the market.

Also, the UK CMA, has issued a general ‘refresher’ on how it is likely to approach ‘failing firm’ claims²⁶. Recently, the UK CMA, approved the acquisition by Amazon of a fellow delivery service company Deliveroo. The UK CMA stated that significant deterioration in failing firm’s financial position as result of Covid-19, the exit of Deliveroo is inevitable and would have a more adverse impact on the competition in comparison to allowing the investment of Amazon. In USA, a similar merger is on the cards, wherein Uber is proposed to acquire food delivery company Grubhub Inc²⁷. thereby leading to substantial consolidation of the food delivery market in USA.

In India, the current economic scenario will lead to an increased level of consolidation of firms irrespective of their size or sector. The acquisition

²¹ <https://www.engadget.com/2018-09-25-apples-purchase-of-shazam-is-400-million-well-spent.html>

²² https://www.cci.gov.in/sites/default/files/whats_newdocument/Market-study-on-e-Commerce-in-India.pdf

²³ http://www.mca.gov.in/Ministry/pdf/ReportCLRC_14082019.pdf

²⁴ <https://www.oecd.org/competition/mergers/45810821.pdf>

²⁵ [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52004XC0205\(02\)&from=EN](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52004XC0205(02)&from=EN)

²⁶ <https://www.gov.uk/government/publications/merger-assessments-during-the-coronavirus-covid-19-pandemic/annex-a-summary-of-cmas-position-on-mergers-involving-failing-firms>

²⁷ <https://in.reuters.com/article/grubhub-ma-uber/uber-approaches-grubhub-with-takeover-offer-bloomberg-news-idINL4N2CU3GP>

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of insolvent firms is within the ambit of the Insolvency and Bankruptcy Code, 2016, along with the necessary approval of the resolutions by CCI. However, with the mandated ad-hoc suspension of provisions of IBC for one year, which gives powers to financial creditors, operational creditors and promoters to trigger the insolvency and bankruptcy proceedings, the entire burden of review of acquisition of firms facing insolvency shall fall on the Competition authorities.

As per the Act, provisions of section 20(4) provide the criteria for the purpose of determining whether a combination would have the effect of or is likely to have an adverse impact on competition in the relevant market. Sub clause (k) of the aforesaid section provides that 'possibility



'Rescue mergers' also known as the 'failing firm defense' is used by parties to the merger seeking approval, irrespective of potential competitive issues, by claiming that the target firm would exit the market but for the merger and that would be more harmful to competition than the proposed merger.

of a failing business' is one such criteria. Accordingly, the business of the firm need not be a total failure at the time of notifying the CCI, but a mere possibility that it is likely to fail in future is sufficient to entitle the parties to claim the failing firm defense in India.

In such crises, two types of mergers and acquisitions are likely. One being the strategic type, wherein big firms make acquisitions as prices are attractive. Second being investor driven mergers between high cash burn companies that are not doing well. The CCI shall face a challenge in reviewing such mergers as in many cases the rationale for such mergers maybe short-term benefits to the acquirer, such as absorption of the failing firm's carry forward losses subject to requisite conditions being satisfied or appreciation in the earning per share of the acquirer. This places a huge responsibility on the Competition authorities as they run the risk of approving anti-competitive mergers which could have a long-lasting negative impact on the market.

A number of critical mergers requiring urgent evaluation of CCI will be those of Indian start-ups which have hit a roadblock due to cash flow crunch as they are unable to raise money from investors during the pandemic. Funding for start-ups has dried up, with the Foreign Direct Investment (FDI) restrictions on neighboring countries including China and low risk appetite of

various funds such as SoftBank Group, Sovereign Funds, etc. According to a report by Tracxn Technologies Private Limited, over the past few months, more than 250 startups have shut shop.

The CCI has clarified that coordinated conduct/ activities of businesses may be granted protection from sanctions provided such conduct is necessary and proportionate to address the specific concerns/ requirements arising due to Covid-19. The CCI has vide its notification dated 20 April 2020²⁸, that parties to the combination may avail pre-filing consultation through video conferencing. However, recognizing that the position of firms in distress may rapidly deteriorate during consultations, which in turn may cause inefficient liquidations, the CCI should adopt procedural changes to ensure a speedier review of mergers involving failing firms. It is important that CCI eliminates the traditional one-sided logic and treats such submissions in fair and transparent manner by scrutinizing sufficient evidence.

Conclusion

The pandemic has changed the competition landscape. There is an urgent need for Competition authorities to adopt a dynamic, flexible and fast track approach in order to provide its vital support in revival of the wheels of the Indian economy without violating the principles of competition. ■■■

²⁸ https://www.cci.gov.in/sites/default/files/whats_newdocument/Notice20042020.pdf

Buyback of Shares - A Capital Allocation Tool

Over the last few years, corporations/companies in India and worldwide have been increasingly buying back their own shares. However, ever since the outbreak of the novel coronavirus (COVID-19) pandemic, prices of stocks have crashed. The pandemic has forced companies to either temporarily shut down or drastically reduce their business due to government directives. These companies are losing revenue, incurring losses and facing cash flow issues. Consequently, companies are now reducing/pruning their dividend and/or buyback plans. But, ideally when should a company buyback its shares and does it benefit the company and its shareholders? The article talks about buyback of shares used as a capital allocation tool for creating value for the company & its shareholders at the right time. Read on to know more...



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Isha Mogul

Deployment of Profits/ Capital

Normally, a company uses its profits and funds for:

- **Reinvestment:** Investment in current/future value creating and innovative projects, salaries, research and development, repayment of existing/excess debt. Retained earnings lay the foundation for investment in future innovation. For instance, Apple Inc. issued a Press Release on January 17, 2018, planning to repatriate billions of overseas cash, pay repatriation tax of approximately US\$38 billion, open a second campus and expand its current workforce of 84,000 by 20,000, thereby contributing US\$350 billion to the US economy over the next 5 years¹.
- **Dividend:** Distribution of dividend to its shareholders.
- **Share Buyback:** The net surplus capital/funds left after the above, can be used for share buyback from the existing shareholders.



¹ "Apple accelerates US investment and job creation." Apple, Press Release dated January 17, 2018, <https://www.apple.com/newsroom/2018/01/apple-accelerates-us-investment-and-job-creation/>

However, each company will either deploy/reinvest the profit/funds in the business or return it to the shareholders in the form of dividend or share buyback depending heavily also on the stage of the company (start-up or established player), industry in which it operates (old economy like steel, energy, consumer durables or new economy like information technology, cloud computing, artificial intelligence, biotech, electric vehicles).

Buybacks

In the last 22 years, nearly 557 Indian companies have announced and bought back its equity shares to the tune of ₹ 2,14,095 crores (nearly US\$28.423 billion in value terms on March 31, 2020). The largest buyback of ₹ 55,587 crores (nearly US\$8.0120 billion in value terms on March 31, 2019) covering 63 companies was in financial year 2018-2019 itself².

Similarly, in U.S.A. between 2009-2018, 465 listed companies in the S&P 500 Index spent US\$4.3 trillion on buybacks and US\$3.3 trillion on dividends over the decade. In 2019, corporations listed in the S&P 500 Index spent US\$0.73 trillion on buybacks (2.72% of the market capitalisation US\$26.76 trillion) and US\$0.49 trillion on dividends (1.81% of the market capitalisation US\$26.76 trillion).

The corporate tax rate for large companies in India is 30%. Previously, U.S.A. tax authorities levied a 35% federal



When a company has surplus cash (after repayment of high-cost debt) and lucrative growth opportunities and its stock is reasonably priced, a buyback can provide an impetus to the long-term returns of its shareholders.

income tax rate on companies' earnings globally, but allowed them to defer paying taxes on offshore income until they returned/repatriated it to the U.S.A. The tax reform announced by President Donald Trump in 2017 entailed a reduction in the corporate tax rate to 21% and repatriation of US\$2.5-4 trillion of profits, that American corporations had parked overseas (deferred foreign income) in order to avoid the corporate tax of 35%. These companies could bring in the money by paying a one-time lower tax rate, being one-time rate of 15.5% on cash and 8% on other assets. This provided a boost to companies to return funds to the shareholders, especially through stock buybacks.

So, why are so many companies returning funds back to its shareholders through share buybacks?

Forms of Buybacks

Share buybacks can be executed as under:

- **Tender Offer:** The shareholders are given a tender offer, whereby they have the option to submit/tender some/all their shares with a prescribed period at a specified price, which normally is at a premium to the current market price.
- **Open Market Purchase:** The company buys back shares in the open stock market at the market price over a period of time.

The Buyback Impact

When a company repurchases equity shares, the selling shareholders get an infusion of funds. Theoretically speaking, once these shares are off the market, each remaining equity share becomes more valuable since the future profits would be divided/allocated among fewer equity shares i.e., earnings per share (EPS) increases followed by an increase in stock price. However, this perfect cycle will work if and only if the profits/earnings, and in turn the share price, keeps rising – but, no company can guarantee future profits!

When a company has surplus cash (after repayment of high-cost debt) and lucrative growth opportunities and its stock is reasonably priced, a buyback can provide an impetus to the long-term returns of its shareholders.

²"Database Coverage: 1998-99 to 2019-20 (22 Years)." Prime Database, https://www.primedatabase.com/buy_demo.asp. Accessed on April 25, 2020.

Why do Companies prefer Buybacks?

Advantages	Disadvantages
<ul style="list-style-type: none"> ■ Many companies prefer share buybacks over dividends since a buyback is flexible and can be altered (reduced/increased), if a company is suddenly facing adverse business conditions. ■ In contrast to a cut/reduction in dividend, a change in the timing and quantum of buyback is less likely to be considered adversely by the shareholders. ■ A buyback or <i>special</i> dividend is better than increasing the <i>ordinary</i> dividend since the latter implicitly increases the expectations of the shareholders to maintain the higher dividend in the future. ■ A buyback gives an opportunity to the selling shareholders to invest the funds elsewhere, where they can earn higher returns than what the company is earning. According to the legendary investor, Warren Buffett, CEO of Berkshire Hathaway Inc., "If we reach the point that we can't create extra value by retaining earnings, we will pay them out and let our shareholders deploy the funds."³ Buybacks enable corporate earnings being deployed from <i>old economy</i> companies not needing funds for their business to the shareholders, who in turn can invest it in other companies, who need funds or in industries of the future viz. <i>new economy</i> companies. ■ A buyback reduces the risk that the management may use the excess cash to make value-destroying investments, expansion, management glorification. A buyback helps keep pressure on the company management to use capital prudently or return it, so that companies don't waste shareholders' funds. ■ A company can achieve the optimal/target capital structure via a buyback, especially with debt finance, provided the company has sufficient profits for the interest expense to shield from taxation and the debt servicing won't entail financial distress in the future. ■ From an income-tax perspective, in India, with effect from April 1, 2020, dividend paid by a company to a shareholder is taxable under the Income-tax Act, 1961 (Act) in the hands of the shareholder at the regular rate and is subject to income-tax deduction at source (TDS)/withholding tax, at the applicable rates. 	<ul style="list-style-type: none"> ■ When a company announces a large buyback, it may be viewed adversely and raise a red flag, especially in a high growth industry. It provides a lens into what the management thinks about the future prospects of the company – <i>the best investment the company can make is in its own shares?</i> ■ When an immediate spike in the EPS rather than value creation is the sole reason for a buyback, the <i>selling shareholders</i> gain at the expense of the <i>non-tendering/continuing shareholders</i>, if the overvalued shares are repurchased. ■ A company may overpay for its own shares, if the management's estimate of the fair value of the shares is overly optimistic. ■ If the management and promoters participate in the buyback themselves as tendering shareholders, then it may indicate an underlying weakness in the long-term business of the company. ■ Buyback of shares offsets the dilution in EPS once stock options are granted to the employees/management of the company. ■ In recent years, companies have been using borrowings to fund buybacks, reducing equity and hence, increasing leveraging, which can increase the financial risk of the company and its investors in difficult times.

³ "An Owner's Manual." Berkshire Hathaway Inc. 2008 Annual Report, June 1996, p. 91.

Advantages	Disadvantages
<p>However, in the case of buyback of shares by a listed company, the profit/gain to the shareholder is exempt under section 10(34A) of the Act but the company is liable to pay tax on distributed income under section 115QA of the Act on the difference between the repurchase/buyback price and issue price at 20% plus surcharge and cess, as applicable. Similarly, in U.S.A., dividend is taxed as ordinary income while gains from stock buybacks are taxed at a lower rate of income-tax at 20%, if the stock is held for more than a year giving rise to long-term capital gains. Therefore, from a shareholders' perspective, the income-tax under a share buyback can be lower than under dividend payout – <i>a shareholder-friendly way to distribute cash.</i></p> <ul style="list-style-type: none"> ■ It can support the market price of the share during sluggish/bear market conditions. ■ It enables the consolidation of the stake in the company. 	<ul style="list-style-type: none"> ■ When management compensation of companies is linked to the growth in EPS on account of the dilution/reduction in the number of outstanding shares in a buyback, they can earn higher compensation under buybacks although the actual profit is the same. To counter this drawback, the Boards of the companies should delink management compensation to EPS, especially under a buyback. ■ If a majority of the compensation of senior management consists of stock options/awards, buybacks may be used to prop-up the stock price.

The Right Timing and Price

Smart companies repurchase shares only when the company's shares are trading below the management's best estimate of its *fair/intrinsic value* and no better investment opportunities or returns are available in the business. When a company follows this practice, it will benefit the long-term interest of the non-tendering shareholders at the expense of the tendering/selling shareholders, if the managements estimates are indeed correct.

Conversely, when a company's shares are expensive and there are no lucrative investment opportunities available in the business, then paying dividend is probably the better option.

Some companies and corporations also set parameters

for stock buybacks. In the case of Berkshire Hathaway Inc.:

“Common Stock Repurchase Program

For several years, Berkshire had a common stock repurchase program, which permitted Berkshire to repurchase its Class A and Class B shares at prices no higher than a 20% premium over the *book value (emphasis supplied)* of the shares. In 2018, Berkshire's Board of Directors authorized an amendment to the program, permitting Berkshire to repurchase shares any time that Warren Buffett, Berkshire's Chairman of the Board and Chief Executive Officer, and Charles Munger, Vice Chairman of the Board, believe that the *repurchase price (emphasis supplied)* is below Berkshire's *intrinsic value, conservatively determined (emphasis supplied)*.



Conversely, when a company's shares are expensive and there are no lucrative investment opportunities available in the business, then paying dividend is probably the better option.

The program does not specify a maximum number of shares to be repurchased or obligate Berkshire to repurchase any specific dollar amount or number of Class A or Class B shares and there is no expiration date to the repurchase program. Berkshire will not repurchase its common stock if the repurchases reduce the total value of Berkshire's consolidated

cash, cash equivalents and U.S. Treasury Bills holdings to less than \$20 billion.”⁴ The Total Assets of Berkshire on December 31, 2019 was US\$817.7290 billion.

How Much is Right?

The number of shares and amount spent on the buyback depends on its purpose.

■ Capital Restructuring:

If the main objective is to reach a target capital structure, then the number of shares is a function of the company's market value, its share price, current/target debt-equity ratio.

Let's take a company having market value of debt and equity of ₹ 20 crores and ₹ 80 crores respectively, aggregating to ₹ 100 crores, and its stock price is ₹ 20/share. The company plans to change its capital structure (debt:equity) from the existing 20:80 to 30:70.

The company can issue fresh debt of ₹ 10 crores and buyback 50,00,000 shares (12.50% of the shares outstanding) at ₹ 20/share. However, with the issue of fresh debt of ₹ 10 crores, the interest thereon at say 15% p.a. will save income-tax at say 35% of ₹ 0.525 crores or ₹ 0.15/share. Thus, the price of share will/should also rise by ₹ 0.15/share to ₹ 20.15/share. With this, the market value of debt and equity would be ₹ 30 crores and ₹ 70.525 crores aggregating to ₹ 100.525 crores and the

debt-equity ratio would become 29.84:70.16 i.e., marginally different from the target of 30:70. We have ignored transaction cost of issuing fresh debt and share buyback. Therefore, a company needs to plan accordingly to get the right mix of fresh debt and number of shares to buyback to achieve the target capital structure.

- **Value Extraction:** Let's consider another case, where the board of XL Ltd. feels that the fair value of the company's net assets is ₹ 1,000 crores, with 50 crores equity shares outstanding, and in turn, the fair value/equity shares is ₹ 20/share. However, the current stock price is ₹ 15/share (25% discount). XL Ltd. decides to buyback 5 crores equity shares (10% of the existing shares outstanding) and expending ₹ 75 crores thereon. Now, with 45 crores shares outstanding, there is a possibility of an increase in the stock price of ₹ 5.56/share [$\{(\text{₹ } 1,000 \text{ crores} - \text{₹ } 75 \text{ crores}) / (50 - 5 \text{ crores equity shares})\} - \text{₹ } 15]$ or 37.04% of the current stock price (₹ 5.56/₹ 15 per share). Thus, irrespective of the movement in the stock price, the fair value/share does marginally rise from ₹ 20/share to ₹ 20.56/share (just 2.80%) by buying back 10% of the shares outstanding at a discount of 25%.

Buyback ROI from a Company's Standpoint

The buyback return on investment (ROI) = (Reduction in dividend on the repurchased shares + Change in the stock price since the buyback) / Amount spent on buyback. For a real world analysis, see Buy it Back.

A high/positive ROI, as of Apple Inc. of 48.81% and LVMH Moët Hennessy - Louis Vuitton of 1.59%, indicates pragmatic financial management by buying shares when they are undervalued and investing the funds for prudent use. While a low/negative ROI, as of Berkshire Hathaway Inc. of (5.19%) and Tata Consultancy Services Ltd. of (4.56%), indicates that the company bought its shares at a high price and that the money could have been used wisely, which investors would hate to hear/observe.

When companies repurchase their share at a prudent time and price then only the company and its shareholders will benefit.

We can also infer that the size of a buyback is no guarantee for an increase in earnings or stock price.

The Impact of the Coronavirus Pandemic

The novel coronavirus disease (COVID-19), which is an infectious disease caused by a newly discovered coronavirus, emerged in Wuhan, Hubei Province, China in December 2019. COVID-19 can be severe,

⁴ Berkshire Hathaway Inc. 2019 Annual Report, 2019, p. K-29.

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and some cases have caused death.

On March 11, 2020, “Deeply concerned both by the alarming levels of spread and severity, and by the alarming levels of inaction, WHO made the assessment that COVID-19 can be characterized as a pandemic.”⁵

COVID-19 cases, which have spread across 213 countries as per the World Health Organization (WHO)⁶, is summarised hereunder (see The COVID-19 Pandemic):

and 39.3505% respectively from their peak in January/February 2020. In this scenario, companies with strong balance sheets and having surplus cash, should have or can use this as an opportunity to buyback it's stock at the right (depressed/low) price (refer column 10 of Buy it Back).

Conclusion

When a share buyback is prudently applied for capital allocation after evaluating various options and aligning it with the short/long-term

Apple, Press Release dated January 17, 2018, <https://www.apple.com/newsroom/2018/01/apple-accelerates-us-investment-and-job-creation/>

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“An Owner’s Manual.” Berkshire Hathaway Inc. 2008 Annual Report, June 1996, p. 91.

The COVID-19 Pandemic					
Country	Population (in billion)	Confirmed Cases	Infection Rate	Deaths	Mortality Rate
	1	2	3 = 2/1	4	5 = 4/2
Overall	7.8000	44,34,653	0.06%	3,02,169	6.81%
U.S.A.	0.3308	13,82,362	0.42%	83,819	6.06%
The United Kingdom	0.0679	2,36,715	0.35%	33,998	14.36%
China	1.4393	84,478	0.01%	4,644	5.50%
India	1.3800	85,940	0.01%	2,752	3.20%

People across the world are under lockdown with business and economic activities at its near lows or standstill, and governments offering stimulus packages for recovery with restrictions on dividends and stock buybacks on companies availing these packages.

