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THE CHARTERED ACCOUNTANT

JOURNAL OF THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

ICAI 2020-21

*Journey of Resilience &
Service to Nation*

COUNCIL
YEAR
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Accounting Profession for Economic Resilience

Economy, albeit theoretically centred around production and consumption, in real terms is nothing but the exemplification of domino theory, resultant of the collective actions of everyone around us. And much like us, an economy too is invariably vulnerable to myriad endogenous and exogenous shocks. Due to the inter-connectivity of all industries and markets, these economic shocks that initially hit a few sectors or a miniscule geographical area are capable of spilling their effects over to other sectors and countries; thereby having widespread and lasting macroeconomic effects on the local and global economy as a whole for better or for worse.

The unprecedented Covid-19 pandemic put a halt to economies worldwide, so much so economic contagion rampantly spread as fast as the fatal Corona virus itself. The economic shock brought about by the Covid-19 pandemic manifested in more ways than one, in the form of stress in capital markets and extended real economy freeze. The prolonged and extensive duration of quarantining and social distancing has universally incapacitated production and debilitated growth. The pandemic threw unpredictable curveball and pushed economies into a tailspin.

Today, the global economies are passing through excessive stress and strain. India, the largest democracy of the world cannot remain insulated from these extrinsic factors. The problems of our economy have been engaging the attention of all key stakeholders. India has exemplified great economic resilience by undertaking steps to magnify the bandwidth of the healthcare sector by not just beefing up testing facilities, developing its very own vaccine but emerging as a global superhero and exporting tens of thousands of free doses of Covid-19 vaccines to other countries. The dynamism of India's economic resilience is further reflected by initiatives like Aatmanirbhar Bharat, which stands strong as a powerful weapon against the economic shockwaves consequent of the Covid-19 disease but also a strong pillar of foundation in the post-disease world-economy.

The accounting profession quintessential part of the national structure fully realises that they need to remain integral part of mainstream economic activities and contribute to the reversal of any negative fallout on business. The profession make positive

contributions to both business and society and helps various constituents of economy to absorb, assimilate and respond to the changes and become winners. The accounting professionals with their incisive knowledge of the business world are best suited to assist, guide, participate, promote the economic activities in tough times. In turbulent times of unforeseen challenges, the profession must ensure that the country remains resilient as our country continues to strengthen its policy induced capacities to take urgent and rational action to not just immediately withstand such shocks but also recover from their detrimental effects in the long run.

The accounting professionals have acquired indomitable position and can act as essential forerunner of development of economic resilience by establishing avenues to anticipate and evaluate risk and build a responsive capacity in advance capable of being tailor cut in accordance with future circumstances. With the close proximity to the business world, members can encourage business managers to take right decisions that are good for them and the business. ICAI Past President CA. Rameshwar Thakur, who also held various responsible positions in public life like Governor of Madhya Pradesh, Odisha, Andhra Pradesh, Karnataka and Union Minister of State once said *"with the growth of the economy, the Accountants' services will be increasingly required on account of complexities in the economy, accountability of company management the expanding government regulations, technological revolution in data processing and management's need of varied data for planning and control."* In the challenging times their services become more critical.

Economic resilience is strengthened by implementing immediate and dynamic policies that allow a country to cope, recover and reconstruct in order to block maximum losses. With the recent efforts the shoots of recovery have already germinating and paved way for further action for growth. As per a recent report by Reserve Bank of India - *"Recent shifts in the macroeconomic landscape have brightened the outlook, with GDP in striking distance of attaining positive territory and inflation easing closer to the target. If these movements sustain, policy space could open up to further support the recovery."*

Editorial Board ICAI: Partner in Nation Building

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From the President



CA. Atul Kumar Gupta
President, ICAI

Dear Professional Colleagues,

The Council Year 2020-21 is reaching its finality very soon. As per the tradition, I will be completing my tenure as the President of ICAI to move ahead, with a feeling of great satisfaction that we as a team are able to contribute for our alma mater, despite the challenges posed by pandemic. The opportunity to head this august Institute is indeed a great honour which works with abundant professionalism. The Journey at the helm of the ICAI as Vice-President in 2019-20 and then as President has been challenging and personally gratifying. As head of the accounting profession in India, it has always been my endeavour to take the Indian Accounting Profession to greater heights.

It would not have been possible to serve the second largest accounting body of the world without unstinted support of the Vice-President, CA. Nihar N. Jambusaria, other Council colleagues and officers of the Institute. I also wish to place on record, contribution of members of the accounting profession for standing with me to uphold the virtues of independence, integrity and excellence in the accounting profession. Being a progressive organisation, committed to the business and

society, economy centric initiatives have been the cornerstone of our Institute, particularly in these challenging times. I am extremely delighted to be part of this exciting journey and contribute to the best of my abilities.

CA. V.B. Haribhakti, past President, ICAI once remarked *"Accountancy profession today faces a challenge – a challenge to unite and to strengthen itself and to make a tangible contribution to the solution of the problems facing the nation. In accepting this challenge, the profession will have to continue to display integrity, courage and resourcefulness."* The year 2020-21, in the wake of continuing pandemic, has been truly challenging for all of us. My heart swells with pride as the Institute has taken giant strides to responding to the extraordinary challenges of lockdown to become a more progressive organisation bringing technologically at the forefront.

During the year the brand ICAI significantly gained in popularity. Opening of more than 30 Chapters and Representative offices (RO) in one year, positioning ICAI and its representation at various national and global forum, recognition of Indian Chapters and ROs by Ministry of external affairs, New MRAs and MoUs are the testimonial of the same.

ICAI has also taken a number of initiatives to assist the Government and its endeavours. ICAI is the important constituent of eco-system for Environment, Sustainability and Growth (ESG). Responding to pandemic related challenges faced by the country, ICAI contributed Rs. 21 crore in PM CARES/ PMNR Fund for emergency use. This was aptly supported by other units of ICAI to include measures to provide support to various sections in kind. ICAI also responded to mission *Aatmanirbhar Bharat* in the national interest. *Make in India* and *Aatmanirbhar Bharat* are major national programmes designed to facilitate investment, foster innovation and build reliable manufacturing infrastructure in the country. We believe Chartered Accountants with close proximity to the business, industry and entrepreneurs can work with the focus areas of MSME and in different sectors. ICAI released a MSME rebooting checklist and launched Mentorship Program for providing support in

From the President

Make in India project of the Government of India. One hundred facilitation centres for GST & MSME were also launched towards developing Aatmanirbhar Bharat. A study was also undertaken on *"Ease of Doing Business – Global Best Practices to establish Foreign Company in India"*.

Exports play an important role in the Indian economy, influencing the level of economic growth, employment and bringing external stabilisation. Exports are considered as a major incentive for domestic production as it makes best use of natural, human and other resources available in the country. In the recent past, the Indian policy makers have identified Champion Services Sectors for promoting their development, and realizing their potential. These include Accounting and Finance Services as one of the champion sector. ICAI in order to assist the Government in the drive, entered into engagement with Ministry of Commerce to start eleven projects for export of Services under Champion Sector project. The engagement will help in improving the competitiveness of Indian service sectors thereby promoting GDP growth.

Using technology to the hilt, the ICAI continued its services without any interruptions or slackness throughout the period of lockdown. Being a knowledge driven organisation, ICAI continued spreading education and skills using ITES. Self-Service Portal, Digital learning hub, E-learning platform for members and students become fully functional with virtual structured and un-structured CPE hours. ICAI's international conference with theme "Accountancy Profession: Augmenting Economic Sustainability" was successfully held virtually for the first time. More than 3000 Webinars and virtual CPE meetings were organised to serve the knowledge quest of members and other stakeholders. Global Speakers participated in ICAI's different initiatives. Dedicated portal for Industrial Training placement, CAFE, WE CARE, MSME Mentorship program, revamped web site of ICAI, Digi Locker were also launched during this Council Year to facilitate growth and ease of access to members, students and other stakeholders. The first ever live virtual classes were launched without any cost for students considering the hardship being faced by the students in their learning endeavours.

This year has taught us that no obstacle is large enough as long as we are equipped with positivity and faith as our armour. Today, when I look back in hindsight, one of the biggest challenges that we have accomplished during the year is the successful completion of Chartered Accountancy Examination during November/December, 2020 in the pandemic situation. Your ICAI not only organised the 24 days long exams in staggered way at highest ever 1084 examination centres including 8 overseas locations while recovering from pandemic ensuing safety of all but also adopted the 100% digital evaluation mechanism coupled with benefit of reduction in time lag between exam and result period and quick disposal of re-verification request.

We are all aware that the Institute is set up under an Act of Parliament and shoulder a responsibility to regulate the accountancy profession in the country. I am strongly of the view that if we have to maintain our unique position, we have to further consolidate our position as Robust Regulatory body. After successful implementation of e-hearing of Disciplinary cases during this Council Year, we took one more step in the direction of digitisation by starting a separate portal for disciplinary mechanism. I am happy to intimate that disciplinary mechanism of ICAI completed more than 650 cases during last two years and in the times to come, this will bring more trust and take the eco-system of Governance to next level. To take forward our regulatory mechanism, which paves the way to act as a facilitator first and then as a regulator in new economic environment, your Council has approved revised Statement of Peer Review. Simultaneously, we have augmented processes and resources within our Financial Reporting Review Board. This all has been done with a view to enhance our capacity and to achieve a target to complete the review of financial statements of all listed companies beyond a threshold limit in a band of pre-targeted period. To support these efforts further, the revised 12th edition of Code of Ethics came into effect from 1st July, 2020 to guide our members in discharging their duties more effectively & ethically.

The Institute of Chartered Accountants of India has always cultivated the belief that development

From the President

can only occur exclusive of definite borders. One of the most satisfying moments is to see that today Institute's flag is standing high in 64 global cities spreading into 43 countries. We, at the Institute, firmly believe that as territories dissolve and the world become smaller, opportunities multiply and success expands.

In this issue we are including a detailed write-up on significant activities that have taken place. Let me now also share some of the recent important matters:

Hon'ble Governor of Kerala addresses ICAI Council

I am happy to share that Hon'ble Governor of Kerala, Shri Arif Mohammed Khan addressed the Council meeting of the Institute recently held in Kerala on 10th of January. He highlighted the importance of accounting profession in Indian economy and conveyed his best wishes. He said that accounting has always been an important pillar in the process of good governance. Highlighting importance of women in society and governance, he looked forward to more female representation in the Council of ICAI in future. It was also an excellent opportunity for us to showcase the contributions made by the Institute towards nation building.

National Collaborative Programme with Association of Indian Universities

In the present times it is important that the students are imparted employable skills and given knowledge which is contemporary and holistic. National Education Policy, 2020 focusses on holistic, multidisciplinary and futuristic education and aims to create 'Atmanirbhar Bharat'. In this direction, the ICAI jointly with the Association of Indian Universities (AIU) organised a "National Collaborative Programme by AIU and ICAI for Vice Chancellors of Universities" on 13th January, 2021 through Webinar. The primary objective of programme was to provide a platform to interact with the Vice-Chancellors of various universities across India and experts from the ICAI and to deliberate upon the new paradigms for education system in India and skilling the Indian Education System for creating employable graduates.

ICAI and AIU together can contribute towards skill-based competence building for students in India thereby enhancing the employability of the graduates of the country. The event was graced by Dr. Bhushan Patwardhan, Vice Chairman, UGC and Dr. (Ms.) Pankaj Mittal, Secretary General, AIU. In view of the requests received from various Vice Chancellors during the course of the programme to enter into an MoU with the ICAI seeking the benefit of the expertise of ICAI in the field of education and training, AIU proposed an umbrella MoU covering the interested and eligible universities.