In mid/end of March 2020, stock markets like the Dow Jones Industrial Average (U.S.A.), Euronext 100 (Europe) and S&P BSE Sensex (India) fell by 38.4020%, 39.8976%

objectives of the company, it can create value for not only the company but also its shareholders. After all, it is the shareholders’ freedom to invest/deploy cash/money in companies, where it is being used efficiently, thereby with the rise in the productivity of companies, its employees and other stakeholders will also prosper.

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⁵ “WHO Timeline - COVID-19.” World Health Organization, April 27, 2020, <https://www.who.int/news-room/detail/27-04-2020-who-timeline---covid-19>. Accessed on May 17, 2020.

⁶ “WHO Coronavirus Disease (COVID-19) Dashboard.” Data last updated: May 16, 2020, 6:45 p.m. CEST World Health Organization, <https://covid19.who.int>. Accessed on May 17, 2020.

Company (Period)	Nature of Business	Amount spent on Buyback	Number of Shares bought back	Percentage of Shares bought back out of the Total Paid-up Capital	Average Buyback Price per share	Stock Price per share during the period		Dividend declared per share since the buyback to date	Reduc- tion in Dividend on the re- purchased shares	Stock Price per share on April 29, 2020	Change in the Stock Price per share since the buyback up to April 29, 2020	Change in Stock Price since the buyback up to April 29, 2020	Buyback ROI	Lowest Stock Price since the COVID-19 pandemic
						High	Low							
		1	2		3 = 1/2			4	5 = 2*4	6	7 = 6-3	8 = 2*7	9 = (5+8)/1	10
Apple Inc. (Fiscal year ended on September 28, 2019)	Design, manufacture and marketing of smartphones, computers, tablets, wearables and accessories, and sale of related services	US\$67.101 billion	345.205 million	7.26%	US\$194.38	US\$233.47	US\$142.00	US\$1.54	US\$531.62 million	US\$287.73	US\$93.35	US\$32.22 billion	[US\$531.62 million + US\$32.22 billion]/ US\$67.101 billion = US\$32.75 billion/ US\$67.101 billion = 48.81%	US\$224.37
Berkshire Hathaway Inc. (Fiscal year ended on December 31, 2019)	Insurance, freight rail transportation, utility, energy and investments	US\$4.85 billion	16,148.94 equivalent Class A common stock	0.98%	US\$3,00,329.3095 Class A common stock	US\$3,42,250 Class A common stock	US\$2,86,650 Class A common stock	-	-	US\$284,749.00	(US\$15,580.3095) billion	(US\$0.25) billion	(US\$4.85 billion = (5.19%)	US\$240,000 Class A common stock
LV/MH Moët Hennessy - Louis Vuitton (Fiscal year ended on December 31, 2019)	Fashion and leather goods, perfumes and cosmetics, watches, jewellery, wines and spirits	€213.3299 million	0.6147 million	0.12%	€347.04	€419.50	€243.65	€2.60	€0.5733 million*	€359.80	€12.76	€2.8136 million*	(€0.5733 million* + €2.8136 million)/€213.3299 million = 1.59%	€287.95
Tata Consultancy Services Ltd. (Financial Year 2018-2019)	Computer programming, consultancy (Financial Year and related activities	₹ 16,000 crores	7.62 crores	1.99%	₹ 2,100	₹ 2,255.55	₹ 1,454.83**	₹ 99	₹ 754.29 crores	₹ 1,905.20	(₹ 194.80)	(₹ 1,484.19) crores	(₹ 754.29 crores + ₹ 1,484.19) crores)/₹ 16,000 crores = (₹ 729.90) crores/₹ 16,000 crores = (4.56%)	₹ 1,636.10

* Reduction in Dividend and Change in Stock Price since the buyback up to April 29, 2020 has been considered on the net purchase (gross purchases less sales) of 0.2205 million i.e., 220,500 shares bought back in the fiscal year ended on December 31, 2019.

** adjusted for bonus 1:1; price from May 31, 2018 was ex-bonus.

Source: Company Form 10-K, Annual Reports, Universal Registration Document and website.

Taxation of Start-ups - An Emerging Sector in India

In today's context where the Prime Minister of India emphasised the concept of "Aatmanirbhar Bharat" (Self-reliant India) in order to boost the economy after the Covid-19 pandemic, the necessity to make more local businesses successful, especially in the MSME sector has gained momentum. The 'Start-Up India' is an initiative by the Government, introduced in 2016, 'to build a strong eco-system for nurturing innovation and start-ups in the country that will drive sustainable economic growth and generate large scale employment opportunities.' The taxation of start-ups has been in the limelight for some time now, due to the issues that are unique to the sector and the subject has evolved over a period of time. Therefore, it is important to take note of the same and advise the start-ups on the tax incentives available in order to provide a holistic solution and thereby save taxes and other costs. Read on...



CA. G Lakshmi Priyadarshini

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What is a Start-Up?

A start-up, in general terms means, an entity formed by a group of entrepreneurs (called "Founder/(s)") with the idea of introducing a new product/service, a new innovative idea or a big improvement of something already existing in the market. A typical start-up is a brainchild of the founder who needs financial backing to launch the product/service in the market.

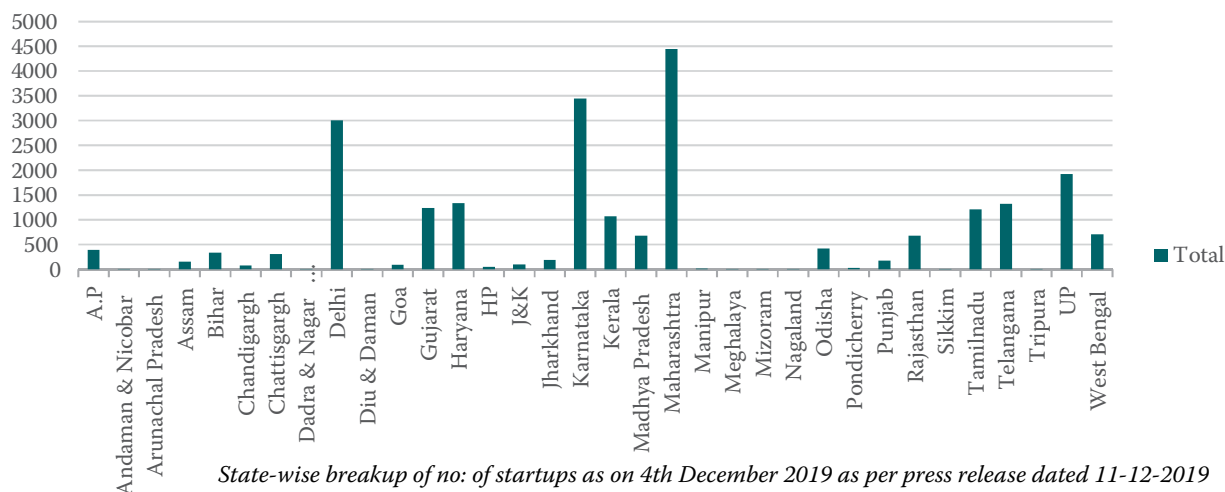
Definition

Having briefly understood what a start-up is, now it is critical

to see the definition of the term for the purpose of Government Schemes. Following are the key conditions for an entity to be a 'Start-up' as per the notification issued by the Ministry of Commerce & Industry, GSR 127(E) dated 19-Feb-2019:

1. An entity can be recognized as a start-up for up to ten years since incorporation.
2. The annual turnover should not exceed Rupees 100 crores in any previous financial years since incorporation.





State-wise breakup of no. of startups as on 4th December 2019 as per press release dated 11-12-2019 by Ministry of Commerce & Industry.

- The entity should work towards innovation, development, deployment, or improvement of new products, processes or services or if it is a scalable business model with a high potential of employment generation or wealth creation.

In case the entity completes ten years from the date of incorporation/registration, it will cease to be start-up. Also, if the turnover exceeds Rupees 100 Crores in any previous financial years, the entity will lose the start-up identity.

Recognition of a Start-up

Under the 'Start-Up India' initiative, The Department of Promotion of Industry and Internal Trade (DPIIT) is authorized to recognize an entity as start-up in order to avail the various tax benefits, IPR fast tracking etc.,

The process of getting recognition from DPIIT is a

simple process, focused on getting information about business of the start-up, to check whether the idea is unique, is it a scalable business model, will it create employment opportunities in the future, wealth creation etc. After due verification of documents and information submitted, the DPIIT will issue a certificate recognizing the entity as a Start-up.

It should be noted that only a private limited company incorporated under Companies Act, 2013 is covered under the definition of start-up. Further, both Limited Liability Partnership (LLP) and a partnership firm (registered under the partnership Act) is included in the definition of Start-up.

There are currently more than 32000 startups recognized by the DPIIT¹ all over India.

Income Tax incentive

In order to provide tax incentive to start-ups, Section 80IAC was introduced by Finance Act,

2016, whereby 100 percent deduction of profits from the business of an 'eligible start-up' is allowed for three consecutive years. An option is given to the entity to choose any consecutive period of three years within seven years from incorporation.

Eligible Start-up

The definition of the term 'Eligible Start-up' under the Income tax act is significantly different from that of the DPIIT in respect of the criteria to be satisfied by an entity to qualify for tax deductions. The aspects of the definition are as follows:

- The start-up should have been incorporated on or after 01-04-2016 but before 01-04-2021
- The turnover doesn't exceed Rupees 25 Crores for the year in which the deduction is claimed.
- It holds a certificate of eligible business from the **Inter-Ministerial Board of Certification** as notified in the Official

¹ Source: www.startupindia.gov.in



It should be noted that only a private limited company incorporated under Companies Act, 2013 is covered under the definition of start-up. Further, both Limited Liability Partnership (LLP) and a partnership firm (registered under the partnership Act) is included in the definition of Start-up.

Gazette by the Central Government Further, the benefit is available only for an eligible start-up being a Company incorporated under Companies Act, 2013 or a Limited Liability Partnership (LLP).

Procedure to get Certificate

The Inter-Ministerial Board of Certification is a Board set up by Department for Promotion of Industry and Internal Trade (DPIIT) which validates Startups for granting tax related benefits. A startup can make an application in Form-1 along with required documents specified therein to get the certificate for claiming deduction under Section 80IAC.

Following documents are required to be submitted along with the application:

1. Copy of Memorandum of Association or LLP/ Partnership Deed etc.,

2. Annual accounts for last three financial years (as applicable)
3. Copies of Income tax returns for the last three financial years (as applicable)

Conditions to claim deduction

This deduction is subject to various conditions laid out under the section 80 IAC (3) as follows:

1. The start-up is not formed by splitting up, or the reconstruction, of a business already in existence
2. It is not formed by the transfer to a new business of machinery or plant previously used for any purpose.

Any plant or machinery which was used outside India by any person other than the start-up is allowed, provided such machinery is imported into India and it is not used by any person in India prior to its

installation. No depreciation should have been claimed in respect of the machinery or plant under the Income Tax Act earlier.

There is a relaxation from condition (2) above, allowed in respect of cases, where the plant or machinery transferred to the new business of the start-up doesn't exceed 20 percent of the total value of machinery used in the business.

Apart from the specific conditions under section 80IAC, certain conditions as mentioned under sub sections (5) and sub sections (7) to (11) of section 80IA also apply for claiming deduction under this section.

Angel tax and its implications on a Start-up

Though, the term 'Angel Tax' is not mentioned anywhere in Income Tax Act, it has been widely discussed in many tax forums in the recent times mainly due to the adverse



effect on the startup ecosystem. In order to understand the term, it is pertinent to note the circumstances that led to the angel tax regime. In 2012, when the Finance Bill was introduced in the Parliament, a new Section 56(2)(viib) was introduced to tax the amount received by a closely-held company by way of issue of shares at premium to a resident, if it exceeds the Fair Market value (FMV) of the shares. This amendment was classified under the heading “Measures to Prevent Generation and Circulation of Unaccounted Money” in the Memorandum to the Finance Bill, 2012 at that time. Due to this amendment, the amount received as consideration for issue of shares in excess of the FMV will be taxed under the head ‘Income from other Sources’ of the Company issuing shares.

The intention was to curb money laundering activities which used issuing shares with ‘exorbitant/unjustified premium’ as a tool to bring the unaccounted money into the system. But this amendment, started to have adverse effect in one of the emerging sectors of the country, the Indian start-up ecosystem. Many start-ups raise funds from Venture capital fund or angel investors by issuing shares at a premium, which is mainly due to the fact that it may be a new company which doesn’t have books assets to back the issue of shares at premium. The share value is derived from the

future potential of the business, market conditions, brand value etc., backed by projected cash flows. In some cases, the value is derived from intangible value of the Intellectual Property Rights (IPR) held by the start-up.

Investors/Venture capital funds were afraid of investing in start-ups resulting in significant reduction in investments in start-ups after the amendment was made. The IT department started issuing notices to many start-ups under the Section 56(2)(viib) resulting in lot of disputed cases pending at various stages of the judiciary. This came to be known, infamously, as the “Angel tax” with respect to the taxation of start-ups.

After many representations from the start-up community and various changes made from time to time, finally the CBDT issued notification² to exempt start-ups recognised by DPIIT from the clutches of Section 56(2)(viib), namely ‘angel tax’ on 05th March, 2019 and the notification is applicable from 19th Feb, 2019.

Exemption from ‘Angel tax’

Now let’s see the conditions specified as per notification GSR 127(E) dated 19-Feb-2019 issued by the DPIIT for the purpose of being exempted from application of section 56(2)(viib):

- First and foremost condition, is that the start-up should be recognised by the DPIIT.



After many representations from the start-up community and various changes made from time to time, finally the CBDT issued notification¹ to exempt start-ups recognised by DPIIT from the clutches of Section 56(2)(viib), namely ‘angel tax’ on 05th March, 2019 and the notification is applicable from 19th Feb, 2019.

- Second condition being, the aggregate of Paid-up capital and share premium (post-issue) shouldn’t exceed Rupees 25 crores. It is to be noted that the angel-tax is applicable only when the shares are issued to a resident. Accordingly, any shares held by non-resident need not be considered for the purpose of calculating the limit of Rupees 25 crores. Any shares held by a venture capital company or a venture capital fund will also be excluded from calculating the limit.

Further there are also many conditions imposed for Investment in assets by these companies for claiming exemption. Investment in land/building being for residential

² Notification No. 13/2019/F. No. 370142/5/2018-TPL (Pt.) issued by CBDT on 05th March, 2019

purpose, a motor vehicle/ aircraft/yacht for cost exceeding ₹ 10 lakhs or Jewellery is not permitted. The start-up cannot give loans or advances or invest in another entity or purchase shares and securities except in the ordinary course of business. The start-up cannot invest in any of the assets specified in the notification for a period of seven years from the end of the latest financial year in which shares are issued at premium.

Declaration

A start-up fulfilling the conditions should make a self-declaration in Form 2 and submit the same to DIPP, which will in turn forward the same to CBDT after due consideration.

Withdrawal of exemption

If it found that the certificate is obtained based on false information or the start-up invests in any of the assets listed in the notification before the stipulated period of seven years, the certificate will be revoked



Section 54GB was introduced to provide tax exemption to entrepreneurs or promoters of a startup selling their residential property in order to raise funds to invest in the company.

and the exemption provided will be withdrawn with retrospective effect.

Capital Gains

Section 54EE

This section provides exemption from capital gains tax if the long term capital gains are invested by an assessee in units of such specified fund, as may be notified by the Central Government in this behalf, subject to the condition that the amount remains invested for three years failing which the exemption shall be withdrawn. The investment in the units of the specified fund shall be allowed up to ₹ 50 lakh.

Section 54GB

Long term capital gains arising on account of transfer of a residential property (a house or plot of land) shall not be charged to tax if such capital gains are invested in subscription of shares of a company which qualifies to be an eligible start-up subject to the following conditions:

1. The assessee should invest the amount in the equity share of an eligible company before due date for filing return of income under section 139.
2. The company has, within one year from the date of subscription in equity shares by the assessee, utilised this amount for purchase of new asset as prescribed.
3. The assessee should hold more than 50 fifty percent of the equity share capital after the subscription of shares.
4. The company in which amount is invested should be a small or medium enterprise or an eligible start-up.

This section was introduced to provide tax exemption to entrepreneurs or promoters of a startup selling their residential property in order to raise funds to invest in the company.

Conclusion

As it can be seen from above discussion, the Government, with a view to accelerate the growth of the startups has introduced many tax incentives which will go a long way in benefitting the start-up ecosystem. As tax professionals, it is our duty to analyse various tax provisions and provide a feasible solution to the start-ups and help them in fighting the ongoing difficult times due the pandemic. ■■■

Indian Subsidiary Company Abroad: What You Need To Know



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Understanding Compliance Requirements from the Legal, Tax and Accounting Viewpoints

The US-based thinktank, World Population Review reported India as the fifth largest Economy in 2019. This may attract more foreign investors to invest in India and we have witnessed this when more than \$15 billion flooded into the Reliance-Jio. On the other hand, when an Indian Company invests or plans to set up a subsidiary company outside India, what are the compliances and consequences that one needs to be mindful of requires a detailed study from legal, tax and accounting point of view. Here in this article, I am going to discuss the consequences of forming a subsidiary company of an Indian Holding Company outside India from these perspectives.

Company Law Perspective

Defining a Holding Company and a Subsidiary Company

The Companies Act, 2013 ("Act") provides a definition of the terms 'holding company' and 'subsidiary company'. The Act defines holding company as a company that is in relation to one or more other companies, means a company of which such companies are subsidiary companies. Section 2(87) of the

Act defines a subsidiary of a holding company as a company in reference to any other company (that is to mention the holding company), means a company in which the holding company controls the composition of the Board of Directors or exercises or controls¹ more than one-half of the total voting power either at its own or alongside one or more of its subsidiary companies provided that such class or classes of holding companies as may be prescribed shall not have layers of subsidiaries beyond

such numbers as may be prescribed. The act also provides an explanation to this definition as a company shall be deemed to be a subsidiary company of the holding company even if the control is of another subsidiary company of the holding company. It further explains the composition of a company's Board of Directors is deemed to be controlled by another company if that other company by exercise of some power exercisable by it at its discretion is able to appoint or remove all or a majority of the directors.



¹ Control is defined under The Companies Act, 2013 as a term that includes the right to appoint majority of the directors or to control the management or policy decisions exercisable by a person or persons acting individually or in concert, directly or indirectly, including by virtue of their shareholding or management rights or shareholder agreements or voting agreements or in any other manner.

International Taxation

Overview of Foreign Direct Investment - FEMA²

The most adopted argument by companies is that the holding company provides financial assistance to the subsidiary. The question arises of whether such assistance to be considered as Overseas Direct Investment. The overseas investments in Wholly Owned Subsidiary and Joint Ventures are recognized as key strategies for promoting global business. However, there are certain restrictions such as investing in a foreign company which is engaged in real estate or banking business, offering financial products linked to Indian Rupee should be done with prior approval of RBI. There are other restrictive conditions too related to such direct investments.

Such Direct Investment requires compliance to FEMA rules and notifications and circulars issued by RBI from time to time. Certain investments are allowed to be made directly without prior approval while certain other transactions are allowed only with prior approval of RBI which should be considered carefully so as to verify whether any transaction is not falling under the prohibited category of transactions.

Modes of Financial Assistance provided to Subsidiary Companies abroad

Interest-Free Loans: When an Indian Holding Company provides financial assistance to its subsidiary company outside India in the form of a Loan, it

often tends to provide the loan free of cost.

Equity Shares: Naturally, majority or wholly, equity shares of a subsidiary company outside India is held by the Indian Parent Company and hence such financial assistance is very common.

Guarantees: One of the ways to provide financial assistance can be by way of Corporate or Personal Guarantees. On the other hand, the apex court held in one of the decisions³ that colourable and dubious instruments cannot be considered as part of legitimate tax planning. Hence, if such financial assistance is provided to the subsidiary which is colourable in nature to avoid the payment of tax by restoring to dubious methods will not be supported by law.

Apart from the above, there are swap of shares, capitalization of exports, the balance held in EEFC⁴ account of the Indian party, etc.