Research for the Future

Research has been integral to accounting profession since the formation of the Institute. The Institute shares useful research inputs to the government from time to time and many of its suggestions forms part of policy formation and changes. As a major thrust to the Accounting research, ICAI has initiated a number of projects to encourage research-based activities in academia by keen researchers. In this direction, to recognise the research contribution in the areas of international and societal importance, ICAI instituted first "ICAI International Research Awards 2020" *which could be considered as the World's Largest Cross Border Competition* in Accountancy sector. It is envisaged that over the period of the time, such quality research will provide valuable inputs to address many environmental, social and corporate governance issues for decision makers towards improving sustainability. The Jury for International research Awards was chaired by Dr. In-Ki Joo, Immediate Past President, International Federation of Accountants (IFAC) and other members of Jury Panel were the eminent individuals having international presence from five different continents. A total of 92 Research Papers from ten different countries namely United States, Australia, South Africa, UAE, Netherland, Turkey, Oman, Bahrain, Nigeria and India were received. Award presentation ceremony for "ICAI International Research Awards 2020" coincided with "ICAI Awards for Excellence in Financial Reporting 2019-20".

Further, ICAI continues its legacy to honour stellar individuals and organized 14th ICAI Awards, 2020

From the President

on 20th January, 2021. During the award ceremony, the Chartered Accountants who have excelled in their organisation and have brought good name to the profession were honoured.

Imbibing Technology – Using Artificial Intelligence

ICAI through its Financial Review Reporting Board is gearing up for another milestone by way of utilising Artificial Intelligence (AI) to systematically identify the non-compliances in financial statements to make the review process more robust. The proposed system will have capability of Artificial Intelligence / Analytics so that common non-compliances can be easily flagged. The system will maintain repository of non-compliances observed by the Board. Over the period, it would help to scale up the number of cases being undertaken for review as well as in strengthening financial reporting practices in India which would promote stakeholder's confidence in audited financial statements.

As we have come close to the end of the Council year, I would like to take this opportunity to express gratitude to my esteemed fellow colleagues in the Council, Past Presidents, representatives at Regional Councils, Branches, foreign Chapters, Representative Offices and the entire accounting fraternity in providing continued support in taking many initiatives for the betterment of the profession. I am also thankful to Hon'ble Ministers, Secretaries, and Officers of various Ministries for all the support extended to the Institute during the year. Whatever little we have achieved could not have been possible without their active guidance.

Specifically I am grateful and would like to convey thanks to Shri Om Birla, Hon'ble Speaker Lok Sabha for his blessings and presence on CA Day and many other occasions, Smt. Nirmala Sitharaman, Hon'ble Minister for Finance and Corporate Affairs, Shri (CA.) Piyush Goyal, Hon'ble Minister of Railway, Commerce & Industry, Consumer Affairs, Food and Public Distribution, Late Shri Suresh Angadi, the then Minister of State for Railways, Shri (CA.) Arun Singh, Hon'ble Member of Parliament, Shri (CA.) Thomas Chazhikadan, Hon'ble Member of Parliament for personally visiting ICAI and guide

us on various matters of importance. I am failing in my duty if I do not acknowledge the support and guidance extended to the ICAI by Shri Anurag Singh Thakur, Hon'ble Minister of State for Finance and Corporate Affairs and both the Secretaries of MCA, Shri Injeti Srinivas and Shri Rajesh Verma as friend, philosopher and guide in various endeavours of national interest. All officers and staff of the ICAI led by Acting Secretary, Shri Rakesh Sehgal provided the much-desired administrative support in implementation of various initiatives. Above all, I bow to the almighty for giving me strength to face the challenges and keeping the flag of Indian accountancy profession high and to my Parents and *Gurus* for their continued divine blessings. This moment, in fact, brings a sense of self-actualisation together with consciousness of the onerous responsibility which I have shouldered with the support and cooperation of all of you.

The time has come when I have to bid adieu to you as the President of this august Institute. I must admit that I have cherished my tenure as President and appreciate having the opportunity to work with and for the members, students and all stakeholders of the Institute. Challenges make us stronger to face difficult times and at times bring out best out of us. We should move towards the target steadily but with patience. As we tread on an unexplored path in pursuit of excellence, we must remember that patience is a key weapon in our armoury. Patience encourages you to be consistent towards your goals and helps you appreciate your journey towards success. Remember the old adage – slow and steady wins the race. This resilience accompanied by timely efforts help us to offer our distinctive mark of excellence to the world. I am sure that the collective wisdom, support and guidance of the entire CA fraternity in the journey of excellence will continue to enlighten the path of progressive transformation.

Stay safe and healthy.

Jai Hind, Jai ICAI,



CA. Atul Kumar Gupta
President, ICAI

New Delhi, 27th January, 2021

Photographs

14th ICAI Awards & Leadership Summit



ICAI President CA. Atul Kumar Gupta and ICAI Vice-President CA. Nihar N. Jambusaria with Minister of Road Transport and Highways and Minister of Micro, Small and Medium Enterprises Shri Nitin Jairam Gadkari during lighting the lamp ceremony on the occasion of 14th ICAI Awards & Leadership Summit, 2021 in presence of ICAI immediate Past President CA. Prafulla P. Chhajed and Central Council colleagues CA. Hans Raj Chugh and CA. Rajesh Sharma (21.01.2021)



Chief Guest, Minister of Road Transport and Highways and Minister of Micro, Small and Medium Enterprises Shri Nitin Jairam Gadkari addressing the members in august presence of ICAI President CA. Atul Kumar Gupta, ICAI Vice-President CA. Nihar N. Jambusaria and their Council colleagues (21.01.2021)