OECD Guidelines, 1995

These guidelines substantiate the argument of providing commercial assistance to its subsidiary company to a larger extent as a 'shareholder's activity'. It should be noted that OECD Guidelines, 1995 are only the recommendations and the multinational enterprises are thus obliged to follow and comply with the domestic rules and regulations.

Tax Perspectives

The taxation part of this

situation is what requires a thorough study of various provisions that will be posing restrictions, relaxations, compliance requirements, disclosures or so. After the implementation of the POEM (Place of Effective Management), the tax residency status of a company has to be carefully determined. Similarly, to restrict the motive of tax evasion, GAAR (General Anti-Avoidance Rules) have been made applicable from the A.Y. 2018-19. For the international transactions between parent and subsidiary companies, Transfer Pricing Rules should be referred. The Advanced Pricing Agreement (APA) takes care of the methodology to be followed for transfer pricing that is decided in advance between the two countries to avoid any misconception and confusion.

Applicability of The Place of Effective Management (POEM)

The concept of POEM has been introduced in the Finance Bill, 2015 that suggests that the company will be resident in India if its place of effective management is in India in that year. This means that if for any foreign company if its place of effective management was in India in the year under consideration then that company will be considered a resident and its tax treatment shall be similar to any other resident company in India. The POEM is explained in the bill as a place where key management and commercial decisions are

² FEMA stands for Foreign Exchange Management Act, 1999. It is a regulatory system which allows RBI to pass regulations and the Central Government to pass rules relating to foreign exchange in line with the Foreign Trade Policy of India.

³ CTO v. McDowell and Co. Ltd.

⁴ EEFC is type of a current account that holds foreign currency of authorized foreign exchange dealers and has no interest rate. FEMA allows only Authorized Dealers to have EEFC account.

made which are necessary to conduct the business of the entity as a whole. There has been a clarification provided by the CBDT Circular⁵ that any foreign subsidiary of an Indian Parent company which is merely complying with its group's policies would not attract the applicability of POEM. However, while considering this one needs to also check the related GAAR provisions.

How to Determine a POEM?

The determination of POEM is decided based on two major scenarios namely, if a company has an active business abroad and if it does not have an active business abroad. It is presumed if a company has an active business abroad it will attract POEM however, this should be further studied in detail as to its substance and not merely its form. In case if the company does not have an active business abroad then based on its place where the person who is making the key management and commercial decisions and his place determines the POEM.

Provisions to decide if a company is involved in an Active Business Abroad

Following provisions indicate that a company has an active business abroad:

- Less than 50% of its total assets are located in India
- Not more than 50% of the total income is passive⁶ income
- Less than 50% of its total employees are in India or Indian Residents

- Its payroll expenses of the above employees are less than 50% of its total payroll expense

Applicability of General Anti Avoidance Rules (GAAR)

Applicable from the Assessment Year 2018-19, GAAR deals with 'Impermissible Avoidance Arrangement' that results in the tax benefit of more than Rs. 3 crore. The Arrangements are considered Impermissible if the following two conditions are met:

- i) The motive behind entering into an arrangement is to obtain the Tax Benefit, and
- ii) If the arrangement a) creates rights or obligations that are not covered under Transfer Pricing, or b) results directly or indirectly in the misuse or abuse of the provisions of the Income Tax Law, or c) lacks or deemed to be lacking commercial substance, or d) is entered or carried out in a manner which is not employed for the bonafide purpose.

It should be understood that the rules have an overriding effect if any contradiction is found with the income tax provisions but in case of the contradiction between DTAA and GAAR, the DTAA prevails over these rules.

Applicability of Transfer Pricing Rules

Transfer Pricing under taxation and accounting refers to the rules and methods for pricing the international transactions within and between associated enterprises. Transfer pricing

rules provides methods to calculate the fair price of such transactions which take place between unrelated independent enterprises, called the Arm's Length Price. This is primarily to counter enterprises that shift their profits to low or nil tax countries at inflated prices, resulting in lower taxes in the high tax jurisdictions. The rules provide various methods to calculate Arm's Length Price, which is listed below:

- Comparable Uncontrolled Price Method (CUP)
- Resale Price Method (RPM)
- Cost Plus Method (CPM)
- Profit Split Method (PSM)
- Transactional Net Margin Method (TNMM)
- Such other method as may be prescribed

The other method may be any method that best describes the price which has been charged for similar or same transactions amongst unrelated enterprises describing similar circumstances. The enterprises are required to select the best suitable method based on nature and class of transaction or associated persons and functions performed.

Documentation under Transfer Pricing Rules – Need of the hour

While dealing with compliance-related procedures, well-documented cases and issues always make the work easier and faster. Here, under the New

⁵ Circular no. 25 of 2017, dated 23 October 2017

⁶ Passive Income: it is an aggregate of a) income from purchase or sell of goods from or to associated enterprises, b) income through royalty, dividend, capital gains, interest or rent.

International Taxation

Transfer Pricing Rules, the Indian Government requires three-tier Transfer Pricing Documentation viz. Country by Country Reporting (CbCR), Master File (MF) and Local File.

- **Country-by-Country Reporting (CbCR) – Rule 10DB of the Income Tax Rules, 1962 (the rules)**

These regulations apply only to those 'Constituent Entities'⁷ or Parent Entities or Alternate reporting Entities that are resident in India. Thus, these regulations exempt those Indian branch offices or project offices of foreign companies which are considered as non-residents. The rules also prescribe the threshold of INR 55,000 million consolidated revenue in the preceding financial year.

As per CbCR rules, in case of Indian Parent Company having Subsidiary Company / Companies abroad are required to file CbCR in Form 3CEAD for each reporting accounting year before the due date of filing of Income-Tax Return if their consolidated revenue exceeds INR 55,000 million in an accounting year.

- **Master File Reporting (MF) - Rule 10DA of the Income Tax Rules, 1962 (the rules)**

Sub-rule 1 of the rule 10DA

of the rules specifies two conditions that set the threshold limit for the master file rules to be applicable. However, irrespective of the threshold every Constituent Entity of an International Group is required to file Part A of the Form 3CEAA. The two conditions are mentioned below:

- 1) Consolidated group revenue of the International Group⁸ for the accounting year exceeds INR 500 crore (USD 75 million) and
- 2) The aggregate value of International Transaction during the accounting year as per books of accounts exceeds INR 50 crore (USD 7.5 million) or in respect of purchase, sale, transfer, lease or use of the intangible property during the accounting year, as per the books of accounts, exceeds INR 10 crore (USD 1.5 million)

- **Form 3CEAA:**

The rules suggest that the form should be filed in two parts A and B. However, Part A is required to be filed by every Constituent Entity of an International Group whether or not it satisfies the above mentioned two conditions. Part B of the form should be filed only by those Constituent Entities which satisfy both of the

thresholds mentioned above.

- **Form 3CEAB:**

Where an International Group has more than one Constituent Entities in India, the group may opt to designate one Constituent Entity that shall be obliged to file Form 3CEAA. Therefore, such designated Constituent Entity is required to file Form 3CEAA and an intimation of the same in Form 3CEAB with the Director-General of Income-Tax.

- **Local File Reporting:**

The local file is required to be maintained if the aggregate value of all intercompany transactions during the accounting year exceeds INR 10 million and/or Specified Domestic Transactions⁹ during the accounting year exceed INR 200 million

The rules specify that while deriving the value in Indian Rupees for the above-mentioned thresholds, the Telegraphic Transfer Buying Rate¹⁰ of relevant currency on the last day of the accounting year shall be used.

Advance Pricing Agreement (APA)

The tax authorities of many countries have issued methodologies on transfer pricing which is called Advance

⁷ Constituent Entities of the International Group in India means any entity of the International Group in India whose accounts are included in Consolidated Financial Statements.

⁸ International Group is defined as a group that operates in two or more jurisdictions

⁹ Specified Domestic Transaction include inter unit transfer of profit-linked, tax-eligible units; transactions of profit-linked, tax-holiday-eligible units with other parties; and any other transaction for which an entity may be notified by the CBDT

¹⁰ Telegraphic Transfer Buying Rate (TTBR): As per the explanation to Rule 26, TTBR in relation to foreign currency means the rate or rates of exchange adopted by the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955), for buying such currency, considering the guidelines specified by from time to time by RBI for buying such currency, where such currency is made available to that bank through a telegraphic transfer.

Pricing Agreement. This agreement is usually between two countries where the tax authorities of the two countries decide which methodology to be used when Associated Enterprises of these two countries enter into any international transaction. There are three types of agreements as stated below:

1) An Independent Agreement:

This is an agreement where a taxpayer and the tax authority of the taxpayer's country agree on the method to be used for the international transaction.

2) Two-Sided or Bilateral Agreement:

This is a type of agreement where the two tax authorities of countries where associated enterprises are located agree on the methodology to be used for any associated enterprises of such countries should follow.

3) Multilateral Agreement:

Such type of an agreement includes the taxpayer, two or more Associated Enterprises of the taxpayer located in different countries, the tax authority of the country where the taxpayer is located and the tax authorities of the Associated Enterprises.

Accounting Perspective

The Companies Act, 2013 mandates¹¹ presentation of Consolidated Financial Statements (CFS) in accordance with Schedule III of the Act and the applicable Accounting Standard if a Company has one

or more subsidiary companies. Ind AS 110 on Consolidated Financial Statements sets out the accounting requirements for the preparation of CFS. However, if an Ind AS specifically exempts certain companies from the preparation of the CFSs, then compliance to the Schedule III of the Act would be sufficient.

The Exception to Preparation of CFS by Ind AS 110:

- 1) A Holding Company is not required to present consolidated financial statements if it meets all the following conditions:
 - i) It is a wholly-owned subsidiary company or it is a partially-owned subsidiary company of another company and all its other owners, including those not otherwise entitled to vote have been informed about, and do not object to, the Holding Company not presenting CFS
 - ii) Its debt or equity instruments are not publically traded (be it either a domestic or foreign stock market or an over-the-counter market, including local and regional markets)
 - iii) It neither files nor is in the process of filing the financial statements with a securities commission or other regulatory organisation in order to issue any class of instruments publically
 - iv) Its ultimate or any intermediate Holding Company produces CFSs

that are available for public use and comply with Ind ASs.

- 2) Post-employment benefit plans or other long-term employee benefit plans that are covered under Ind AS 19 Employee Benefits
- 3) An investment entity need not present CFSs if it is required in accordance with paragraph 31 of Ind AS 110 to measure all of its subsidiary companies at fair value through profit or loss.

The Accounting perspective of forming a subsidiary company abroad requires accounting treatment of the transactions according to the rules set under Ind Ass. Some of the key Ind ASs that will be crucial to apply are Ind AS 110 on Consolidated Financial Statements (as mentioned above), Ind AS 21 The Effects of Changes in Foreign Exchange Rates, Ind AS 24 Related Party Disclosures, Ind AS 28 Separate Financial Statements. Apart from these, the other Ind AS will always be applicable as generally it would be applicable to other companies.

Closing Thoughts

The bottom line of the entire discussion is that the Indian subsidiaries situated outside India have a lot of consequences from not only legal and accounting viewpoints, but a major portion of compliance requirements comes from the taxation viewpoint. This article attempts to cover the major provisions with an overall understanding. ■■■

¹¹ Vide Section 129 (3) of the Companies Act, 2013

The Modified Scope of “Residence in India” – An Analysis

The scope of Residency in India has been the talk of the town ever since the amendments to section 6 of the Income-tax Act, 1961 (the “Act”) were proposed, debated and discussed in the Union Budget 2020. The amendments, as originally proposed in the Finance Bill 2020, spontaneously resulted in apprehensions among Indian Expats working in jurisdictions, especially the Middle East, which presently do not impose any personal income-tax. Taking note of the same, the Indian Revenue Authorities, as an immediate measure, published the press release clarifying the actual position and subsequently modified the proposed amendments which are now part of the Act. An attempt has been made to interpret the law as it stands today and discuss its implications from the perspective of the Indian Expats working in United Arab Emirates (“UAE”).¹



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1. Background:

1.1. Hon’ble Finance Minister of India – Ms. Nirmala Sitharaman, presented the Union Budget 2020-21 on 1 February 2020 and thereby introduced the Finance Bill 2020 bringing in some new provisions and amending some exiting provisions concerning cross border taxation, commonly referred to as ‘International Taxation’.

1.2. Among others, one such

deliberation was an amendment to already existing and the most important scoping section i.e. Section 6 of the Act dealing with the Residential Status of the individual.

1.3. The relevant extract of Section 6 of the Act, as it stands today, is reproduced below:

“For the purposes of this Act, —

(1) *An individual is said*



¹ Note: This article does not analyze the impact of COVID 19 on residential status of stranded individuals on account of travel restrictions. The article also does not take into consideration the recent circular issued by CBDT providing relief to NRIs and foreign national stuck in India

to be resident in India in any previous year, if he—

- (a) *is in India in that year for a period or periods amounting in all to one hundred and eighty-two days or more; or*

(b) *[***]*

- (c) *having within the four years preceding that year been in India for a period or periods amounting in all to three hundred and sixty-five days or more, is in India for a period or periods amounting in all to sixty days or more in that year.*

Explanation. 1—In the case of an individual, —

(a) *.....*

- (b) *being a citizen of India, or a person of Indian origin within the meaning of Explanation to clause (e) of [section 115C](#), who, being outside India, comes on a visit to India in any previous year, the provisions of sub-clause (c) shall apply in relation to that year as if for the words “sixty days”, occurring therein, the words “one hundred and eighty-two days” had been substituted and in case of the citizen or person of Indian origin having total income, other than the income from foreign sources, exceeding fifteen lakh rupees*

during the previous year,” for the words “sixty days” occurring therein, the words “one hundred and twenty days” had been substituted

Explanation. 2—.....

- (1A) *Notwithstanding anything contained in clause (1), an individual, being a citizen of India, having total income, other than the income from foreign sources, exceeding fifteen lakh rupees during the previous year shall be deemed to be resident in India in that previous year, if he is not liable to tax in any other country or territory by reason of his domicile or residence or any other criteria of similar nature;*

.....

.....

- (6) *A person is said to be “not ordinarily resident” in India in any previous year if such person is—*
- (a) *an individual who has been a non-resident in India in nine out of the ten previous years preceding that year, or has during the seven previous years preceding that year been in India for a period of, or periods amounting in all to, seven hundred and twenty-nine days or*

less; or

- (b) *a Hindu undivided family whose manager has been a non-resident in India in nine out of the ten previous years preceding that year, or has during the seven previous years preceding that year been in India for a period of, or periods amounting in all to, seven hundred and twenty-nine days or less; or*
- (c) *a citizen of India, or a person of Indian origin, having total income, other than the income from foreign sources, exceeding fifteen lakh rupees during the previous year, as referred to in clause (b) of Explanation 1 to clause (1), who has been in India for a period or periods amounting in all to one hundred and twenty days or more but less than one hundred and eighty-two days; or*
- (d) *a citizen of India who is deemed to be resident in India under clause (1A).*

Explanation. —For the purposes of this section, the expression “income from foreign sources” means income which accrues or arises outside India (except income derived from a business controlled in or a profession set up in India).”

- 1.4. Further, the relevant extract of the explanatory memorandum in this respect is reproduced

below:

"H. PREVENTING TAX ABUSE"

Modification of residency provisions.

.....

Instances have come to notice where period of 182 days specified in respect of an Indian citizen or person of Indian origin visiting India during the year, is being misused. Individuals, who are actually carrying out substantial economic activities from India, manage their period of stay in India, so as to remain a non-resident in perpetuity and not be required to declare their global income in India.

.....

.....

The issue of stateless persons has been bothering the tax world for quite some time. It is entirely possible for an individual to arrange his affairs in such a fashion that he is not liable to tax in any country or jurisdiction during a year. This arrangement is typically employed by high net worth individuals (HNWI) to avoid paying taxes to any country/ jurisdiction on income they earn. Tax laws should not encourage a situation where a person is not liable to tax in any country. The current rules governing tax residence make it possible for HNWIs and other individuals, who may be Indian citizen

to not to be liable for tax anywhere in the world. Such a circumstance is certainly not desirable; particularly in the light of current development in the global tax environment where avenues for double non-taxation are being systematically closed.

.....

This amendment will take effect from 1st April, 2021 and will, accordingly, apply in relation to the assessment year 2021-22 and subsequent assessment years.

[Clause 4]"

1.5. Simply stated, the above amendments infer as under:

- (i) Citizen of India ("Citizen") not liable to tax in any other country or territory by reason of his domicile or residence or any other criteria of similar nature and having total income (other than income from foreign sources) exceeding fifteen lakh rupees during the previous year shall be deemed as "Resident" in India
- (ii) There shall be reduction in the 'period of stay in India' benefit from one hundred and eighty-two (182) days to one hundred and twenty (120) days for Citizen or Person of Indian Origin ("PIO") and having total income (other than income from foreign sources) exceeding fifteen lakh rupees during the previous year to qualify as "Resident"

- (iii) The person qualifying as "Resident" as per above (i) or (ii) shall be "Resident but Not Ordinarily Resident" in India

1.6. Further, the phrase "income from foreign sources", only for the purpose of section 6, has been defined as income which accrues or arises outside India except income derived from a business controlled in or a profession set up in India.

Now with the above background, the important implications in the context of Indian Expat (being lawful citizen of India) working and earning income in UAE and certain open issues are discussed as under:

2. Would Indian Expat be liable to pay income-tax in India on income earned in UAE?

- 2.1. The amendment deems the citizens as "Resident" in India in cases where he is *not liable to tax* in any other country or territory *by reason of his domicile or residence or any other criteria of similar nature* **and** having total income (other than income from foreign sources) exceeding fifteen lakh rupees during the previous year.
- 2.2. The above created huge apprehensions among the Indian Expat working and earning income in UAE as UAE does not levy any personal income tax and as a consequence of being

labelled as “Resident” for the purpose of the Act, he would be liable to pay income-tax on his world income, particularly income earned in UAE.

2.3. In layman’s language, the plain reading of the text does interpret to mean that in case where person is not legally bound to pay tax in other country or jurisdiction, he would qualify as “Resident” in India and thus, so would be the case of an Indian Expat earning income in UAE and not paying taxes in UAE.

2.4. However, the immediate answer seems to be in negative by virtue of press release² published by the Indian Revenue Authorities. The relevant extract of the same is reproduced as under:

“The Finance Bill, 2020 has proposed that an Indian citizen shall be deemed to be resident in India, if he is not liable to be taxed in any country or jurisdiction. This is an anti-abuse provision since it is noticed that some Indian citizens shift their stay in low or no tax jurisdiction to avoid payment of tax in India. The new provision is not intended to include in tax net those Indian citizens who are bonafide workers in other countries. In some section of the media the new provision is being interpreted to create an

impression that those Indians who are bonafide workers in other countries, including in Middle East, and who are not liable to tax in these countries will be taxed in India on the income that they have earned there. This interpretation is not correct.

*In order to avoid any misinterpretation, it is clarified that in case of an Indian citizen who becomes deemed resident of India under this proposed provision, **income earned outside India by him shall not be taxed in India unless it is derived from an Indian business or profession.** Necessary clarification, if required, shall be incorporated in the relevant provision of the law.”*

2.5. The press release has come in as major relief for Indian Expat earning bonafide income in UAE by virtue of employment or exercise of business of profession in UAE.

2.6. The press release categorically clarifies that income earned outside India would not be taxable in India unless it is derived from business or profession set-up in India. However, it would be worth noting that press release does not clarify any blanket exemption from the deeming provision.

3. Would Indian Expat be deemed as “Resident”



The current rules governing tax residence make it possible for HNWIs and other individuals, who may be Indian citizen to not to be liable for tax anywhere in the world. Such a circumstance is certainly not desirable; particularly in the light of current development in the global tax environment where avenues for double non-taxation are being systematically closed.

in India simply because UAE does not levy personal income-tax?

- 3.1. The amendment uses the words ‘**not liable to tax** in any other country or territory by reason of his domicile or residence or any other criteria of similar nature’.
- 3.2. The entire phrase has been borrowed from Article 4 of OECD’s Model Tax Convention (“the Convention”) dealing with ‘Resident’.
- 3.3. The term ‘liable to tax’ has erstwhile been in dispute in the context of claiming double-tax avoidance treaty (“Treaty”) benefit. The matter knocked the

² CBDT press release dated 2 February 2020

doors of the Hon'ble Supreme Court of India ("the Court") concerning India-Mauritius Tax Treaty in the landmark case of *Azadi Bachao Andolan*³. The Court categorically adjudicated that the concept of 'liable to tax' is different from the concept of 'subject to tax'. The court further held that the term 'liable to tax' would mean right of the particular country's government to tax and actual payment of tax could not be the criteria to deny treaty benefit. Similar view has also been taken by Mumbai Tribunal in the case of **Green Emirates Shipping & Travels**⁴

3.4. Thus, based on the above rulings, the Indian Expat could possibly take a view (obviously under the India-UAE Tax Treaty) that he qualifies as Resident of UAE for the purpose of taxes as UAE government has the right to tax its Residents and thus, the new amendment should not be applicable to him merely on the basis of the fact that presently UAE does not levy any personal income tax.

4. Would Indian Expat, being lawful citizen of India, be called as 'stateless person'?

4.1. The Memorandum explaining the rationale of bring in the new amendment concerning deemed residential status

refer to issue of 'stateless person'.

- 4.2. The term 'stateless person' is not defined in the Act. Thus, reference could be drawn from commentary to the Convention.
- 4.3. The commentary elaborates 'stateless person' as "*a person who is not considered as a national by any State under the operation of its law*". Thus, it could be interpreted that the concept of stateless person is something associated with nationality.
- 4.4. However, the amendment deems 'Indian Citizen' as deemed "Resident". Thus, could Indian Citizen be terms as non-nationals for the purpose of the amendment? If not so, could Indian Citizen rightfully claim not to be treated as 'stateless person'?
- 4.5. The above topic (emanating from the Memorandum) definitely do not override the provisions of the Act. However, clarification in this regard would be appreciated from the Indian Revenue Authorities.

5. Would there be circular reference in calculating total income to avail monetary exception of fifteen lakhs?

5.1. The amendment would not be applicable in the scenario where total income other than income from foreign

sources, of the Indian Expat does not exceed fifteen lakh rupees during the previous year.

- 5.2. In this connection, it would be worth noting the definition of 'total income' in the Act. As per the Act, 'total income' means "*total amount of income referred to in section 5, computed in the manner laid down in this Act*".
- 5.3. The creation of the loop as above would certainly not be the intention. However, appropriate modification in this regard would be appreciated from the Indian Revenue Authorities.

6. Would reduction in 'period of stay' benefit be redundant in light of India-UAE treaty?

- 6.1. The amendment reduces the 'period of stay in India' benefit from one hundred and eighty-two (182) days to one hundred and twenty (120) days for Citizens or PIO and having total income (other than income from foreign sources) exceeding fifteen lakh rupees during the previous year to qualify as "Resident" in India.
- 6.2. However, section 90 of the Act empowers the individuals to apply treaty provisions over the domestic law in case treaty provisions are more beneficial. The relevant text of section 90 is reproduced as under:

"(1)

³ [[2003] 132 Taxman 373 (SC)]

⁴ 99 TTJ 988

(2) Where the Central Government has entered into an agreement with the Government of any country outside India or specified territory outside India, as the case may be, under sub-section (1) for granting relief of tax, or as the case may be, avoidance of double taxation, then, in relation to the assessee to whom such agreement applies, **the provisions of this Act shall apply to the extent they are more beneficial to that assessee.**

(2A)

6.3. Thus, the Indian Expat may take shelter of India-UAE treaty which has criteria of spending more than 182 days in UAE cumulatively in a calendar year to be treated as “Resident” of UAE for tax purposes. The relevant extract of Article 4 of India-UAE treaty is reproduced as under:

“For the purposes of this Agreement the term ‘resident of a Contracting State’ means:

(a) *in the case of India: any person who, under the laws of India, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature. This term, however, does not include any person who is liable to tax in India in respect only of income from sources in India; and*

(b) *in the case of the United Arab Emirates: an individual who is present in the UAE for a period or periods totaling in the aggregate at least 183 days in the calendar year concerned, and a company which is incorporated in the UAE and which is managed and controlled wholly in UAE.”*

6.4. Basis above, the amendment concerning reduction in ‘period of stay’ benefit from 182 to 120 days may prove to be redundant as Indian Expat may:

- (i) position himself as being ‘liable to tax’ in UAE (refer analysis in para 3 above); **and**
- (ii) spend more than 182 days in UAE in particular calendar year (overlapping financial year in India) for the purpose of employment / business or profession

7. Is the objective behind reducing ‘period of stay’ benefit achieved?

7.1. The Memorandum highlights the practices of individuals of managing their stay in India to remain “Non-Resident” and thereby not declaring and paying their fair share of income-tax to Indian Government.

7.2. The relevant extract of the Memorandum is again reproduced as under:

“.....”

Instances have come to notice where period of 182 days specified in respect of an Indian citizen or person of Indian origin visiting India during the year, is being misused. Individuals, who are actually carrying out substantial economic activities from India, manage their period of stay in India, so as to remain a non-resident in perpetuity and not be required to declare their global income in India.

.....”

7.3. The objective seems to have been achieved in theory by way of reducing the ‘period of stay’ benefit. However, the achieved objective may get nullified by treating such individuals as “Resident but Not Ordinary Resident” in India.

7.4. As per section 5 of the Act, income of the “Resident” shall include income accrues or arises outside India during the particular financial year. However, the same section carves out an exception in the case of person who is “Resident but Not Ordinary Resident” in India.

In the case of a person “not ordinarily resident” in India, the income which accrues or arises to him outside India shall not be so included unless it is derived from a business controlled in or a profession set up in India.

The relevant extract of

section 5 of the Act is reproduced as under:

“(1)

(c) accrues or arises to him outside India during such year:

Provided that, in the case of a person not ordinarily resident in India within the meaning of sub-section (6) of section 6, the income which accrues or arises to him outside India shall not be so included unless it is derived from a business controlled in or a profession set up in India.

(2)

- 7.5. Basis the above, it is apparent that in case of the India Expat becoming a “Resident” by virtue of the

amendment, he would still be categorized as “Resident but Not Ordinary Resident” and thus, at-least in the initial years, he would not be liable to declare his global income and pay income-tax in India.

Thus, could it be said that objective as contemplated in the Memorandum is not achieved? The question is worth debating and discussing.

- 7.6. The above also brings up another question as to whether the amendment itself was actually required to bring to tax only the income earned / derived from a business controlled in or profession set up in India?

The answer seems to be in negative as the existing law would in any case tax incomes accrued or arising in India irrespective of person being a “Resident” or “Non-Resident”.

- 7.7. Further, by treating individuals as “Resident but Not Ordinary Resident”, could there be an avenue for individual to claim Indian Residency under the domestic law or any tax treaty entered by Government of India and obtain illegitimate benefit which was never an intention? This

question is also worth debating and discussing.

8. Conclusion

The amendments have come in as an ‘Anti-Avoidance’ measure and thus, may be viewed and interpreted in a stricter manner. Determination of the “Residential Status” especially for the Indian Expats who frequently travel for business purpose may be a challenge and thus, it is advisable to plan in advance and seek opinion from subject matter experts going forward to avoid unnecessary complications.

Lastly, dear friends and colleagues, COVID 19 has brought in unprecedented economical challenges to world economies. The crisis has not discriminated among the person’s economic status, caste, religion, age, gender etc. However, the economical weaker sections of our society have been impacted the most. Through this article, I urge each and everyone to come out and help the needy in the best possible way. I have done my bit. Will you? Stay safe! Stay Blessed! The world will definitely smile again! ■■■



Determination of the “Residential Status” especially for the Indian Expats who frequently travel for business purpose may be a challenge and thus, it is advisable to plan in advance and seek opinion from subject matter experts going forward to avoid unnecessary complications.

ACCOUNTANT'S BROWSER

"PROFESSIONAL NEWS & VIEWS PUBLISHED ELSEWHERE"

Index of some useful articles taken from Periodicals received during June- July 2020 for the reference of Faculty/Students & Members of the Institute.

1. Accountancy

Building a bulletproof whistleblowing environment: An accountant's perspective by Shanmugavel Rajeevan. *Asian Journal of Accounting Research*, Vol.5/1, 2020, pp.15-31.

Incentive Definitions: Lease incentives take many forms and that's causing some confusion for practitioners applying the new accounting standard on leasing by Zilla Efrat. *Intheblack*, 2020, pp.63-64.

2. Economics

Does economic freedom distance affect long-run post-acquisition performance and ownership level in cross-border acquisitions? by Shyaam Prasad and M. Thenmozhi. *Decision*, Vol.47/2, June-2020, pp.191-213.

Economic substance law- The British Virgin Islands. *A plus*, Vol.16/2, 2020, pp.38-41.

Estimating the price range and the effect of price bundling strategies : An application to the hotel sector by Sergio Dominique-Ferreira. *European Journal of Management and Business Economics*, Vol.29/2, 2020, pp.166-181.

Macroeconomics determinants of credit risks: Evidence from high-income countries by Laxmi Koj u and Ram Koju. *European Journal of Management and Business Economics*, Vol.29/2, 2020, pp.41-53.

3. Investment

Analysis of CEE equity market integration and their volatility spillover effects by Ngo Thai Hung. *European Journal of Management and Business Economics*, Vol.29/1, 2020, pp.23-40.

Earnings persistence, earnings power and equity valuation in consumer goods firms by Nurani Fatma and Widi Hidayat. *Asian Journal of Accounting Research*, Vol.5/1, 2020, pp.3-13.

4. Management

Academic production and technological emergence in finance : Bibliometric study on Fin Techs by Itamir Caciatori Junior and Ana Paula Mussi Szabo Cherobin. *Innovation and Management Review*, Vol.17/2, 2020, pp.115-13.

Financial advice GAP by Zilla Efrat. *Intheblack*, April 2020, pp.16-17.

Human Resources system as innovation for organisations by Tulio Gomes Mauro and Jairo Eduardo Borges-Andrade. *Innovation and Management Review*, Vol.17/2, 2020, pp.197-214.

5. Taxation and Finance

Mediating role of adoption of an electronic tax system in the relationship between attitude towards electronic tax system and tax compliance by Sadress Night and Juma Bananuka. *Journal of Economics, Finance and Administrative Science*, Vol.25/49, 2020, pp.73-88.

Full Texts of the above articles are available with the Central Council library, ICAI, which can be referred on all working days. For further inquiries please contact on 011-30110419 and 011-30110420 or by e-mail at library@icai.in; kmray@icai.in.

Convergence with the Globally Acceptable International Financial Reporting Standards (IFRS) issued by the International Accounting Standards Board (IASB)—An Update

Notification of Companies (Ind AS) Amendment Rules, 2020 by the Ministry of Corporate Affairs (MCA)

On July 24, 2020, the MCA has notified the Companies (Indian Accounting Standards) Amendment Rules, 2020, effective for annual reporting periods beginning 1st April 2020. The amendment Rules comprise following four (4) amendments in a single notification that will affect entity's financial reporting.

1. Definition of a Business - (Amendments to Ind AS 103, Business Combinations)

The amendments modify the definition of 'business' in Ind AS 103, which will help entities better determine whether an acquisition made is of a business or a group of assets. Distinguishing between a business and a group of assets is important because an acquirer recognises goodwill only when acquiring a business. In addition to amending the wording of the definition of business, supplementary guidance has also been provided.

2. Definition of Material - (Amendments to Ind AS 1, Presentation of Financial Statements and Ind AS 8, Accounting Policies, Changes in Accounting Estimates and Errors)

The definition of material helps a company determine whether information about an item, transaction or other event should be provided to users of financial statements. However, Companies sometimes experienced difficulties using the previous definition of material when making materiality judgements

in the preparation of financial statements. The amendments aim at addressing concerns about the previous definition of material and aligned the definition used across all Ind ASs.

3. Interest Rate Benchmark Reform - (Amendments to Ind AS 109, Financial Instruments and Ind AS 107 Financial Instruments: Disclosures)

Interest rate benchmarks - interbank offered rates (IBORs), play an important role in global financial markets. In the aftermath of global financial crisis has undermined the reliability of some existing benchmarks. The report published by the Financial Stability Board (FSB), setting out recommendations to reform some major benchmarks, in turn, led to uncertainty about the future of some existing interest rate benchmarks, which may affect companies' financial reporting.

Due to uncertainties arising from the impact of the reform on the timing and amount of designated future cash flows, some hedge accounting requirements may be affected. Due to such uncertainties, companies could be required to discontinue hedge accounting. Companies may also not be able to designate new hedging relationships. Discontinuation of hedge accounting solely due to such uncertainties would not provide useful information to users of financial statements. Therefore, these amendments are in context of specific hedge accounting requirements in Ind AS 109 to provide exceptions during this period of uncertainty.

Contributed by Accounting Standards Board of ICAI. Comments can be sent to asb@icai.in. Refer https://www.icai.org/post.html?post_id=14058 for Ind AS – IFRS Standards Convergence Status, https://www.icai.org/post.html?post_id=15770 for Ind AS Implementation Guidance and https://www.icai.org/post.html?post_id=16438 for COVID-19 Accounting Guidance of ICAI

4. COVID-19 Related Rent Concessions - (Amendments to Ind AS 116, Leases)

The amendments provide an option to lessees for relief as a practical expedient while accounting for covid-19-related rent concessions such as rent waiver and temporary rent reductions. The purpose of the amendment is to provide an option (practical expedient) to Lessees not to assess whether a covid-19-related rent concession is a lease modification. One of the key rationale to provide such practical expedient, is that the lessees could find it challenging to assess whether a potentially large volume of covid-19-related rent concessions are lease modifications and, for those that are, to apply the required accounting in Ind AS 116, especially in the light of the many challenges lessees face during the COVID-19 pandemic. This amendment can also be applied by Lessees who have not yet approved the financial statements for the annual reporting periods beginning on or after 1st April 2019, for issue as of the date of the notification.,

Virtual Outreach on “Better Communication in Financial Reporting – IASB Exposure Draft on Financial Statements” (June 23, 2020) – On 17th December 2019, the International Accounting Standards Board (IASB) has issued an Exposure Draft titled as ‘General Presentation and Disclosures’. As per the proposals set out in the Exposure Draft, existing IAS 1, Presentation of Financial Statements will be replaced with a new standard with substantial number of changes which is expected to lead to fundamental changes as to how entities will be required to present information within their primary statements, particularly within the statement of profit or loss. Overall objective of the project is to address the concerns of the users with regard to transparency, comparability and performance reporting by further improving the presentational and disclosure aspects in financial statements. In this regard, a Virtual Outreach was organised by ASB, ICAI, on June 23, 2020, with an objective to explain the proposals set out in the IASB’s Exposure Draft for the understanding of Indian stakeholders and to gather their views and comments for submission to IASB. The participants was also informed that IASB has

decided to conduct field testing - a critical component of stakeholder’s consultation process to assess the impact of the new requirements and its practical application before finalizing the amendments to the IFRS Standards and, accordingly, expression of interest was sought from interested Indian entities in contributing in such field testing. Overwhelming response had been received from participants having presence of approx. 750 participants including participants from other jurisdictions, such as, Singapore, UK, US, South Korea, Qatar, Germany, France, UAE, etc.

Online Certificate Course on Ind AS through Digital Learning Hub Platform of ICAI launched

– In view of the unprecedented emergency situation due to outbreak of COVID-19 pandemic across the country, Online Certificate Course on Ind AS through Digital Learning Hub Platform of ICAI has been launched from April 26, 2020. Overwhelming response has been received from the members, ICAI, for the said course and currently, 10 batches of the said course have been concluded wherein around 1000 members have been successfully trained. 2 batches are being held simultaneously wherein further 200 members are being trained.

Developments at IFRS Foundation & IASB

• IASB issues amendments to IFRS 17 Insurance Contracts to help companies with implementation

On June 25, 2020, the IASB has issued amendments to IFRS 17, *Insurance Contracts* aimed at helping companies to implement the Standard and making it easier for them to explain their financial performance. The fundamental principles introduced in IFRS 17 issued in May 2017 remain unaffected. The amendments, which respond to feedback from stakeholders, are designed to:

- reduce costs by simplifying some requirements in the Standard;
- make financial performance easier to explain; and
- ease transition by deferring the effective date of the Standard to 2023 and by providing

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additional relief to reduce the effort required when applying IFRS 17 for the first time.

The deferral of the effective date by two years, to annual reporting periods beginning on or after 1 January 2023, is intended to allow time for an orderly adoption of the amended IFRS 17 by jurisdictions around the world. This should enable more insurers to implement the new Standard at the same time. The IASB has also issued an amendment to the previous insurance contracts Standard, IFRS 4, so that eligible insurers can still apply IFRS 9 Financial Instruments alongside IFRS 17.

- **Webcast: A primer for investors on how to get the most out of companies' IFRS 9 and IFRS 7 disclosures** - Many entities may have already reported the second full-year financial statements using IFRS 9 *Financial Instruments* to determine the Expected Credit Losses (ECL) for their financial assets. In this webcast for investors, Ms. Sue Lloyd, Vice-Chair of the IASB and Mr. Sid Kumar, CFA, technical staff member responsible for investor engagement, outline the information that entities will provide about ECL in their financial statements and notes prepared using IFRS 9 *Financial Instruments* and IFRS 7 *Financial Instruments: Disclosures*. Ms. Sue and Mr. Sid use illustrative examples to explain the new loan loss allowance recognition and measurement model and related disclosures on ECL. This webcast can be viewed on IASB YouTube channel, along with other webcasts and podcasts.

- **Combinations of businesses under common control—one size does not fit all : Project update**

IFRS 3 *Business Combinations* covers how to account for mergers and acquisitions between unrelated parties but it does not cover combinations of businesses under common control. The IASB is carrying out a research project to consider filling a gap in IFRS Standards by improving the comparability and transparency of reporting on combinations of businesses under common control. In this regard, an update has been published by IASB member Gary Kabureck summarising and

discussing the preliminary views the IASB has reached in its research project that considers filling a gap in IFRS Standards by improving the comparability and transparency of reporting on combinations of businesses under common control. The update can be accessed at <https://cdn.ifrs.org/-/media/project/business-combinations-under-common-control/inbrief-combs-of-businesses-june-2020.pdf?la=en>

- **Classification of Liabilities as Current or Non-current—Deferral of Effective Date (Amendment to IAS 1)** - In January 2020, the IASB issued Classification of Liabilities as Current or Noncurrent (Amendment to IAS 1) with an effective date of annual reporting periods beginning on or after 1 January 2022. Subsequently, due to covid-19 pandemic, IASB noted the pressures created that could make it more challenging to implement any changes in classification of liabilities as current or noncurrent resulting from the application of these amendments. Consequently, the IASB decided to provide entities with operational relief by deferring the effective date of the amendments by one year to annual reporting periods beginning on or after 1 January 2023. Earlier application of the amendments continues to be permitted.

- **Extractive Activities: Academic literature review at July 2020 IASB meeting**

The IASB in its June 2020 meeting discussed a literature review of academic evidence relevant to the Extractive Activities project. The literature search focused on academic papers published around or after the publication of the 2010 Discussion Paper Extractive Activities. This search was not confined to papers addressing specific questions or topics. The literature review is based mainly on evidence from IFRS jurisdictions but includes US-based evidence when such evidence was considered useful to the project and when comparative IFRS evidence was absent. The Agenda Paper in this regard which summarises the academic evidence on extractive activities obtained after a comprehensive search for papers on topics relevant to IFRS 6 Exploration for and Evaluation of Mineral Resources can be accessed at <https://cdn.ifrs.org/-/media/>

[feature/meetings/2020/july/iasb/ap19b-extractive-activities.pdf?la=en](https://www.iasb.org/feature/meetings/2020/july/iasb/ap19b-extractive-activities.pdf?la=en)

♦ **IASB releases third webcast on Request for Information: Comprehensive Review of the IFRS for SMEs Standard**

The IASB published the Request for Information on the second comprehensive review of the *IFRS for SMEs* Standard on 28 January 2020. The IASB has now made available a third webcast in the series of web presentations to help stakeholders as they prepare to submit their comments on the Request for Information. This third webcast offers a 25-minute presentation demonstrating how the IASB has applied the alignment principles in requesting views on how the *IFRS for SMEs* Standard should be aligned with IFRS Standards in the scope of this review. The webcast can be viewed on IASB YouTube channel, along with other webcasts and podcasts.