ICAI President CA. Atul Kumar Gupta and ICAI Vice-President CA. Nihar N. Jambusaria along with Joint Secretary, Ministry of External Affairs of India CA. Mahaveer Singhvi presenting a memento to Chief Guest, Minister of Road Transport and Highways and Minister of Micro, Small and Medium Enterprises Shri Nitin Jairam Gadkari. Also seen in picture, Central Council members CA. Rajesh Sharma, CA. Debashis Mitra and CA. Hansraj Chugh (21.01.2021)



ICAI President CA. Atul Kumar Gupta and ICAI Vice President CA. Nihar N. Jambusaria along with their Council colleagues presenting a memento to Chief Guest, Minister of Road Transport and Highways and Minister of Micro, Small and Medium Enterprises Shri Nitin Jairam Gadkari (21.01.2021)

397th Council Meeting, Kerala

ICAI President CA. Atul Kumar Gupta and ICAI Vice-President CA. Nihar N. Jambusaria with Hon'ble Governor of Kerala Arif Mohammed Khan and Shri Thomas Chazhikadan, Member of Parliament along with ICAI immediate past President and Central Council colleagues in a group photograph during 397th Council Meeting held in Kumarakom, Kerala



ICAI President CA. Atul Kumar Gupta and ICAI Vice-President CA. Nihar N. Jambusaria with Honourable Governor of Kerala Shri Arif Mohammed Khan and Shri Thomas Chazhikadan, Member of Parliament releasing the publication, 'Handbook on Audit of CSR Activities'. Also seen in picture, Central Council member CA. Babu Abraham Kallivayalil and ICAI Acting Secretary Shri Rakesh Sehgal (9th to 11th January, 2021)

Photographs

MSME National Conclave



ICAI President CA. Atul Kumar Gupta and ICAI Vice-President CA. Nihar N. Jambusaria Along with Chief Guest, Hon'ble Speaker of Lok Sabha Shri Om Birla on the occasion of MSME National Conclave (07.01.2021)



Chief Guest, Hon'ble Speaker of Lok Sabha Shri Om Birla addressing the members during the event. Also seen ICAI President CA. Atul Kumar Gupta, ICAI Vice-President CA. Nihar N. Jambusaria, ICAI immediate past President CA. Prafulla Chhajed and ICAI Acting Secretary Shri Rakesh Sehgal (07.01.2021)

ICAI International Research Awards



ICAI President CA. Atul Kumar Gupta and ICAI Vice-President CA. Nihar N. Jambusaria along with their Council colleagues in a group photograph with Chief Guest of the event Hon'ble Minister of State of Parliamentary Affairs, Heavy Industries and Public Enterprises Shri Arjun Ram Meghwal on the occasion (17.01.2021)



ICAI President CA. Atul Kumar Gupta and ICAI Vice-President CA. Nihar N. Jambusaria presenting a memento to Chief Guest of the event Hon'ble Minister of State of Parliamentary Affairs, Heavy Industries and Public Enterprises, Shri Arjun Ram Meghwal. Also seen in picture, Council members CA. Anuj Goyal and CA. Kemisha Soni (17.01.2021)

Branch Visit, Gandhidham



ICAI President CA. Atul Kumar Gupta lighting the lamp along with ICAI Vice-President CA. Nihar N. Jambusaria during Gandhidham Branch visit. Also seen in picture, Central Council member CA. Jay Chhaura, CA. Anil Satyanarayan Bhandari and office bearers of Gandhidham Branch of WIRC of ICAI (17.01.2021)

ICAI Rohini Building Project



ICAI President CA. Atul Kumar Gupta and ICAI Vice-President CA. Nihar N. Jambusaria offering prayers during commencement ceremony for Construction of ICAI Rohini Building Project in New Delhi (28.01.2021)



ICAI President CA. Atul Kumar Gupta and ICAI Vice-President CA. Nihar N. Jambusaria along with their Council colleagues in a group photograph on the occasion of Gandhidham visit (17.01.2021)

Photographs

Interactive Meet, Ernakulam Branch of SIRC & SICASA of ICAI



ICAI President CA. Atul Kumar Gupta and ICAI Vice-President CA. Nihar N. Jambusaria during lighting the lamp ceremony on the occasion of interactive meet with members. Also seen in picture, Central Council members CA. Rajendra Kumar P, CA. Babu Abraham Kallivayalil and office bearers of SIRC of ICAI (08.01.2021)



ICAI President CA. Atul Kumar Gupta addressing the members in an interactive meet jointly organised by Ernakulam Branch of SIRC & SICASA of ICAI. Also seen ICAI Vice-President CA. Nihar N. Jambusaria, Council members CA. Rajendra kumar P and CA. M P Vijay Kumar (08.01.2021)

Interactive Meet, Rajkot Branch



ICAI President CA. Atul Kumar Gupta and ICAI Vice-President CA. Nihar N. Jambusaria being felicitated during an interactive meet with the members of Rajkot Branch of WIRC of ICAI. Also seen in picture ICAI Central Council members CA. Aniket Talati, CA. Anil Bhandari, CA. Jay Chhaira and office bearers of the Branch (16.01.2021)



ICAI President CA. Atul Kumar Gupta and ICAI Vice-President CA. Nihar N. Jambusaria in a group photograph during Rajkot Branch visit (16.01.2021)

International Conference for CA Students



ICAI President CA. Atul Kumar Gupta and ICAI Vice-President CA. Nihar N. Jambusaria during International Conference for CA Students held in Hyderabad (16.01.2021)

Kannur Branch Building Inauguration



ICAI President CA. Atul Kumar Gupta alongwith Shri K Sudhakaran, Member of Parliament during inauguration of Kannur Branch Building. Also seen in picture, Central Council member CA. Babu Abraham Kallivayali (12.01.2021)



Kannur Branch Building of SIRC of ICAI being inaugurated by Shri K Sudhakaran, Member of Parliament and Shri T.O. Mohanan, Mayor, Kannur Municipal Corporation in presence of ICAI President CA. Atul Kumar Gupta and ICAI Vice-President CA. Nihar N. Jambusaria (12.01.2021)