♦ **IFRS Foundation Trustees announce the appointment to the IASB** - The Trustees of the IFRS Foundation have appointed Mr. Zach Gast from Maryland, USA, as a member of the IASB effective from 1 August 2020.

♦ **IFRS Interpretation Committee Agenda Decision:**

(i) The IFRS Interpretations Committee (IFRS IC) received a request about reverse factoring arrangements in which the request asked:

- ❖ how an entity presents liabilities to which reverse factoring arrangements relate (ie how it presents liabilities to pay for goods or services received when the related invoices are part of a reverse factoring arrangement); and
- ❖ what information about reverse factoring arrangements an entity is required to disclose in its financial statements.

In a reverse factoring arrangement, a financial institution agrees to pay amounts an entity owes to the entity's suppliers and the entity agrees to pay the financial institution at a date later than suppliers are paid.

The IFRS IC discussed the matter in its June 2020 meeting and tentatively decided not to add the matter to its standard-setting agenda. The IFRS IC will reconsider this tentative decision, including the reasons for not adding the matter to its standard-setting agenda, at a future meeting and invites comments on its decision by 30 September 2020.

(ii) The IFRS IC also published its Agenda Decisions on following and same can be accessed at <https://www.ifrs.org/news-and-events/updates/ifric-updates/june-2020/#5>

- Sale and Leaseback with Variable Payments (IFRS 16 *Leases*)
- Deferred Tax related to an Investment in a Subsidiary (IAS 12 *Income Taxes*)
- Player Transfer Payments (IAS 38 *Intangible Assets*)

♦ **Proposed IFRS Taxonomy Update** - The IASB has published a proposed update to the IFRS Taxonomy 2020 to reflect recent amendments to following IFRS Standards for submitting comments by 14 September 2020:

- ❖ the new and old insurance contracts Standard, IFRS 17 and IFRS 4, issued in June 2020—*Amendments to IFRS 17 and Extension of the Temporary Exemption from Applying IFRS 9; and*
- ❖ IAS 16, issued in May 2020—*Property, Plant and Equipment—Proceeds before Intended Use.*

♦ **IFRS Foundation Virtual Conference to be held 28-29 September, 2020** – The Virtual Conference will combines the annual IFRS Foundation conference with annual World Standard-setters conference. The conference will offer interactive Q&A sessions, panel discussions and virtual networking opportunities. The more details of the conference and registrations details can be assessed at <https://www.ifrs.org/news-and-events/2020/ifrs-foundation-virtual-conference-2020/>

National Update

MoU between CBDT and SEBI signed

A formal Memorandum of Understanding (MoU) was signed recently between the Central Board of Direct Taxes (CBDT) and the Securities and Exchange Board of India (SEBI) for data exchange between the two organisations recently via video conference. The MoU will facilitate the sharing of data and information between SEBI and CBDT on an automatic and regular basis. In addition to regular exchange of data, SEBI and CBDT will also exchange with each other, on request and suo moto basis, any information available in their respective databases, for the purpose of carrying out their functions under various laws. The MoU comes into force from the date it was signed and is an ongoing initiative of CBDT and SEBI, who are already collaborating through various existing mechanisms. A Data Exchange Steering Group has also been constituted for the initiative, which will meet periodically to review the data exchange status and take steps to further improve the effectiveness of the data sharing mechanism. The MoU marks the beginning of a new era of cooperation and synergy between SEBI and CBDT.

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

RBI wants govt to cut its stake in PSU banks to 26%, longer tenure to CEOs

Chiefs of RBI, Sebi and IRDA gave suggestions to Prime Minister Narendra Modi on monetisation of public assets to raise funds. RBI reportedly wants the government should reduce its stake in state-controlled banks to 26 per cent and provide their bosses longer tenure in order to manage these financial organisations in a more professional manner, and the banking regulator suggested these measures in a presentation to Prime Minister Narendra Modi. At present, the Centre's stake in public sector banks goes beyond 50 per cent. Amid a disruption caused by the Covid-19 pandemic, in a recent meeting with top bankers, PM Modi had asked the country's top lenders to fund bankable proposals, undeterred by the toxic loans generated in the past, and pledged to fully back the executives. Chiefs of the central bank, Securities & Exchange Board of India (Sebi), and Insurance Regulatory & Development Authority of India (Irda), recently discussed the matter with the Prime Minister via video-conferencing. During an hour-long presentation to the prime minister, each regulator presented a view of the current situation and an evaluation of programmes undertaken during the pandemic. The Centre has, however, said it will hold a stake of minimum 52 per cent in PSU banks. More importantly, it was recommended that managing directors and CEOs of state-owned banks should have a tenure of three or five years

and remuneration should be on a par with private sector bank.

In the wake of the coronavirus-induced disruption, the government has hiked its borrowing target for the current fiscal year to Rs 12 lakh crore from Rs 7.6 lakh crore in the Budget. The Prime Minister also received suggestions on the monetisation of public assets to raise funds. The Centre should bring foreign investors through infrastructure investment trusts (In-VITs) as was being implemented in the case of National Highways Authority of India (NHAI) and Power Grid Corp of India, the financial daily mentioned.

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

RBI's advice to ARCs: Follow fair practice, don't harass debtor while recovering loans

The RBI has advised asset reconstruction companies (ARCs) to not resort to harassment of the debtor in the case of loan recovery and ensure that the staff is adequately trained to deal with customers in an appropriate manner. The Reserve Bank of India recently advised the asset reconstruction companies (ARCs) to adopt fair practices to ensure transparency and fairness in their operation. Earlier, the ARCs did not have a well-defined fair practice code, which the banks and non-financial institutions had. The RBI has advised ARCs to not resort to harassment of the debtor in the case of loan recovery and ensure that the staff is adequately trained to deal with customers in an appropriate manner. While it has been advised to follow transparent and non-discriminatory practices in the acquisition of assets and maintain arm's length distance in the pursuit of transparency, it has also been noted that the invitation for participation in the auction shall be publicly solicited and the process should enable the participation of maximum possible prospective buyers. After the complete loan repayment, the ARCs are also guided to release all securities and collaterals attached to it. The RBI said that if due to some reason, an ARC does not wish to release the attached securities even after the full repayment, the borrower shall be given notice about the same with full particulars about the remaining claims and the conditions under which ARCs are entitled to retain the securities till the relevant claim is settled.

Similarly, there are many other guidelines of fair practices too which have been directed towards the Asset Reconstruction Companies. The RBI said that compliance with the Fair Practice Code shall be subject to periodic review by the board. It also said that the current guidelines provide the minimum regulatory expectation while each ARC's board is free to enhance its scope and coverage.

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

IFAC Calls on G20 to Balance COVID-19 Response with a Focus on the Long-Term Future and Other Urgent Global Priorities

The Global Accountancy Profession Calls on G20 Leaders to strengthen commitments to sustainability, inclusion, integrity, and global collaboration.

COVID-19 has raised challenges that are unprecedented in the modern era. The G20 governments have responded with significant short-term actions to support people and economies. Recently, the International Federation of Accountants (IFAC) called on G20 countries to remain focused on long-term progress alongside their immediate priorities for response and recovery. To strengthen our global economy in the midst of new challenges presented by COVID-19, IFAC calls on G20 leaders to accelerate sustainability and inclusion, focus on public sector transparency and integrity, resist regulatory fragmentation, recommit to global collaboration

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

IASB releases third webcast on Request for Information: Comprehensive Review of the IFRS for SMEs Standard

The International Accounting Standards Board (Board) published the Request for Information on the second comprehensive review of the *IFRS for SMEs* Standard on 28 January 2020. The Board has made available a third webcast in the series of web presentations to help stakeholders as they prepare to submit their comments on the Request for Information. This third webcast offers a 25-minute presentation demonstrating how the Board has applied the alignment principles in requesting views on how the *IFRS for SMEs* Standard should be aligned with IFRS Standards in the scope of this review. [View the webcast here](#) or on [our YouTube channel](#), where other webcasts and podcasts can be found. In forthcoming webinar in August we will discuss the alignment of major IFRS Standards and provide opportunities for questions

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

Participants to Discuss Experiences with Leases Implementation at FASB Virtual Roundtable

The Financial Accounting Standards Board (FASB) recently announced the rescheduled

date of its public roundtable discussion on the implementation of its accounting standard on leases. The discussion will focus on broad technical issues that companies and organizations have found challenging when applying the standard. The virtual roundtable will take place on Friday, September 18, 2020, in two sessions. The first session will be held from 8:30 a.m. to 12:00 p.m. Eastern Daylight Time (EDT), followed by a second session from 1:00 p.m. to 4:30 p.m. EDT.

Public companies and other organizations of all sizes—including employee benefit plans and not-for-profit bond obligors that file financial reports with the U.S. Securities and Exchange Commission—were required to apply the leases standard for fiscal years beginning after December 15, 2018. However, because of the effects of the COVID-19 pandemic, the Board extended the effective date to fiscal years beginning after December 15, 2019 for not-for-profit bond obligors that had not yet issued financial statements or made financial statements available for issuance as of June 3, 2020. All other organizations are now required to apply the standard for fiscal years beginning after December 15, 2021.

Roundtable participants will include financial statement users, preparers, auditors, and certain industry representatives. Observers will be able to view the live streamed and archived roundtable sessions on the FASB website. To access the webcast, visit the “Upcoming Meetings” section of the FASB website, then select the “Attend a Meeting (remote live webcast)” option.

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

Global Accounting Bodies Launch New Tool for Governments Grappling with Fiscal Impact of COVID-19 Interventions

The International Federation of Accountant (IFAC) and the Zurich University of Applied Sciences (ZHAW), in partnership with the International Public Sector Accounting Standards Board (IPSASB), have recently published a [practical accounting tool for governments and other interested stakeholders to help analyze COVID-19 intervention programs](#).

With [more than \\$9 trillion](#) spent by governments globally on fiscal interventions in the past three months, the effect of the pandemic on public finances will be both immediate and long-lasting.

International Update

Understanding the design of these interventions, how they are delivered and funded, as well as their impact on the financial position of governments, is critical to manage current challenges and secure sustainable public finances in the future.

The COVID-19 Intervention Assessment Tool includes:

- A **step-by-step process and assessment tool** to help assess, evaluate, and inform various types of government interventions related to the pandemic;
- An **overview of the pathway to accrual IPSAS** for governments.

IFAC and ZHAW remain committed to advocating for, and supporting, strong public financial management in economies globally. This tool is the latest effort to support the adoption and implementation of IPSAS and accrual accounting in the public sector.

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

IFAC Welcomes Next Phase of Engagement with Monitoring Group, Looks Forward to the Transition Planning Phase

Following the issuance by the Monitoring Group July 14 of *Strengthening The International Audit And Ethics Standard-Setting System* (the Paper), the International Federation of Accountants (IFAC) has announced its support for moving immediately to the transition planning phase. The Paper, which sets forth a series of recommendations to enhance the process by which global audit, assurance and ethics standards for the accountancy profession are developed and issued in the public interest, was the result of a lengthy, multi-stakeholder consultation process. IFAC is pleased that the Paper recognizes the important and necessary role that IFAC and the profession will continue to play in the standard setting process and that the recommendations are aligned with IFAC's strategy. There are, however, a number of important issues still to be addressed before moving forward with implementation. While IFAC does not underestimate the challenges this presents, we remain confident that we will be able to work collaboratively with all key stakeholders involved to reach a satisfactory resolution during the transition planning phase.

The IAASB (International Auditing and Assurance Standards Board) and the IESBA (International

Ethics Standards Board for Accountants) are responsible for developing in the public interest and through independent due process the standards that govern how auditors and professional accountants deliver their services. IFAC's key strategic priorities include supporting IAASB and IESBA and advocating for, promoting and monitoring the adoption and implementation of their standards. (Source: <https://www.ifac.org/>)

Organizations' Audit Committees Must Rise to the Challenges of the 'New Normal'

IIA, IFAC Issue Joint Call to Action for Addressing Risks More Comprehensively. As organizations confront the immediate and longer-term implications of COVID-19, The Institute of Internal Auditors (IIA) and the International Federation of Accountants (IFAC) recently issued a call to action for audit committees to ensure objective oversight of organizational activities, including risk management, performance, controls, and key processes. The IIA and IFAC have developed specific recommendations for organizations to more vigorously confront uncertainties and turmoil that may threaten their integrity, transparency, and accountability.

The IIA and IFAC call on governing bodies and their audit committees to stay informed, communicate and collaborate, leverage available expertise, promote continuous improvement, think holistically and embrace technology. The full statement is available on [IFAC's website](https://www.ifac.org/).

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

IASB proposes changes to the IFRS Taxonomy to reflect amendments to IFRS 17, IFRS 4 and IAS 16

The International Accounting Standards Board (Board) has recently published a proposed update to the IFRS Taxonomy 2020 to reflect recent amendments to IFRS Standards. The proposed changes reflect amendments to the new and old insurance contracts Standard, IFRS 17 and IFRS 4, issued in June 2020—*Amendments to IFRS 17 and Extension of the Temporary Exemption from Applying IFRS 9*; and IAS 16, issued in May 2020—*Property, Plant and Equipment—Proceeds before Intended Use*. The deadline for submitting comments is 14 September 2020. Access the proposed update. (Source: <https://www.ifrs.org/>)

Legal Decisions

Income Tax



LD/69/15, [Madras High Court: W.A. (MD) NO.417 of 2020 and C.M.P. (MD) Nos.2831 and 3158 of 2020], V.V. Minerals Vs. PCIT, 30/06/2020

Searches were conducted in which incriminating materials tending to show huge tax evasions were recovered from 20 parties involved. One of the parties involved transfer of case on certain grounds and PCIT, Madurai under section 127 transferred cases of all related assesseees to Madurai from Tirunelveli and in writ petition, the Judge upheld transfer. Intra-Court appeal was filed, and High Court granted interim stay. The matter was listed and one of assesseees sought adjournment, which was allowed specifically for taking up of main case. Though the assessee knew that matter would be taken up finally when matter was listed, it requested to adjourn main case again. The repeated adjournment in intra-Court appeal against transfer denied as dispute required no further hearing.

LD/69/16, [ITAT Mumbai: ITA Nos. 7319/2016 & 4909/MUM/2017], Satyam Computer Services Ltd. Vs. DCIT, 30/06/2020

Assessee 'S' filed its online ITR for AY 2010-11 declaring nil income. Thereafter, Assessee 'S' got merged with another company T w.e.f.01.04.2011. AO framed the assessment for AYs 2010-11 and 2011-12 in the year 2015 in the name of assessee 'S' despite being duly informed about the merger of assessee 'S' with Company 'T'. Since assessment order passed in hands of a non-existent entity, viz. assessee company 'S', which had ceased to exist in the eyes of law. Therefore, order was invalid and untenable and had no sanctity of law. It cannot be sustained and was to be quashed. ITAT held the order of AO to be non-est in the eyes of law ITAT

followed the Apex Court judgement in *Pr. CIT vs. Maruti Suzuki India Ltd. (2019) 416 ITR 613 (SC)*. The ITAT also admitted the additional grounds of appeal raised by the assessee being a legal issue arising out of records.

LD/69/17, [ITAT Bangalore: ITA Nos. 3404/BANG/2018, Flutura Business Solutions (P) Ltd. Vs. ITO], 30/06/2020

The AO invoked the provisions of Section 56(2)(viib) and taxed the securities premium received during the year as income of the assessee. The question for consideration was the FMV of the shares that were issued. AO disputed the FMV based on report under Rule 11UA(2)(b) as provided by the assessee. ITAT agreed that Section 56(2)(viib) to be invoked even if consideration is not received in cash/cheque. Share allotment in lieu of purchase consideration payable for an asset acquired comes within the ambit of provisions of Section 56(2)(viib). ITAT held that AO erred in considering the projections of actuals of revenue and profits as laid down by the assessee. To determine FMV of share allotted in lieu of purchase consideration payable for an acquired asset, an assessee has two choices and he may adopt either Net Asset Value (NAV) method or Discounted Cash Flow (DCF) method; Assessing Officer can determine a fresh valuation, but cannot change method of valuation opted by the assessee. The primary onus to prove the correctness of the valuation report is on the assessee as he has special knowledge, is privy to the facts of the Company and only he has opted for the method. The order of CIT(A) was set aside for deciding the issue afresh after due opportunity of hearing given to the assessee. At time of valuing shares during allotment, actual results of later years would not be available, therefore, the fair market value of the unquoted equity shares can be determined as per the DCF method as these are

expected and projected revenues, and accordingly, valuation is done on basis of estimates of future income contemplated at point of time when valuation is made.

LD/69/18, [ITAT Rajkot: ITA Nos. 141/RJT/2018], Anil Abhubhai Odedara Vs. Income Tax Office, 29/06/2020

AO levied penalty order under section 271(1)(c) for furnishing inaccurate particulars of income. The said income was based on estimated basis as vouchers of expenses were not properly maintained by the assessee and the AO accepted assessee's proposal to make addition to taxable income @ 8 % of contractual receipts. Assessee was aggrieved that the penalty cannot be levied when the order of quantum was passed on assumption basis. Also, the penalty order did not state the fact of satisfaction of levying the penalty. ITAT held that when income of assessee is determined on estimate basis then no penalty under section 271(1)(c) can be imposed for concealment and furnishing inaccurate particulars of income. It was also considered that since impugned penalty order was silent on issue as to how satisfaction of concealment/furnishing of inaccurate particulars was arrived at, same deserved to be set aside. ITAT found no justification for imposing penalty, as penalty is not attracted on estimated additions. Also, the period of lockdown was excluded while computing limitation period for issuing order, as specified.

LD/69/19, [ITAT Rajkot: ITA Nos. 335/RJT/2018], Bhavesh Valjibhai Maraviya Vs. ITO, 29/06/2020

Rule 34(5) of the Income-tax (Appellate Tribunal) Rules, 1963, provides that an order should be pronounced by Bench within 90 days from date of concluding hearing. However, to prevent spread of Covid 19 epidemic for computing said period of 90 days, period of lockdown has to be excluded.

LD/69/20, [ITAT Bangalore: ITA Nos. 1984/BANG/2017], Chandrashekar Naganagouda Patil Vs. DCIT, 29/06/2020

Assessee (an Individual) entered into an agreement

to purchase a vacant site for which he paid an advance and agreed to pay the remaining sum at the time of registration of sale deed. Vendor and assessee as confirming party sold said property to a third party and as per sale deed certain amount was paid to vendor while a specified amount was paid to assessee as instructed by vendor towards full and final satisfaction of the entire sale consideration amount. The issue arose whether the sum received by the assessee is chargeable as income from other sources or income under the head capital gains. Assessee treated the income as capital gains and claimed Section 54F exemption. The ITAT followed the judgement in CIT vs. H Anil Kumar (2011) 242 CTR 537 (Kar), High Court held that giving up of a right to claim specific performance by conveyance in respect to an immovable property amounts to relinquishment of the capital asset and there would be a transfer of capital asset within meaning of Act. ITAT accordingly held that the amount received in lieu of giving up right to claim specific performance would constitute capital gain.

LD/69/21, [Kerala High Court: WP(C).No.10002/2020 (A)], Equity Intelligence India (P) Ltd. Vs. Deputy Commissioner of Income Tax, 29/06/2020

Assessee filed its return of income for AY 2017-18 and 2018-19 declaring certain taxable income which was not accepted and notice under section 143(2) was issued. However, assessment order was passed making certain additions and in return assessee filed an appeal under section 246 along with an application seeking stay of demand. Later, stay application was disposed of with a direction to assessee to deposit 20 % of demanded amount. This petition was filed to challenge the same. It was noted that impugned order was passed by blindly following CBDT Office Memorandum dated 29.02.2016, without mentioning any reasoning therein and even no opportunity of being heard was given to the assessee. Thus, impugned order was set aside and, matter was remanded back to Commissioner (Appeals) to consider stay application afresh after affording an opportunity of hearing to the assessee.