45th Regional Conference in Kolkata



ICAI President CA. Atul Kumar Gupta and ICAI Vice-President CA. Nihar N. Jambusaria with Chief Guest, Governor of West Bengal Shri Jaydeep Dhankar in a group photograph during the inaugural session of event (20.01.21)



Chief Guest, Governor of West Bengal, Shri Jaydeep Dhankar lighting the lamp in presence of ICAI President CA. Atul Kumar Gupta, ICAI Vice-President CA. Nihar N. Jambusaria and their Central Council colleagues (20.01.21)

Morbi CPE Chapter of WIRC of ICAI



ICAI President CA. Atul Kumar Gupta and ICAI Vice- President CA. Nihar N. Jambusaria in an interactive meet with members. Also seen in picture, Central Council members CA. Aniket Talati and CA. Jay Chhaura (17.01.2021)

WIRC National Conference



ICAI President CA. Atul Kumar Gupta & ICAI Vice-President CA. Nihar N. Jambusaria during lighting the lamp ceremony. Also seen in picture Past Chairperson, WIRC CA. Priti Savla, Central Council member CA. Debashis Mitra, CA. Charanjot Singh Nanda, CA. Hans Raj Chugh, CA. Durgesh Kabra and WIRC office Bearers (15.01.2021)

Photographs

Interactive Meetings



Sirsa Branch (24.01.2021)



Bahadurgarh Branch Visit (24.01.2021)



Bhatinda Branch (25.01.2021)



Patiala Branch (25.01.2021)



Ambala Branch Visit (25.01.2021)



Sangrur Branch (25.01.2021)



Chandigarh Branch (26.01.2021)



Hisar Branch (24.01.2021)

ICAI President CA. Atul Kumar Gupta during his visit across Branches of ICAI for interactive meetings with members. Also seen in pictures Central Council Members CA. Hans Raj Chugh, CA. Pramod Jain, CA. Rajesh Sharma, CA. Sanjeev Kumar Singhal and NIRC Chairman CA. Shashank Agrawal

Snapshot of Progress

Partner in Nation Building



- ❖ First ever pilot project on Accounts Assistant Scheme launching to support skill based employment.
- ❖ Participated in various projects of Government of India including Vivad Se Vishwas to catalyst as Partner in Nation Building.
- ❖ Entered into engagement with Ministry of Commerce to start 11 projects for export of CA Services under Champion Sector project.
- ❖ Conducted Study on “Ease of Doing Business – Global Best Practices to establish Foreign Company”.
- ❖ Released various Advisories/Material/FAQs to guide members for reporting and assurance of COVID-19 impact on Financial Statements.
- ❖ MoU signed with CBDT to make UDIN mandatory for Tax Audit Reports under Income tax.
- ❖ 100 facilitation centres for GST & MSME launched for Atmanirbhar Bharat.
- ❖ ICAI Contributed 21 Crore in PM CARES/PMNRF Fund for emergency use to handle COVID-19. Branches run various measures to support in kind as well.
- ❖ Released MSME Rebooting Checklist and launched Mentorship Program for support in Make in India project.
- ❖ Launched first ever International Research Awards.

- ❖ New Peer Review Statement and Automation system for selection of peer Reviewer.
- ❖ New Code of Ethics in line with the international practices launched on 1st July 2020 after a decade.
- ❖ E hearing of Disciplinary Cases started. Disposed off more than 200+ cases in spite of COVID-19 impact.
- ❖ Amendments in CA Act proposed for more speedy and time bound disposal of disciplinary cases.
- ❖ Automation of Disciplinary process through Portal for filing, sharing status and order of appeals launched.
- ❖ First ever Forensic Accounting and Investigation Standards developed in the country.

A Strong Regulator



Council Year 2020-21

Infrastructure for Future



- ❖ Established Centre for Audit Quality to develop Audit Quality Indicators, Audit Quality Maturity Model (AQMM) & capacity building of Members.
- ❖ Anywhere (within region) voting in ICAI elections approved by Council.
- ❖ Established first ever Sustainability Reporting Standard Board (SRSB) and Students Skill Enrichment Board (SSEB).
- ❖ Started office in Leh (Ladakh), Srinagar (J&K) to support Students, Members and national Initiatives.

- ❖ Concept of Representative Office (RO) Started. 3 New Chapters and 27 RO launched. Took ICAI presence from 29 Countries to 43.
- ❖ Developed International Affair Policy of ICAI.
- ❖ Obtained Membership of PAFA for ICAI, application moved for AFA.
- ❖ Ministry of External Affairs approved ICAI Chapter and Representative Office at Par with any apex body.
- ❖ New MRA Signed with ICAN (Nepal) and MICPA (Malaysia).
- ❖ MoUs Signed with VRC Netherland, CPA Papua New Guinea, and Higher Colleges of Technology, Dubai.
- ❖ Establish Singapore office of ICAI.

Global Forays



- ❖ First time ever launched examination center in Uganda, Bahrain and Kuwait taking ICAI Exam to 8 Countries.
- ❖ Pursued the Valuation Standards developed by ICAI to be adopted by SAFA Countries.

Better Services to Members



- ❖ New guidelines for Networking/ Affiliates for CA Firms approved by Council for capacity building of CA firms.
- ❖ Multidisciplinary Partnership (MDP) Guidelines approved by the Council. New Forms approved by Ministry to start MDP registrations.
- ❖ Biometric Attendance in CPE programs approved by Council.
- ❖ Started signature event of 10 days for training in assurance and IT through Centre of Excellence and CAQ.
- ❖ Specialized Course for members on Working Paper Management.
- ❖ Special Refresher Course made mandatory for Members with three year continuous lapse or students not taken membership after qualifying for three years.
- ❖ New dedicated portal for CABF Application, contribution and processing launched for speedy disposal of application.
- ❖ New Scheme of 'WE CARE' for senior member of Profession.
- ❖ Web based listing of CA firms launched to assist in branding and extend reach of Indian Firms.
- ❖ Tie-up for various welfare scheme for Members implemented including Credit Card, Health check up, and Funding.
- ❖ Offered free of cost structured CPE hours through Digital Learning Hub to provided financial support and skill upgradation to Members in COVID-19 time.
- ❖ Reduced Certificate Courses fee to upto 25% to support members financially in COVID-19 time. Also started Virtual batches and Examination for Certificate Courses through DLH.
- ❖ Increased CABF support from ₹ 7500 per month to ₹ 15000 per month for families in need.
- ❖ Under CABF launched special assistance scheme upto ₹ 1.5 Lakh for members (including dependent family members) suffering with COVID-19.
- ❖ Launched various technical/ research based publications including 21 publications on GST.