LD/69/22, [Bombay High Court: WP NO. 2005/2001, Kuber Builders Vs. Uol], 26/06/2020

The assessee is a partnership firm. Return of income for AY 1987-88 was filed showing loss. Loss was disallowed and tax liability was determined on appeal. Notice of demand dated 19.07.1991 was issued by TRO in respect of AY 1985-86 for ₹ 9,33,020 and for AY 1987-88 for ₹3,11,206. The assessee deposited ₹ 6,00,000 with Revenue in October 1991 and the demand was stayed. Revenue appropriated deposit amount towards petitioner's tax liability of ₹ 3,11,206 for AY 1987-88. Meanwhile, the assessee applied under the Kar Vivad Samadhan Scheme, 1998 settlement of its liability for AY 1987-88 only. So far as AY 1987-88 was concerned, in Certificate of Intimation dated 26.2.1999, liability of petitioner was determined @ 50% of total liability at ₹ 6,16,838 towards penalty and interest only. Now, since the Tax Recovery Officer had already adjusted amount of ₹3,11,206 out of deposit amount of ₹ 6,00,000, assessee was not liable to pay any interest on said amount of ₹ 3,11,206 and the balance amount after adjusting any other penalty and interest that might arise for AY 1987-88, would be adjusted towards outstanding liability for assessment year 1985-86. Thus, it was held that assessee is not liable to pay any interest on the amount of ₹ 3,11,206.

GST



LD/69/23, [2020-TIOL-872-CESTAT-MUM], M/s SRK Creatives Private Limited Vs. Commissioner Central Tax and GST Thane, 11/02/2020

The activity undertaken by the appellant of printing photographs on plain printing paper and thereafter binding them and selling as photo books is a manufacturing activity classifiable under chapter 4911. Thus no service tax is payable in respect of such activity. Tribunal noted that even under the GST regime classification of the said product will be under HS Code 4911 taxable @12% as clarified by Circular F.No. 332/2/2017-TRU dated December 2017.

Note: The similar view is taken by the Tribunal in the case of Commissioner of Central Excise And

Service Tax Ludhiana Vs M/S Gee 7 Graphics Pvt Ltd 2020-TIOL-866-CESTAT-CHD [19.12.2019]

Service Tax

LD/69/24, [2020-TIOL-1039-CESTAT-MAD-LB], Commissioner of Service Tax Vs M/S Repco Home Finance Ltd., 08/06/2020

The foreclosure charges are nothing but damages to compensate for the loss of "expectations interest" when the loan agreement is terminated pre-maturely which the banks are entitled to receive when the contract is broken and merely because the clause relating to damage is featuring in a contract, it would be incorrect to conclude that the party has been given an option to violate the contract. Hence, to treat eventuality of foreclosure as an optional performance is incorrect. The contract cannot be understood to be providing an option to the parties to either perform or not perform/violate.

LD/69/25, [CALICUT-673001, KERALA 2020-TIOL-861-CESTAT-BANG-LB], M/s South Indian Bank South Indian Bank House T B Road, Mission Quarters Thrissur-680001 Vs. Commissioner of Customs Central Excise and Service Tax-Calicut Central Revenue Building, Mananchira Kozhikode, 20/03/2020

The banks are entitled to avail CENVAT credit in respect of service tax paid on the premium paid to Deposit Insurance and Credit Guarantee Corporation for insuring the deposits of the public with the banks.

LD/69/26, [CESTAT SOUTH ZONAL BENCH CHENNAI 2020-TIOL-871-CESTAT-MAD], M/s Marine Container Services South Pvt Ltd Vs Commissioner of Central Excise Tirunelveli, 17/01/2019

The mark-up earned by steamer agents for charging freight to its customers over and above the freight paid to shipping companies cannot be charged to service tax as the same is in the nature of trading profits and cannot be regarded as commission earned for services provided on behalf of shipping companies

Disciplinary Case

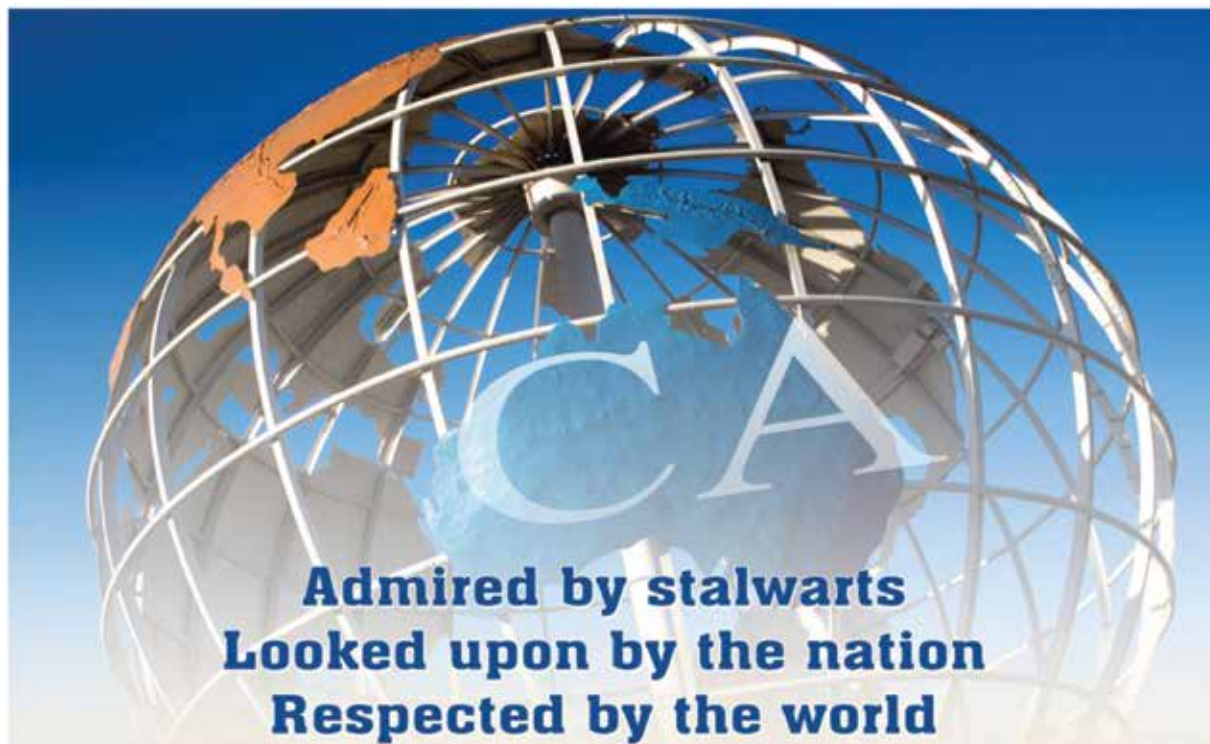


Wrong disclosure of unsecured loan amounts by Respondent-auditor in the Balance Sheet of Company -- Plea of Respondent that management to vouchsafe for the accuracy of the financial statements, not acceptable -- Respondent being an auditor to ensure that Financial Statements do not portray a misleading statement of fact -- Held, Respondent guilty of Professional Misconduct under Clause (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

Held:

Upon perusal of Balance Sheet as on 31.03.2013 and Balance Sheet uploaded with Form 23 AC, the Committee observed that the entire figures of Balance Sheet (including Unsecured Loans) as on 31.03.2013 and 31.03.2012 have been interchanged.

The Respondent has not pointed out this error. Thus, the Respondent had signed the Balance Sheet without application of mind and without proper verification and checking. The Respondent had also clarified that NWS wrongly credited whole amount received from the said Company against a Debtor under the head of Sundry Debtors and as such could not be detected by him and his staff during the audit and he relied upon the client as Cheque receipts were deposited in the bank and no evidence were available with the entry vouchers. The Committee was of the view that the above clarification of the Respondent is not tenable as the same could have been detected by the Respondent if he had carried out the audit with reasonable care and due diligence. If no evidence/papers were available with the entry vouchers, the Respondent could have applied alternate checks such as adopting techniques provided under SA 505 issued by AASB of ICAI regarding obtaining external confirmations from the third parties which in the instant case, the Respondent failed to do. The Committee noted that the Respondent has admitted his mistake and his plea that same has been rectified in the Financial Statements immediately in next financial year is not tenable as he failed to detect said vital mistake. Therefore, the Committee is of the opinion that the Respondent is guilty of professional misconduct falling within the meaning Clause (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949.



Circulars/Notifications

Given below are summarised important Circulars and Notifications issued by the CBDT, CBIC-GST, MCA, SEBI and FEMA since the publication of the last issue of the journal, for information and use of members. Readers are requested to use the citation/website or weblink to access the full text of desired circular/notification. Suggestions on this column can be submitted at eboard@icai.in



I. NOTIFICATIONS

1. Extension of various time limits under Income-tax Act, 1961 – Notification No. 35/2020, dated 24-06-2020

In order to provide relief to the taxpayers for making various compliances, the CBDT vide this Notification has extended various time limits under the Income-tax Act, 1961 like ITR/TAR due date of filing for FY 2019-20 etc. This Notification has come into force w.e.f. 30.06.2020.

Detailed Notification available at: https://www.incometaxindia.gov.in/communications/notification/notification_35_2020.pdf

2. Assessee opting for section 115BAC(5) to be allowed exemption for certain allowances under Rule 2BB - Notification No. 38/2020, dated 26-06-2020

Vide this notification, CBDT has amended Rule 2BB and Rule 3 of the Income-tax Rules, 1962 to provide for certain exemptions that can/cannot be claimed by assessee opting for section 115BAC(5) like conveyance allowance etc.

This Notification has come into force from 01.04.2021 and shall accordingly apply in relation to the AY 2021-22 and onwards.

Detailed Notification available at: https://www.incometaxindia.gov.in/communications/notification/notification_38_2020.pdf

3. Substitution of Rule 11UAC pertaining to prescribed class of persons for the purpose of clause (XI) of the proviso to section 56(2)(x) - Notification No. 40/2020, dated 29-06-2020

Vide this notification, Rule 11UAC has been substituted and its scope has been extended. Apart from any property received by a resident of an unauthorised colony in the NCR of Delhi, New Rule 11UAC provides that the provisions of section 56(2)(x) shall not apply to the transactions specified therein.

This Notification has come into force from 01.04.2020 and shall be applicable for AY 2020-21 and onwards.

Detailed Notification available at: https://www.incometaxindia.gov.in/communications/notification/notification_40_2020.pdf

4. Central Government relaxes certain conditions applicable to an investment fund set up by a Category-I FPI registered under the SEBI Regulations, 2019 – Notification No. 41/2020, dated 30-06-2020

Proviso to section 9A(3) empowers the Central Government to specify an investment fund.

Accordingly, vide this Notification, the Central Government

has notified that the conditions specified in clauses (e), (f) and (g) of section 9A(3) shall not apply in case of an investment fund set up by a Category-I foreign portfolio investor registered under the SEBI regulations, 2019.

This notification shall be deemed to have come into force from 23.09.2019.

Detailed Notification available at: https://www.incometaxindia.gov.in/communications/notification/notification_41_2020.pdf

5. Insertion of new Rule 11UAD prescribing certain class of persons for the purposes of section 50CA - Notification No. 42/2020, dated 30-06-2020

Proviso to section 50CA empowers the CBDT to prescribe transactions undertaken by certain class of persons to which the provisions of 50CA shall not be applicable.

Accordingly, vide this notification, the CBDT has inserted a new Rule 11UAD specifying that the provisions of section 50CA shall not apply to transfer of any movable property, being unquoted shares, of a company and its subsidiary and the subsidiary of such subsidiary by an assessee subject to conditions specified therein.

This Notification has come into force from 01.04.2020 and shall be applicable for AY 2020-21 and onwards.

Detailed Notification available at: https://www.incometaxindia.gov.in/communications/notification/notification_42_2020.pdf

6. Amendment of Rule 31A, Form 26Q & 27Q - Notification No. 43/2020, dated 03-07-2020

The Finance Act 2020 amended and inserted various new TDS provisions like section 194A, 194J, 194K, 194LBA, 194N, 194-O and 197A etc. In order to give procedural effect of such amendments, the CBDT vide this Notification has amended Rule 31A (Statement of deduction of tax under section 200(3)) and Form No. 26Q (Quarterly statement of deduction of tax in respect of payments other than salary) and Form No. 27Q (Quarterly statement of deduction of tax in respect of payments other than salary made to non-residents).

Detailed Notification available at: https://www.incometaxindia.gov.in/communications/notification/notification_43_2020.pdf

7. Notification of Harmonised Master List of Infrastructure Sub-sectors for the purposes of section 10(23FE) - Notification No. 44/2020, dated 06-07-2020

In exercise of the powers conferred by section 10(23FE)(iii) (b), the Central Government has specified business, for the purposes of said item (b), to be the business which is engaged in the infrastructure sub-sectors mentioned in

Legal Update

Updated Harmonised Master List of Infrastructure Sub-sectors in the specified notification (F.No.13/3/2017-INF dated 13.08.2018). This notification shall come into force from 01.04.2021 and shall be applicable for AY 2021-22 and onwards.

Detailed Notification available at: https://www.incometaxindia.gov.in/communications/notification/notification_44_2020.pdf

8. *The National Pension Scheme Tier II-Tax Saver Scheme, 2020 notified - Notification No. 45/2020, dated 07-07-2020*

In exercise of the powers conferred by section 80C(2)(xxv), the Central Government has notified this scheme. Investments in this Scheme can be made by a Central Government employee only subject to compliance of conditions specified therein.

Detailed Notification available at: https://www.incometaxindia.gov.in/communications/notification/notification_45_2020.pdf

9. *Order under section 138 for sharing the information with Ministry of MSME - Notification No. 48/2020, dated 14-07-2020*

In pursuance of Section 138(1)(a)(ii), the Central Government has specified Additional Secretary and Development Commissioner, Ministry of Micro Small and Medium Enterprises, Government of India for the purposes of the said clause.

Detailed Notification available at: https://www.incometaxindia.gov.in/communications/notification/notification_48_2020.pdf

II. CIRCULARS

1. *One-time relaxation for verification of tax-returns for AYs 2015-16, 2016-17, 2017-18, 2018-19 and 2019-20 which are pending due to non-filing of ITRV form and processing of such returns - Circular No. 13/2020, dated 13-07-2020*

As a one-time measure for resolving the grievances of the taxpayers associated with non-filing of ITR-V for earlier AYs and to regularize such returns which have either become Non-est or have remained pending due to non-filing/non-receipt of respective ITR-V Form, the CBDT, in exercise of powers under section 119, in case of returns for AYs 2015-16, 2016-17, 2017-18, 2018-19 and 2019-20 which were uploaded electronically by the taxpayer within the time allowed under section 139 and which have remained incomplete due to non-submission of ITR-V Form for verification, 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 30.09.2020.

Detailed Notification available at: https://www.incometaxindia.gov.in/communications/circular/circular_13_2020.pdf

III. PRESS RELEASES/INSTRUCTIONS/OFFICE MEMORANDUM/ORDER

1. *Memorandum of Understanding (MoU) between CBDT and SEBI signed – Press Release, dated 08-07-2020*

A formal MOU was signed on 08.07.2020 between the CBDT and the SEBI for data exchange between the two organizations. The MoU will facilitate the sharing of data and information between SEBI and CBDT on an automatic and regular basis.

The complete text of the above Press Release can be downloaded from the link below:

https://www.incometaxindia.gov.in/Lists/Press%20Releases/Attachments/840/Memorandum_Understanding_between_CBDT_SEBI_8_7_20.pdf

2. *Processing of returns with refund claims under section 143(1) beyond the prescribed time limits in non-scrutiny cases – Order u/s 119, dated 10-07-2020*

To mitigate genuine hardship being faced by the taxpayers, the CBDT, by virtue of its powers u/s 119, has relaxed the time-frame prescribed in second proviso to section 143(1) and directed that all validly filed returns up to AY 2017-18 with refund claims, which could not be processed under section 143(1) and which have become time-barred, subject to the exceptions mentioned, can be processed now with prior administrative approval of Pr. CCIT/CCIT concerned and intimation of such processing under section 143(1) can be sent to the assessee concerned by 31.10.2020.

The complete text of the above Press Release can be downloaded from the link below:

<https://www.incometaxindia.gov.in/Lists/Latest%20News/Attachments/403/Processing-of-returns-with-refund-claims-under-section-143-dated-10-07-2020.pdf>

3. *CBDT provides utility to ascertain TDS applicability rates on cash withdrawals – Press Release, dated 12-07-2020*

The ITD has facilitated a new functionality for Banks and Post offices through which they can ascertain the TDS applicability rates on cash withdrawal of above ₹ 20 lakh in case of a non-filer of ITR and that of above ₹ 1 crore in case of a filer of the ITR (for compliance of section 194N).

The complete text of the above Press Release can be downloaded from the link below:

<https://www.incometaxindia.gov.in/Lists/Press%20Releases/Attachments/841/Press-Release-CBDT-provides-Utility-to-ascertain-TDS-dated-12-07-2020.pdf>



GST

Furnishing of FORM GSTR-1& GSTR-3B through EVC for Corporate Taxpayers

Notf. No. 48/2020- CT dt. 19th June, 2020 has allowed the person registered under the provisions of the Companies Act, 2013 to furnish the return under section 39 in FORM GSTR-3B verified through electronic verification code (EVC) **during the period from the 21st day of April, 2020 to the 30th day of September, 2020.**

Further, the registered person has been allowed to furnish the details of outward supplies under section 37 in FORM GSTR-1 verified through EVC **during the period from the 27th day of May, 2020 to the 30th day of September, 2020.**

Enforcement of sections 118, 125, 129 & 130 of Finance Act, 2020 w.e.f. 30th June, 2020

Notf. No. 49/2020- CT dt. 24th June, 2020 & Notf. No. 04/2020- Integrated Tax dt. 24th June, 2020 has appointed 30th June, 2020 as the date on which the amendments in sections 2, 109, 168 and 172 of the CGST Act, 2017 and section 25 of the IGST Act shall come into force.

Composition Scheme

Notf. No. 50/2020- CT dt. 24th June, 2020 has amended Rule 7 of the CGST Rules, 2017 with a new entry for Composition tax payers who are providing services and whose aggregate turnover in the preceding financial year did not exceed fifty lakh rupees will be taxed at rate of 6%

(CGST – 3% & SGST/UTGST – 3%).

Reduction/Waiver of Interest & Late Fee payable & Extension of Due Date for August 2020 & One Time Amnesty Scheme for filing of Form GSTR-3B

Notf. No. 51/2020- CT dt. 24th June, 2020, Notf. No. 52/2020- CT dt. 24th June, 2020 & Notf. No. 54/2020- CT dt. 24th June, 2020 has made the following conditional waiver of interest & late fee for delay in furnishing returns in FORM GSTR-3B for tax periods of February, 2020 to July, 2020 & also provided one time amnesty by lowering/ waiving of late fees for non-furnishing of FORM GSTR-3B from July, 2017 to Jan, 2020 & extended the due date for furnishing FORM GSTR-3B for the month of Aug, 2020 as under:-

FORM GSTR- 3B	Aggregate Turnover in the preceding F.Y. > ₹ 5 Crores	Aggregate Turnover in the preceding F.Y. <= ₹ 5 Crores		
For the Months of:-	No Late Fee & Nil Interest for first 15 days & 9 % thereafter till	No Late Fee & Nil Interest If filed within		Reduced interest @ 9 %, if filed upto
		A*	B*	
February, 2020	24 th June, 2020	30 th June, 2020	30 th June, 2020	30 th Sept, 2020
March, 2020	24 th June, 2020	3 rd July, 2020	5 th July, 2020	
April, 2020	24 th June, 2020	6 th July, 2020	9 th July, 2020	
May, 2020	27 th June, 2020 (Regular due date i.e 20 th July, 2020)	12 th Sept, 2020	15 th Sept, 2020	
June, 2020	N.A. (Regular due date i.e 20 th July, 2020)	23 rd Sept, 2020	25 th Sept, 2020	
July, 2020	N.A. (Regular due date i.e 20 th Aug, 2020)	27 th Sept, 2020	29 th Sept, 2020	
Extension of Due Date for furnishing GSTR-3B for the month of Aug, 2020 for taxpayers with annual turnover up to ₹ 5 crores:-				
Aug, 2020	N.A. (Regular due date i.e 20 th Sep, 2020)	1 st October, 2020	3 rd October, 2020	

*A - Taxpayers whose principal place of business is in the States of Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana, Andhra Pradesh, the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands or Lakshadweep.

*B - Taxpayers whose principal place of business is in the States of Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha, the Union territories of Jammu and Kashmir, Ladakh, Chandigarh or Delhi.

Reduction in Late Fee for past Returns:-

Late Fee for non-furnishing FORM GSTR-3B for the period July, 2017 to Jan, 2020 has been reduced to ₹ 500/- per return if there is any tax liability and 'Nil' if there is no tax liability.

Extension of validity of E-way bills

Notification No. 55/2020- Central Tax dated 27th June 2020 has extended the time limit for completion or compliance of any action, by any authority or by any person falling during the period '20/05/2020 to 30/08/2020' to 31st day of August, 2020.

Extension of period to pass order under Section 54(7) of CGST Act

Notification No. 56/2020- Central Tax dated 27th June 2020

has extended the time limit for issuance of order in pursuance of a notice issued for rejection of refund claim, in full or in part, falling during the period '20/05/2020 to 30/08/2020' to 15 days after the receipt of reply to the notice from the registered person or 31st Aug, 2020, whichever is later.

Conditional waiver of late fees for the period from July, 2017 to July, 2020

Notification No. 57/2020- Central Tax dated 30th June 2020 has prescribed the maximum amount of late fees of filing GSTR-3B upto 30.09.2020 to '₹ 500/-' in case of other than NIL returns and 'zero' in case of NIL returns for the tax periods from Feb 2020 to July 2020. The relief is for both taxpayers having turnover upto ₹ 5 crores or more than 5 crores.

Nil Return filing through SMS of FORM- 3B or GSTR-1

Notification No. 58/2020- Central Tax dated 1st July, 2020 has allowed the registered person to furnish a Nil return in FORM GSTR-3B or Nil details in FORM GSTR-1 for a tax period, through SMS using the registered mobile number and verified by One Time Password facility (OTP).

Extension of due date for filing FORM GSTR-4 for financial year 2019-2020

Notification No. 59/2020- Central Tax dated 13th July, 2020 has further extended the due date of filing of GSTR-4 for the year ending 31st March, 2020 till 31st August, 2020.

Central Goods and Services Tax (Removal of Difficulties) Order, 2020

The order clarified that for the purpose of calculating 30 days for filing of application for revocation of cancellation of registration against order issued under section 29(2) and where cancellation order was passed up to 12th June, 2020, later of the following dates shall be considered:-

- a) Date of service of the said cancellation order; or
- b) 31st day of August, 2020.

CUSTOM

Paperless Customs – Electronic Communication of PDF Based Copies of Shipping Bill & e-Gatepass to Custom Brokers/Exporter

CBIC decided that w.e.f. 22.06.2020; only the digital copy of the Shipping Bill bearing the Final LEO would be electronically transmitted to the exporter and the present practice of printing copies of the said document for the exporters and also for maintaining a docket in the Customs House would stand discontinued.

Turant Customs – Turant Suvidha Kendra and Other Initiatives for Contactless Customs - reg.

With a aim to provide 'Faceless, Contactless and Paperless' Customs administration, Board has now decided to take certain measures:-

1. Turant Suvidha Kendra in All Customs Stations by 15th July, 2020.
2. Registration of Authorised Dealer Code, Bank Accounts through ICEGATE.
3. Automated debit of bond after Assessment.
4. Simplified Registration of Importers/Exporters in ICEGATE and conduct Customs clearances through electronic interface.

CORPORATE LAWS



➤ Companies (Share Capital and Debentures) Amendment Rules 2020

The Ministry of Corporate Affairs has amended Companies (Share Capital and Debentures) Rules, 2014:

- Department of Industrial Policy and Promotion has replaced with Department for Promotion of Industry and Internal Trade
- For a start-up, Sweat equity shares can be issued not exceeding fifty percent of its paid up capital upto ten years from the date of its incorporation or registration.
- In case a company is covered in item (A) of sub-

clause (iii) of clause (b) or item (B) of sub-clause (iv) of clause (b), it shall on or before the 30th day of April in each year, in respect of debentures issued by such a company, invest or deposit, as the case may be, a sum which shall not be less than fifteen percent., of the amount of its debentures maturing during the year, ending on the 31st day of March of the next year in any one or more methods of investments or deposits as provided in sub-clause (vi): Provided that the amount remaining invested or deposited, as the case may be, shall not any time fall below fifteen percent. of the amount of the debentures maturing during the year ending on 31st day of March of that year”.

Details are available at http://www.mca.gov.in/Ministry/pdf/Rule_08062020.pdf

➤ Extension of Time for EGMs

MCA has issued a Circular dated 15th June, 2020, for providing clarifications on ordinary and special resolutions by companies by holding extraordinary general meetings (EGM) through video conferencing (VC) or other audio visual means (OAVM) which allowed companies to hold relevant EGMs or transact relevant business through postal ballot as per procedure specified therein, upto 30th June, 2020 has been further extended to 30th September, 2020.

Details are available at http://www.mca.gov.in/Ministry/pdf/Circular22_15062020.pdf

➤ Companies (Appointment and Qualification of Directors) 3rd Amendment Rules 2020

The Ministry of Corporate Affairs via notification dated 23rd June, 2020 notified that Central Government has amended the Companies (Appointment and Qualification of Directors) Rules, 2014, wherein Rule 6 in sub-rule (1), in clause (a), for the words “seven months” the words “ten months” shall be substituted. The last date for registration of details of Independent Directors in the ID Data Bank has been further extended by three months, i.e. upto 30th September, 2020. An announcement in this regard, has also been hosted on the ICAI website, Committee page. Link for the same has been given below.

Details are available at <https://www.icai.org/post/announcement-further-extension-sebi>

➤ Companies (Meetings of board and its powers) 2nd Amendment Rules 2020

The Ministry of Corporate Affairs via notification dated 23rd June, 2020 notified that Central Government has amended the Companies (Meetings of Board and its Powers) Rules, 2014, wherein Rule 4 in sub-rule (2) meetings may be held through video conferencing or other audio visual means in accordance with rule 3 for the period ending on 30th September, 2020.

Details are available at http://www.mca.gov.in/Ministry/pdf/Rule1_25062020.pdf

➤ Companies (Removal of Names of Companies from the Register of Companies) Amendment Rules 2020

The Ministry of Corporate Affairs via notification

dated 29th June, 2020 notified that Central Government has amended the Companies (Removal of Names of Companies from the Register of Companies) Rules, 2016 wherein following insertions were made:

1. In rule 4, in sub-rule (3), in clause (i),
“Provided that in case of a - (a) Government company in which the entire paid up share capital is held by the Central Government, or by any State Government or Governments or by the Central Government and one or more State Governments; or (b) subsidiary of a Government company, referred to in clause (a), in which the entire paid up share capital is held by that Government company, a duly notarised indemnity bond in Form STK-3A shall be given by an authorised representative, not below the rank of Under Secretary or its equivalent, in the administrative Ministry or Department of the Government of India or the State Government, as the case may be, on behalf of the company;”
2. In the said rules, in Form STK 2, in the list of attachments, in serial number 4, at the end, the words “or by an authorised representative of administrative Ministry /Department in Form No. STK - 3A” shall be inserted.
3. In the said rules, after Form STK-3, a new Form shall be inserted.

Details are available at http://www.mca.gov.in/Ministry/pdf/Rule3_30062020.pdf

- **Decriminalisation of Compoundable Offences under the Limited Liability Partnership (LLP) Act, 2008, for Greater Ease of Doing Business for law abiding LLPs and Declogging of Criminal Justice system**

MCA has issued Notice dated 19th June, 2020 for inviting comments regarding decriminalisation of Compoundable Offences under the Limited Liability Partnership (LLP) Act, 2008, for Greater Ease of Doing Business for law abiding LLPs and Declogging of Criminal Justice system.

In this regard, the comments/ suggestions are to be submitted at the email address LLP.suggestions@mca.gov.in by 04.07.2020 which has been further extended to 19.07.20 in the format attached

Details are available at http://www.mca.gov.in/Ministry/pdf/Comments_19062020.pdf

- **Extension of last date of filing, Form NFRA-2**

The Ministry of Corporate Affairs vide its circular dated 6th July, 2020, in continuation with circular 19/20 dated 30th April, 2020, NFRA has mentioned that the time limit for filing of Form NFRA-2, for the reporting period Financial Year 2018-19' will be 270 days from the date of deployment of this form on the website of National Financial Reporting Authority (NFRA), i.e., NFRA form 2 be further extended to 4th September, 2020

Details are available at https://nfra.gov.in/sites/default/files/NFRA2_1.pdf

- **Amendment of item no.(vi) of Schedule VII of the Companies Act,2013**

MCA has issued a notification dated 23.07.20 wherein it has amended Schedule VII item (vi) where after the words “war widows and their dependents”, the words “Central

Armed Police Forces (CAPF) and Central Para Military Forces (CPMF) veterans, and their dependents including widows;” shall be inserted.

- **Period/Days Of Extension For Names Reserved And Re-submission Of Forms**

S. No.	Issue description	Period/Days of Extension
1.	Names reserved for 20 days for new company incorporation. SPICE+ Part B needs to be filed within 20 days of name reservation.	Names expiring any day between 15 th March 2020 to 31 st July would be extended by 20 days beyond 31 st July 2020.
2.	Names reserved for 60 days for change of name of company. INC-24 needs to be filed within 60 days of name reservation.	Names expiring any day between 15 th March 2020 to 31 st July would be extended by 20 days beyond 31 st July 2020.
3.	Extension of RSUB validity for companies.	SRNs where last date of Resubmission (RSUB) falls between 15 th March 2020 to 31 st July 2020, additional 15 days beyond 31 st July 2020 would be allowed. However, for SRNs already marked under NTBR, extension would be provided on case to case basis. Note: Forms will not get marked to (Not to be taken on Record)'NTBR' due to non-resubmission during the extended period as detailed above
4.	Names reserved for 90 days for new LLP incorporation/change of name. LLP/Form 5 needs to be filed within 90 days of name reservation.	Names expiring any day between 15 th March, 2020 to 31 st July would be extended by 20 days beyond 31 st July 2020.
5.	RSUB validity extension for LLPs.	SRNs where last date of resubmission (RSUB) falls between 15 th March 2020 to 31 st July 2020, additional 15 days would be allowed from 31 st July 2020 for

S. No.	Issue description	Period/Days of Extension
		resubmission. However, for SRNs already marked under NTBR, extension would be provided on case to case basis. Note: Forms will not get marked to (Not to be taken on Record)'NTBR' due to non-resubmission during this extended period as detailed above.

➤ **New Helpdesk Nos. made operational by the Ministry of Corporate Affairs for Corporate Seva Kendra and CRC Helpdesk for resolving queries related to Company Name Availability and Company Incorporation available from 17th July, 2020.**

The Ministry of Corporate Affairs has undertaken several initiatives with the objective of Ease of Business and helping the stakeholders wherever they need any support from the Government of India for resolving their issues/ queries.

In this regard, to ensure the best services for resolving the issues/ queries of the Stakeholders, new contact number of the Corporate Seva Kendra is being provided:

“The new contact number of the Corporate Seva Kendra from the 17th Jul is 0120-4832500 (0124 replaced with 0120)

Please note the new help desk number will be operational only on/from 17th Jul'20- 8:00 am.

CRC Helpdesk

Further, the Ministry of Corporate Affairs has made operational new helpdesk number for resolving queries, if any, related to Company Name Availability and Company Incorporation.

Please contact CRC Helpdesk

No : 0120-4832500

Email : CRC.Escalation@mca.gov.in “



➤ **Further extension of time for submission of Annual Secretarial Compliance Report by listed entities due to the continuing impact of the CoVID-19 pandemic**

SEBI, vide circular No. SEBI/HO/CFD/CMD1/ CIR/P/2020/38 dated March 19, 2020 and Circular No. SEBI/HO/DDHS/ON/P/2020/41 dated March 23, 2020, had extended the timeline for submission of financial results under regulations 33 and 52 of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 ('LODR Regulations') to June 30, 2020 (extension of one month) due to the impact of the CoVID-19 pandemic.

SEBI, under Regulation 33 of the LODR Regulations, has further extended the last date for submission of financial results for the quarter and the year ending 31st March 2020, by a month, i.e. to July 31, 2020.

Similarly, under Regulation 52 of the LODR, last date for submission of half yearly and/or annual financial results for the period ending March 31, 2020 for entities that have listed NCDs, NCRPS, CPs, MDS' is also extended to July 31, 2020.

An announcement in this regard, has also been hosted

on the ICAI website, Committee page. Link for the same has been given below.

Details are available at <https://www.icaai.org/post/announcement-further-extension-sebi>



Amendments to Foreign Exchange Management (Mode of Payment and Reporting of Non-Debt Instruments) Regulations

Notification No. FEMA 395(1)/2020-RB dated 15th June 2020

Following amendments have been made to FEM (Mode of Payment and Reporting of Non-Debt Instruments) Regulations:

Provision at Serial No. II of Regulation 3.1 of FEMA 395 is substituted by the following:

Schedule II – Investments by Foreign Portfolio Investors

A. Mode of Payment:

(1) The amount of consideration shall be paid as inward remittance from abroad through banking channels or out of funds held in a foreign currency account and / or a Special Non-Resident Rupee (SNRR) account maintained in accordance with FEM Deposit Regulations, 2016.

(2) Unless otherwise specified in these regulations or relevant schedules, the foreign currency account and SNRR account shall be used only and exclusively for transactions under this schedule.

B. Remittance of sale proceeds:

The sale proceeds (net of taxes) of equity instruments and units of REITs, InViTs and domestic mutual funds may be remitted outside India or credited to foreign currency account or SNRR account of the FPI.

Schedule VIII – Investment by a person resident outside India in an Investment Vehicle

A. Mode of Payment:

The amount of consideration shall be paid as inward remittance from abroad through banking channels or by way of swap of shares of a Special Purpose vehicle or out of funds held in NRE or FCNR(B) account maintained in accordance with Deposit Regulations. Further for an FPI or FVCI, amount of consideration may be paid out of their SNRR account for trading in units of Investment Vehicle listed or to be listed (primary issuance) on the stock exchanges in India.

B. Remittances of sale/maturity proceeds:

The sale/maturity proceeds (net of taxes) of the units may be remitted outside India or may be credited to NRE or FCNR(B) or SNRR account, as applicable of the person concerned.

Chartered Accountants Foundation Course {Under New Scheme}, Intermediate (IPC) {Under Old Scheme}, Intermediate {Under New Scheme} and Final {Under Old & New Scheme}, IRM and INTT – AT Examinations, November 2020

No. 13-CA (EXAM)/N/2020: In pursuance of Regulation 22 of the Chartered Accountants Regulations, 1988, the Council of the Institute of Chartered Accountants of India is pleased to announce that the next Chartered Accountants Foundation Course {Under New Scheme}, Intermediate (IPC) {Under Old Scheme}, Intermediate {Under New Scheme} and Final {Under Old & New Scheme} Examinations will be held on the dates given below at the following places provided that sufficient number of candidates offer themselves to appear from each centre.

Similarly, Examinations in Post Qualification Course under Regulation 204, viz.: Insurance and Risk Management (IRM) Technical Examination, International Trade Laws and World Trade Organisation (ITL & WTO) and International Taxation – Assessment Test (INTT – AT) (which is open to the members of the Institute) will be held on the dates and places (centres in India only) which are given below provided that sufficient number of candidates offer themselves to appear from each of the below mentioned places.

FOUNDATION COURSE EXAMINATION – Under NEW SCHEME

[As per syllabus contained in the scheme notified by the Council under Regulation 25 F (3) of the Chartered Accountants Regulations, 1988.]

9th, 11th, 15th & 17th NOVEMBER 2020

INTERMEDIATE (IPC) COURSE EXAMINATION – Under OLD SCHEME

[As per syllabus contained in the scheme notified by the Council under Regulation 28 E (3) of the Chartered Accountants Regulations, 1988]

Group-I	2nd, 4th, 6th & 8th NOVEMBER 2020
Group-II	10th, 12th & 16th NOVEMBER 2020

INTERMEDIATE COURSE EXAMINATION – Under NEW SCHEME

[As per syllabus contained in the scheme notified by the Council under Regulation 28 G (4) of the Chartered Accountants Regulations, 1988.]

Group-I	2nd, 4th, 6th & 8th NOVEMBER 2020
Group-II	10th, 12th, 16th & 18th NOVEMBER 2020

FINAL COURSE EXAMINATION - Under OLD SCHEME

[As per syllabus contained in the scheme notified by the Council under Regulation 31 (ii) of the Chartered Accountants Regulations, 1988.]

Group-I	1st, 3rd, 5th & 7th NOVEMBER 2020
Group-II	9th, 11th, 15th & 17th NOVEMBER 2020

FINAL COURSE EXAMINATION - Under NEW SCHEME

[As per syllabus contained in the scheme notified by the Council under Regulation 31 (iv) of the Chartered Accountants Regulations, 1988.]

Group -I	1st, 3rd, 5th & 7th NOVEMBER 2020
Group-II	9th, 11th, 15th & 17th NOVEMBER 2020

INSURANCE AND RISK MANAGEMENT (IRM) TECHNICAL EXAMINATION

Modules I to IV	9th, 11th, 15th & 17th NOVEMBER 2020
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INTERNATIONAL TRADE LAWS AND WORLD TRADE ORGANISATION (ITL & WTO), Part I EXAMINATION

Group A	2nd & 4th NOVEMBER 2020
Group B	6th & 8th NOVEMBER 2020

INTERNATIONAL TAXATION – ASSESSMENT TEST (INTT – AT)

9th & 11th NOVEMBER 2020

It may be emphasized that there would be no change in the examination schedule in the event of any day of the examination schedule being declared a Public Holiday by the Central Government or any State Government / Local Holiday.

Candidates may note that two of the papers viz. Paper(s) 3 & 4 of Foundation Examination are of 2 hours duration. Similarly, Elective Paper - 6 of Final Examination (under New Scheme) is of 4 hours. However, all other examinations are of 3 hours duration, and the examination wise timing(s) are given below:

Examination	Paper(s)	Exam. Timings (IST)	Duration
Foundation	Paper 1 & 2	2 PM to 5 PM	3 Hours
	Paper 3 & 4*	2 PM to 4 PM	2 Hours
Intermediate (IPC) (Old Scheme)	All Papers	2 PM to 5 PM	3 Hours
Intermediate (New Scheme)	All Papers	2 PM to 5 PM	3 Hours
Final (Old Scheme)	All Papers	2 PM to 5 PM	3 Hours
Final (New Scheme)	Paper 1 to 5 & Paper 7 & 8	2 PM to 5 PM	3 Hours
	Paper 6 (Elective)	2 PM to 6 PM	4 Hours
Post Qualification Course Examinations i.e. IRM Technical Examination, (ITL & WTO), Part I and (INTT – AT)	ALL	2 PM to 5 PM	3 Hours

**In Paper 3 and 4 of Foundation Examination and all papers of Post Qualification Course Examinations there will not be any advance reading time, whereas in all other papers / exams mentioned above, an advance reading time of 15 minutes will be given from 1.45 PM (IST) to 2 PM (IST).*

Foundation Course Examination and Post Qualification Course Examination i.e. IRM is

proposed to be held along with Final Group –II Examinations on 9th, 11th, 15th & 17th NOVEMBER, 2020 and the Post Qualification Course Examination i.e. INTT - AT is proposed to be held along with Final Group – II Examination on 9th and 11th NOVEMBER, 2020 whereas ITL & WTO examination is proposed to be held along with 4 papers of Group – I, Intermediate (IPC) / Intermediate Examinations.