Students



- ❖ Free Virtual Classes for Students launched since 1st July 2020.
- ❖ Students CPE Hours introduced on recommendatory basis.
- ❖ Moved towards 100% digital evaluation in ICAI Examinations.
- ❖ 100 Crore earmarked for Scholarship of Students. Scholarship Portal. initiated

which will ensure speedy disposal of Scholarship application.

- ❖ Case study bank created for skill based evaluation.
- ❖ Forensic Module incorporated in Students IT Training.
- ❖ Launched rationalised & revised Study Material for all 3 levels of CA Course.
- ❖ Digital evaluation ensured re-verification results in 7 days from application by students.
- ❖ Digital evaluation ensured time lag between exams and result to reduce by 15 days.
- ❖ Industrial training period extended from 11 Months to 18 Months.
- ❖ Separate portal for Industrial Training/ Article placement launched.
- ❖ Successfully conducted ICAI Examination in spite of COVID-19 spanning for 18 days in staggered manner while keeping well being of students. Expanded Exam Centres in 200 new cities.

- ❖ New and improved Website of ICAI launched.
- ❖ Digital Learning Hub become fully functional with virtual Structured/Un-structured CPE Hours.
- ❖ 'Digi Locker' provided to enable access to various documents relating to Members and Students.
- ❖ Entered into tie-up to offer Digital Learning Hub use by various Professional Accounting Bodies worldwide.
- ❖ DCMM V 2.0 launched to assist the CA firms' in Digital Capacity Building.
- ❖ Fully Functional FRRB Portal initiated using Artificial intelligence.

Technology Driven Organisation





ICAI 2020-21: Journey of Resilience and Service to Nation

The various enterprising measures and initiatives undertaken by the Institute in last one year have given the desired thrust to the esteemed profession in its unquenchable hunger for success, acclaim and service to the nation. The accounting profession in its journey of more than seventy-one years has attained an unparallel position in the society by consistently spearheading the Indian Economy into incomparable heights of steady development and sound prosperity; none of which could have been possible without the irreplaceable contribution of the Chartered Accountant Community.

As the profession progresses towards the finale of Council Year 2020-21, it is imperative to turn around and take an account of the myriad accomplishments of the session that have further anchored the accounting profession in extensive roots of glory and success. As the Profession continues to stride forward by undertaking big and small steps akin, it lays the foundation of healthy and flourishing economic system, the benefits of which are reaped by individuals, small businesses, corporates, multinationals and the State. The Institute aspires to stand strong as a Partner in Nation-Building by participating, facilitating and advocating the smooth attainment of economic gains and sustainable growth. While there are several endeavours and accomplishments to share, this section focusses on the prominent of the multitude proactive actions of the ICAI in the past year.

I. PARTNER IN NATION BUILDING

ICAI has always played the role of an ally to the government by furnishing unwavering support and providing expedient services in areas of direct and indirect taxes, corporate laws and alike. The Institute standing tall on its pillars of integrity and ethics continues to enjoy the respect and trust of the government as well as business world. The Institute continued to liaison with myriad stakeholders by engaging in discussions and dialogues with prominent dignitaries from different walks of commerce and industry. In order to synchronise the strategies and policies, the organisation tried to develop a deeper insight and acumen into the rules and regulations laid by the government. At the same time, ICAI working with its ingenuity at the intersection between government, business and society tried to align the government policies with the needs and expectations of corporate sector. ICAI leadership partook in the following significant meetings where it was in company of cohort of eminent political leaders.

- ❖ Interface with MCA/RBI/IRDAI – Submitted views on the various accounting profession issues referred.
- ❖ Aatmanirbhar Bharat, which translates to ‘self-reliant India’ or ‘self-sufficient India’, is a policy formulated by Prime Minister of India for making India a self-reliant nation. ICAI, being a partner in Nation building, has organised 11 Virtual CPE Meetings for 29 Structured CPE hours through its CPE Programme Organising Units (POU) for creating awareness among its members.
- ❖ The Direct Tax Vivad se Vishwas Act, 2020 introduced a dispute resolution scheme, which was applicable to all appeals/petitions filed by the taxpayers or the Income Tax Department. ICAI, being a partner in Nation building, has organised 138 Virtual CPE Meetings through its CPE Programme Organising Units (POUs) for creating awareness among its members.
- ❖ The Institute, expanding its role as Partner in Nation Building, has constituted Sustainability



Significant Achievements

Reporting Standards Board (SRSB) in February 2020 with the objectives to develop reporting metrics for SDGs, benchmarking sustainability disclosures, strengthening assurance frameworks for Non-Financial Information (NFI), and capacity building of the profession in this emerging area.