It may also be noted that operation of the aforesaid schedule is subject to prevailing conditions at the

relevant time in regard to Central Government / State Government advisories as applicable.

PLACES OF EXAMINATION CENTRES IN INDIA:

The Chartered Accountants examinations in November 2020 will be held in the following cities:

1	AGRA
2	AHMEDABAD
3	AHMEDNAGAR
4	AJMER
5	AKOLA
6	ALAPPUZHA
7	ALIGARH
8	ALLAHABAD (PRAYAGRAJ)
9	ALWAR
10	AMBALA

11	AMBIKAPUR* (CHHATTISGARH)
12	AMRAVATI
13	AMRITSAR
14	ANAND
15	ANANTAPUR
16	ASANSOL
17	AURANGABAD
18	BADLAPUR
19	BAHADURGARH
20	BALOTRA*

21	BANSWARA
22	BAREILLY
23	BATHINDA
24	BEAWAR
25	BEED
26	BELGAUM
27	BELLARY
28	BENGALURU
29	BERHAMPORE (ODISHA)
30	BHAGALPUR

31	BHARATPUR
32	BHARUCH
33	BHAVNAGAR
34	BHILWARA
35	BHIWANDI
36	BHIWANI
37	BHOPAL
38	BHUBANESWAR
39	BHUJ
40	BIKANER
41	BILASPUR

42	BULANDSHAHR	84	JAIPUR	127	MORADABAD	167	SALEM
43	BURHANPUR	85	JALANDHAR	128	MUMBAI	168	SAMBALPUR
44	CHANDIGARH	86	JALGAON	129	MUZAFFARNA-GAR	169	SANGLI
45	CHANDRAPUR	87	JALNA	130	MUZAFFARPUR	170	SANGRUR
46	CHENNAI	88	JAMMU	131	MYSORE	171	SATARA
47	CHHINDWARA	89	JAMNAGAR	132	NAGPUR	172	SATNA
48	CHITTORGARH	90	JAMSHEDPUR	133	NANDED	173	SHIMLA
49	CHURU	91	JHANSI	134	NASHIK	174	SHIMOGA
50	COIMBATORE	92	JHARSUGUDA	135	NAVI MUMBAI	175	SIKAR
51	CUTTACK	93	JHUNJHUNU	136	NAVSARI	176	SILIGURI
52	DARBHANGA	94	JIND	137	NEEMUCH	177	SIROHI
53	DAVANGERE	95	JODHPUR	138	NELLORE	178	SIRSA
54	DEHRADUN	97	KADAPA	139	NIZAMABAD	179	SIVAKASI
55	DELHI / NEW DELHI	98	KAITHAL	140	NOIDA	180	SOLAPUR
56	DHANBAD	99	KAKINADA	141	ONGOLE	181	SONEPAT
57	DHULE	100	KALABURGI* (GULBARGA)	142	PALAKKAD	182	SRI GANGANA-GAR
58	DIBRUGARH	101	KANCHEEPURAM	143	PALGHAR	183	SRINAGAR
59	DURG	102	KANNUR	144	PALI MARWAR	184	SURAT
60	DURGAPUR	103	KANPUR	145	PANIPAT	185	SURENDRANA-GAR
61	ELURU	104	KARIMNAGAR	146	PANVEL	186	THANE
62	ERNAKULAM	105	KARNAL	147	PARBHANI	187	THIRUVANAN-THAPURAM
63	ERODE	106	KISHANGARH	148	PATIALA	188	THRISSUR
64	FARIDABAD	107	KOLHAPUR	149	PATNA	189	TINSUKIA
65	FATEHABAD	108	KOLKATA	150	PIMPRI-CHINCH-WAD	190	TIRUCHIRAPALLI
66	FIROZABAD	109	KOLLAM	151	PONDICHERRY	191	TIRUNELVELI
67	GANDHIDHAM	110	KOTA	152	PORT BLAIR*	192	TIRUPATI
68	GANDHINAGAR	111	KOTTAYAM	153	PUNE	193	TIRUPUR
69	GHAZIABAD	112	KOZHIKODE	154	RAIGARH* (CHHATTISGARH)	194	TUTICORIN
70	GONDIA	113	KUMBAKONAM	155	RAIPUR	195	UDAIPUR
71	GORAKHPUR	114	KURNOOL	156	RAJAMAHENDRA-VARAM	196	UDUPI
72	GUNTUR	115	KURUKSHETRA	157	RAJKOT	197	UJJAIN
73	GURGAON	116	LATUR	158	RANCHI	198	VADODARA
74	GUWAHATI	117	LUCKNOW	159	RANIGANJ	199	VAPI
75	GWALIOR	118	LUDHIANA	160	RATLAM	200	VARANASI
76	HALDWANI	119	MADURAI	161	RATNAGIRI	201	VASAI
78	HISAR	120	MALAPPURAM	162	REWA	202	VELLORE
78	HISAR	121	MANDSAUR	163	REWARI	203	VIJAYAWADA
79	HUBLI	122	MANGALORE	164	ROHTAK	204	VISAKHAPATNAM
80	HYDERABAD	123	MAPUSA (GOA)	165	ROURKELA	205	WARANGAL
81	ICHALKARANJI	124	MARGAO (GOA)	166	SAHARANPUR	206	YAMUNA NAGAR
82	INDORE	125	MATHURA			207	YAVATMAL
83	JABALPUR	126	MEERUT				

* Kindly note that only Foundation Examination will be conducted at these cities.

PLACES OF EXAMINATION CENTRES OVERSEAS:

[FOR FOUNDATION, INTERMEDIATE (IPC), INTERMEDIATE AND FINAL EXAMINATIONS ONLY]

The November - 2020 examinations will also be held at the 5 (Five) overseas examination centres, namely

1.	ABU DHABI	4.	KATHMANDU
2.	DOHA	5.	MUSCAT
3.	DUBAI		

The Examination commencement timings at Abu Dhabi, Dubai and Muscat Centres will be 12.30 PM i.e. Abu Dhabi, Dubai and Muscat local time corresponding / equivalent to 2.00 PM. (IST). The Examination commencement timing at Doha Centre will be 11.30 AM i.e. Doha local time corresponding / equivalent to 2.00 PM. (IST). The Examination commencement Timing at Kathmandu (Nepal) Centre will be 2.15 PM Nepal local time corresponding / equivalent to 2.00 PM (IST).

The Council reserves the right to withdraw any city / centre at any stage without assigning any reason.

Online filling up of examination forms:

Applications for admission to Foundation, Intermediate (IPC), Intermediate & Final Examinations; Candidates are required to apply on-line at <https://icaiaexam.icaai.org> from **5th August, 2020 to 25th August, 2020** and remit the examination fee on-line by using VISA or MASTER or MAESTRO Credit / Debit Card / Rupay Card / Net Banking / Bhim UPI. They shall however, be

required to remit additional ₹ 600/- towards late fee (for Domestic & Kathmandu centres) and US\$ 10 (for Overseas centres) in case the application on-line is made after **25th August, 2020** and upto **4th September, 2020** [up to 5.30 PM (IST)]

Whereas the Examination application form for Post Qualification Course Examinations i.e. Insurance and Risk Management (IRM) Technical Examination, International Trade Laws and World Trade Organisation (ITL & WTO) and International Taxation – Assessment Test (INTT – AT) (which is open to the members of the Institute) is to be filled up in the downloadable paper based form (hard copy) only and is priced at ₹ 100/- per examination application form. The forms can be downloaded from our website www.icaai.org on or after **5th August 2020**. ₹ 100 may be added to the examination fees payable for the relevant post qualification course. It may be noted that the application forms duly completed for the Post Qualification Course Examination will be received only at the New Delhi office of the Institute. The last date for application is **25th August, 2020** without late fee and **4th September, 2020** with late fee of ₹ 600/-

Payment of fees for the Post Qualification Course i.e. Insurance and Risk Management (IRM) Technical Examination, International Trade Laws and World Trade Organisation (ITL & WTO) and International Taxation – Assessment Test (INTT – AT) should be made by Demand Draft only. The Demand Draft may be of any Scheduled Bank and should be drawn in favour of **The Secretary, The Institute of Chartered Accountants of India**, payable at **New Delhi only**.

The examination fees payable for various courses are as under:-

Intermediate (IPC) & Intermediate Course Examinations {Old and New Scheme}	
For Indian Centre(s)	
Single Group / Unit 1 to 10 (except Unit 9) / Unit 4A to 7A	₹ 1500/-
Both Groups / Unit 9 / Unit 8A / Unit 9A	₹ 2700/-
For Overseas Centre(s) – Excluding Kathmandu Centre	
Single Group / Unit 1 to 10 (except Unit 9) / Unit 4A to 7A	US\$ 325
Both Groups / Unit 9 / Unit 8A / Unit 9A	US\$ 500
For Kathmandu Centre	
Single Group / Unit 1 to 10 (except Unit 9) / Unit 4A to 7A	INR ₹ 2200
Both Groups / Unit 9 / Unit 8A / Unit 9A	INR ₹ 3400

Final Course Examinations {Old and New Scheme}	
For Indian Centre(s)	
Single Group	₹ 1800/-
Both Groups	₹ 3300/-
For Overseas Centre(s) – Excluding Kathmandu Centre	
Single Group	US\$ 325
Both Groups	US\$ 550
For Kathmandu Centre	
Single Group	INR ₹ 2200
Both Groups	INR ₹ 4000
INSURANCE & RISK MANAGEMENT (IRM)	₹ 2000/-
ITL & WTO	₹ 2000/- per group
INTERNATIONAL TAXATION – ASSESSMENT TEST	₹ 2000/-
Foundation Course Examination	
For Indian Centre(s)	₹ 1500/-
For Overseas Centre(s) – Excluding Kathmandu Centre	US\$ 325
For Kathmandu (Nepal) Centre	INR ₹ 2200

The late fee for online submission of examination application form after the scheduled last date would be ₹ 600/- (for Indian / Kathmandu Centres) and US \$ 10 (for Abroad Centres) as decided by the Council.

OPTION TO ANSWER PAPERS IN HINDI:

Candidates of Foundation, Intermediate (IPC), Intermediate and Final (Old & New Scheme) Examinations will be allowed to opt for English / Hindi medium for answering papers. Detailed

information will be found in guidance notes hosted at <https://icaiaexam.icaai.org>. However the medium of Examinations will be only English in respect of Post Qualification Course viz.: Insurance and Risk Management (IRM) Technical Examination, International Trade Laws and World Trade Organisation (ITL & WTO) and International Taxation – Assessment Test (INTT – AT).

**Additional Secretary
(Examinations)**

Classifieds

5818 55 years old firm wants to open branches in Karnataka, Tamil Nadu, Andhra Pradesh, Madhya Pradesh, Telangana, UP. Interested party may respond. Contact: agasti.sweta@gmail.com, Phone-9938520897

5819 P K Chopra & Company, 57 year old New Delhi based firm of Chartered Accountants having office in Connaught Place, New Delhi and branches at Mumbai, Coimbatore, Ahmedabad, Kochi and Lucknow is looking for Bangalore based chartered accountants to join as partners or firms willing to merge. If interested,

please email with complete details at info@pkchopra.com

5820 Looking for firms in Karnataka, Tamil Nadu, Kerala, Rajasthan, Maharashtra, Baroda and Andhra Pradesh which are interested to officially merge with us. Please mail: Info@rkdoshi.com.

5821 We, 37 years old CA firm having 20 Partners and 19 Branches, seek partners who hold CoP for long term association. Contact: 9910691575 or vncgzb@gmail.com

ICAI in Media : Glimpses of June -July 2020



ICAI signs MoU to promote the export of accounting services

TNN | Posted on Tuesday, July 07, 2020

The Institute of Chartered Accountants of India (ICAI) has signed a Memorandum of Understanding (MoU) with the Service Export Promotion Council (SEPC) with an objective to promote the export of accounting services at the international arena.

Under the MoU, that aims to enhance the competitiveness of India's exports in accounting and finance Services, the two organisations will organise studies and publish knowledge papers. They will also jointly set up a co-ordination group for creating awareness about the action plan about by the government in various countries.

Under the guidance of the Ministry of Corporate Affairs, ICAI has been working towards formulating and implementing an action plan for developing accounting and finance services sector as one of the 12 Champion sectors in the country.

Through its Committee for Export of CA Services and WTO (CESWTO), the organisation is taking various measures for increasing the share of trade in accountancy and related services.



ICAI inaugurates 5 representative offices of ICAI in the United States

With the launch of five representative offices at Chicago, Dallas, Houston, New England Region and Washington DC, ICAI has enhanced its strong presence in the USEdex Live

Edex Live, July 8th, 2020

In a bid to enhance its global footprints, the Institute of Chartered Accountants of India (ICAI) inaugurated 5 Representative Offices of ICAI in the USA during a program "Unite in America" on July 4, 2020.

With the launch of five representative offices at Chicago, Dallas, Houston, New England Region and Washington DC, ICAI has enhanced its strong presence in 7 major cities of the USA including New York and San Francisco; wherein ICAI is having its overseas Chapters with CA. Geetha Ramakrishnan as Chairperson and CA. Vish Arunachalam as Founder Chairman and Director.

The Representative Offices will act as the focal point of contact bringing together ICAI members abroad and enable effective reach and service to its members, thus aiding to position the 'Indian Accountancy Profession' as a 'Brand' worldwide for generating more professional avenues for Indian Chartered Accountants and contribution in the global economy.

Piyush Goyal, Hon'ble Minister of Railways and Commerce & Industry, Chief Guest of the event complemented ICAI for this step and mentioned that "I am sure each one who has set up base in the USA will work collectively to truly raise the flag of Indian Chartered Accountants, build up the credibility of

our work and make sure the integrity that defines our profession is maintained ". He also mentioned that "The spirit of oneness that we all have in the profession is something the rest of the world can learn from. We have high ethical standards in our profession and in the workings of our institute. It is incumbent on us to maintain these high standards". Ensuring his trust on ICAI, Hon'ble Minister mentioned that "I am sure CAs will help us achieve the great ambitions that we have to become a \$5 trillion economy in the next 5 years and a \$10 trillion economy by 2030 so that we can meet the needs of 1.35 billion people".

CA. Atul Kumar Gupta, President ICAI, while addressing the members, mentioned that "The Institute is committed to enhancing its global footprints and would continue to work with the Government of India for achieving the vision of Government of India to make India 'AatmaNirbhar' through ICAI's various initiatives and promoting export of services in accountancy and finance Champion Service sector. "

The event also witnessed the participation of Ambassador HE Sudhakar Dalela, Deputy Chief of Mission, Embassy of India, Washington D.C., who congratulated ICAI on taking such an initiative which would further strengthen the relationship between India and USA and reaffirm the commitment to work closely to strengthen the trading ties & investment opportunities.

Expanding global outreach of ICAI is one of its thrust areas in order to be able to serve its members abroad in a holistic way and to provide them with a platform of professional development as well as networking. This year, the ICAI has launched the concept of Representative Offices with a vision to have a presence in at least 100 locations globally as vision ICAI@2024 and these 5 offices is a step in this direction.



ICAI announces Advanced Integrated Course on IT and Soft Skills

By : Alakananda Manikoth, July 15, 2020

The Institute of Chartered Accountants of India (ICAI) has decided to conduct Advanced Integrated Course on Information and Soft Skills (Advanced ICITSS) – Adv. Information Technology Test – Home Based Mode. The submission of examination application forms starts from 15th July 2020.

It is set to be conducted on 2nd August 2020 at 10.30 AM to 12.30 PM (IST) for those who have cleared / will be clearing their Advanced ITT training requirements as on 01-08-2020 and have passed Final exams held between May 2015 to Nov2019 and have not yet passed the Advanced Information Technology Test.

The proctored home-based test will be held from the candidates' preferred location using his/her own laptop/PC with a webcam and a good internet connection. ICAI

reserves the right to shift the date of exam for some/all candidates depending on the volume of candidates, the exam can be conducted on more than one date and the same will be intimated to the candidate in their admit cards.

The candidates are required to apply online at <https://advit.icaiaexam.icaai.org/> and also pay the applicable test fee online. No physical applications are entertained. There is no concept of submission of applications with a late fee.

Test Fee A candidate who is applying for the test for the first time will not be required to pay the test fee. However, those who are applying for the test thereafter, i.e. from the second time onwards will be required to pay a test fee of Rs. 500/- online through the payment gateway if appearing from India, USD \$ 150 if appearing from Dubai and INR 850 if appearing from Nepal.

Candidates who have been granted differently-abled concession card by the examination department will not be required to pay the test fee.

DATES FOR SUBMISSION OF APPLICATION FORMS FOR THE TEST: Commencement of submission of examination application forms: 15th July 2020 Last date for submission of online examination application forms: 17th July 2020

hindustantimes

ICAI CA November 2020 schedule released at icaai.org, exam to begin from November 1

ICAI CA November exam 2020: Institute of Chartered Accountants of India (ICAI) has released the schedule for the CA November examination today, July 16 on its official website at icaai.org. The ICAI CA November exam will begin from November 1 and conclude on November 18

[hindustantimes.com](https://www.hindustantimes.com) | Edited by Nandini, Updated: Jul 16, 2020

Institute of Chartered Accountants of India (ICAI) has released the schedule for the CA November examination today, July 16 on its official website. The examination timetable for the Foundation, Intermediate, and Final year courses can be downloaded from the official website at icaai.org.

The ICAI CA November examination will begin from November 1 and conclude on November 18. The online application process will begin on August 5 and the deadline to apply is August 25 without late fine. Aspirants can apply from August 25 to September 4 by paying a late fine.

Due to Covid-19, ICAI had to postpone the CA May cycle exam. The institute has decided to merge the CA May exam with November cycle. So, the students who are enrolled for May cycle of exam will also take the exam from November 1 onwards.

ICAI CA Foundation Course Examination (new scheme) --- 9th, 11th, 15th & 17th November 2020.

ICAI CA Intermediate Course Examination (IPC) (old scheme) for Group-I--- 2nd, 4th, 6th & 8th November 2020, while the Group-II exams will be held on 10th, 12th and 16th November 2020.

ICAI CA Intermediate Course Examination (new scheme) for Group-I --- 2nd, 4th, 6th & 8th November 2020 while Group-II exams will be held on 10th, 12th, 16th & 18th November 2020.

ICA CA Final Course Examination (old scheme) for Group -I --- 1st, 3rd, 5th & 7th November 2020 while the Group -II exam will be conducted on 9th, 11th, 15th & 17th November 2020.

ICAI CA Final Course Examination (new scheme) for Group -I--- 1st, 3rd, 5th & 7th November 2020 while Group -II exam are scheduled on 9th, 11th, 15th & 17th November 2020.

“The Insurance and Risk Management (IRM) Technical Examination (Modules I to IV) will be organised on 9th, 11th, 15th & 17th November 2020 while the International Trade Laws and World Trade Organisation (ITL & WTO), Part I Examination for Group A will be held on 2nd & 4th November 2020. The Group B exams will be held on 6th & 8th November 2020 and the International Taxation – Assessment Test (INTT-AT) will be held on 9th & 11th November 2020,” the official notice reads.



The Institute of Chartered Accountants of India

Precautionary Measures Taken To Prevent Covid-19 Protect Yourself And Those Around You



Wash your hands
regularly with
soap and water



Make use of
alcohol-based
hand rub



Avoid
touching
your face



Maintain Social distance
of at least '6 feet'
between you and others



See a doctor
if you
feel unwell



While visiting a doctor
wear a mask/cloth to cover
your mouth and nose



Stop
shaking
hands



Take special care
of the elderly



Don't
share personal
items



Clean and
disinfect surfaces
on regular basis



Wash fresh groceries
and maintain
a good hygiene



Stay home
and avoid
unnecessary travel



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