- ❖ Proposal to adopt one of the Urban Local Bodies of Karnataka for augmenting revenue and raising funds from alternative sources has been accepted in principle. Work is being initiated on the same.
- ❖ Training Program for NFRA officials - 5 days training session on selected Ind AS for NFRA officials was conducted in November 2020.
- ❖ Conducting Training Program on Internal Audit jointly with Ministry of Rural Development
- ❖ Nominations on various task forces/Committees constituted by Public Enterprises Department, Government of Assam.
- ❖ Provided faculty support to Directorate of Municipal Administration, Goa for One-Day Training Programme on “Implementation of Double Entry Accrual System of Accounting and Financial Management Reforms in Local Bodies” on 18th February, 2020 in Goa.
- ❖ Provided faculty support to office of Principal Accountant General (Audit) Bihar, Patna to organise “Workshop on Accounting Standards for Local Bodies” with reference to Municipal Accounting Rules/ Panchayat Accounting Rules, the applicability of the accounting standards in the State of Bihar, differences with Accounting Standards/Ind-AS, etc. on 23rd July, 2020.
- ❖ Webinar on “Internal Audit and Internal Audit Standards” for the officials of State PSEs of Assam on 29th September, 2020. The webinar was attended by Managing Directors of State PSEs along with Heads of Finance & Accounts, Statutory Auditors, Internal Auditors, Company Secretaries, etc.
- ❖ Faculty support to Haryana Institute of Public Administration (HIPA) to organise online trainings for the staff/officials of Urban Local Bodies (ULBs) of Haryana.
- ❖ Organising virtual training programmes for the officials of NHPC:
 - “Corporate Governance: Corporate Laws, SEBI Guidelines, Listing Obligations and Insider Trading Codes” from 6th to 8th January, 2021.
 - “Project Management, Finance & Appraisal” from 11th to 13th January, 2021.
- ❖ The Ministry of Corporate Affairs has constituted a Committee of Experts to examine the need for an institutional framework and development of valuation profession. ICAI has also been a member of the committee and has participated significantly in the detailed deliberations undertaken by the Committee. Three meetings of the Committee were held for the finalisation of the Report of the Committee. The Committee of Experts has submitted its Report to the Central Government of India which accompanied the Draft Valuers Bill 2020. In this regard, ICAI has submitted its recommendations to the Ministry of Corporate Affairs.
- ❖ Representation in the committee to advise on valuation matters, constituted under Rule 19 of the Companies (Registered Valuers and Valuation) Rules, 2017. The Committee has been formed to make recommendations to the Central Government on formulation and laying down of valuation standards and policies for compliance by companies and registered valuers.
- ❖ The Ministry of Corporate Affairs has issued a Consultation Paper on Audit Independence and Accountability by the Ministry of Corporate Affairs (MCA) inviting comments by 28th February, 2020. ICAI submitted suggestions on the Consultation Paper.
- ❖ The Ministry of Corporate Affairs has invited suggestions and comments to review the penal provisions of the Limited Liability Partnership (LLP) Act, 2008, to decriminalize compoundable offences involving minor, procedural or technical violations of the Act, or offences which may not involve any harm to public interest and for Greater Ease of Doing Business for law abiding LLPs and De-clogging of Criminal Justice system. In this regard, detailed study of LLP Act and Rules thereunder has been undertaken and the recommendations on the Decriminalisation of Compoundable Offences under the Limited Liability Partnership (LLP) Act, 2008 have been prepared.
- ❖ The Ministry of Corporate Affairs has constituted a Committee to examine the provisions of the Companies Act, 2013 and LLP Act, 2008 and Rules thereunder with the objective of scrutinizing the relevance and requirements of various compliances and rationalizing, reducing, and simplifying the related processes. Towards this objective, a Concept paper depicting Compliances under the Companies Act, 2013 and LLP Act, 2008 was prepared.
- ❖ The Ministry of Corporate Affairs (MCA) has embarked on a journey to build a new MCA21



v3 system to enable easy and secure access of MCA services filled with latest features and technologies. The core objectives of MCA21 v3 system are promoting automation, integration with external regulatory, and to aid 'ease of doing business' across India. In this regard, a meeting with MCA officials was also held to discuss the feedback and suggestion on the current v2 system from ICAI for the design of new MCA21 v3 application. Further, analysis of suggestions has been prepared for onward submission to Ministry of Corporate Affairs.

- ❖ Contributed as a member of the Insolvency Law Committee as constituted by Government of India as Standing Committee for review of implementation of the Insolvency and Bankruptcy Code, 2016.
- ❖ Released research publication - Handbook on Potential for 'NEO Import Substituting Industrialisation in India' - ISI (COVID-19).
- ❖ Engagement of Young Professionals in the Ministries of Government of India
 - Pursuant to the request received from the Ministry of Corporate Affairs, New Delhi for filling up vacancies of Young Professionals, applications from experienced CAs at New Delhi/ NCR location were invited. 37 CAs were shortlisted and forwarded to MCA, New Delhi.
 - Applications from experienced CAs for vacancies in Ministry of Agriculture and Farmers Welfare, Government of India were invited and shared candidature of 12 CAs for further interview by the Ministry.
 - Invited applications from experienced CAs for vacancies in MCA offices in Kerala and Chennai location and after scrutiny by panel of officers, forwarded candidature of 47 members to them.
 - Pursuant to the request received from the Ministry of Corporate Affairs, Kolkata for filling up vacancies of Young Professionals in MCA Eastern region, applications were invited from experienced CAs. 42 CAs were

shortlisted and forwarded to MCA, Kolkata. Similar exercise was done for providing panel to ROCs offices in Delhi and Kanpur, where 106 applications were shortlisted and forwarded to ROC, Kanpur and Delhi.

- Shared list of 18 shortlisted candidates with minimum two years of experience with Regional Director (Western Region), Ministry of Corporate Affairs.
- ❖ The Reserve Bank of India holds quarterly meetings of State Level Coordination Committee to regulate Non-Banking Financial Companies (NBFCs) and deposit accepted activities of incorporated bodies (UIBs) at each of their regional offices. More than 30 meetings were held during the year and were attended by the representatives of ICAI.
- ❖ Under the MoU with Niti Aayog, ICAI to act as knowledge partner and to provide a channel for resolving the queries of the general public/ entrepreneurs at their WEP Portal specifically in the areas of Taxation, Audit, Accounting, Statutory Compliance, Regulatory Assessment of Business and Business Validation Processes.
- ❖ Panel of Chartered Accountants and firms were provided to various Government Departments, RBI, NABARD and various other authorities/ agencies such as and Private sector banks, Central Bureau of Investigation, etc. as per the criteria specified by them for availing the Services of Chartered Accountants.
- ❖ In the SLCC Meetings wherein Chief Secretary of the respective State, SEBI, MCA, ED, SFIO, CBI are present, a presentation on UDIN made with regards to its importance and including as mandatory column in all documents certified by CAs, so that they may also be benefitted by this initiative of ICAI and establish the authenticity of the documents on real time basis.
- ❖ Inputs were submitted to Public Enterprises Department, Assam on a draft document on duties, responsibilities and liabilities of government officials who are nominated on the Board of PSEs to Public Enterprises Department,





Significant Achievements

Government of Assam.

- ❖ Assisting Indian Railways in preparing Accrual based financial statements for the year 2017-18 and 2018-19 while simultaneously working on enabling their software to capture the relevant requisite details at the transaction level itself for which it is assisting CRIS.

Helping Government and Other Regulatory Bodies

- ❖ ICAI has continued to support the government by providing various services in the areas of corporate law, direct taxes, indirect taxes, international taxation and so on.
- ❖ Regularly submitting suggestions/providing inputs and representations to the Government on various issues concerning implementation of GST with a view to make Goods and Services Tax a good and simple tax.
- ❖ Representations submitted to CBDT :
 - Representation regarding request to consider extension of validity of Tax Residency Certificates.
 - Representation to CBDT for addressing the issues being faced by assesseees in respect of International Taxation and Transfer Pricing.
 - Submissions regarding request for clarification regarding the residential status of NRI's stranded in India due to COVID-19.
 - Submissions regarding request for clarification regarding the residential status of NRI's stranded in India due to COVID-19 (including those who have retired and having income such as pension income and income from retirement savings).
- ❖ Comments on the draft Standards of GASAB were formulated and submitted to GASAB.
 - Accounting of Public Debt and Other Liabilities of Government.
 - Revised IGAS 9, 'Government Investments in Equity'.
 - Contingent Liabilities.
 - Recognition of Revenue Receipts.
 - Correction of Prior Period Errors.
 - Recipients of External Assistance.
 - Accounting for Reserve Funds.
- ❖ Providing inputs on ITR Forms, Form 3CD etc.
- ❖ Providing inputs on CPC-TDS.
- ❖ Other inputs as & when required.
- ❖ Valuation course to be conducted for ICLS officers jointly with ICLS Academy of Ministry of Corporate Affairs.
- ❖ Indian Corporate Law Service (ICLS) Academy on Valuation of the Ministry of Corporate Affairs has desired that ICAI may conduct in-service programme on Valuation for ICLS officers for which it was requested to examine and convey the timeline and cost of the programme. In this regard, a detailed module has been developed for 6 days duration.
- ❖ Engaged with the Insolvency and Bankruptcy Board of India with a view to work on the Regulatory aspects and to create awareness about the new legislation (Draft Valuers Bill) being brought out.
- ❖ Roundtables and Webcast for a better understanding of the Draft Valuers Bill, 2020.
- ❖ ICAI Suggestions on Issues related to Regulatory and Other Aspects pertaining to Nidhi Companies submitted to MCA on 30th September, 2020.
- ❖ ICAI Suggestions on the Consultation Paper issued by MCA on Audit Independence and Accountability in March, 2020.
- ❖ Representation regarding Extension for filing of NFRA -2 and regarding applicability for the year 2017-2018 in July, 2020.
- ❖ ICAI Recommendations on the Draft Procedure issued by NFRA for submission of Audit Files in June, 2020.
- ❖ With a view to take into consideration, the views of various stakeholders, SEBI has issued a Consultation Paper on the Format for Business Responsibility and Sustainability Reporting and invited public comments on the same. Comments have been sent to SEBI.
- ❖ A Task Force set up at the initiative of the Trustees of the IFRS Foundation in October 2019 has prepared a Consultation Paper on Sustainability Reporting for public consultation to identify the demand from stakeholders in the area of sustainability reporting and understand what the Foundation could do in response to that demand. Comments have also been submitted to MCA and Trustees of the IFRS Foundation.
- ❖ Proposals were submitted to Insolvency and Bankruptcy Board of India (IBBI) regarding:
 - Conducting Online Course on IBC by ICAI jointly with IBBI.
 - Conducting Research Programme on IBC by ICAI jointly IBBI.
- ❖ Suggestions are being submitted to Insolvency and Bankruptcy Board of India on Discussion Paper on Engagement of Professionals in a Corporate Insolvency Resolution Process as brought out by IBBI.

Significant Achievements



- ❖ Suggestions are being prepared to be submitted to Government on the Recommendations of Sub-Committee of Insolvency Law Committee on Pre-packaged Insolvency Resolution Process.
 - ❖ The Committee is collaborating with Insolvency and Bankruptcy Board of India (IBBI) in publishing a revised, updated and enriched version of the Frequently Asked Questions on the Insolvency and Bankruptcy Code, 2016 supplemented with appropriate case laws.
 - ❖ Submitted representations to RBI regarding interpretation of certain points related to RBI circulars w.r.t. COVID 19 – Regulatory Package.
 - ❖ In its endeavour to support regulators as well as to bring transparency in financial reporting, review of 44 general purpose financial statement were taken as special cases and auditor's reports thereon of various enterprises as referred by regulators, based on media reports and other references received.
 - ❖ ECI had requested to undertake review of the annual audited accounts of at least 6 National political parties and recognized parties with income/ expenditure exceeding ₹ 10 Crore. Review of 8 annual audited accounts of political parties, as referred by ECI from time to time.
 - ❖ Submitted certain key suggestions on 15th October, 2020 to the Public Accounts Committee Chaired by Shri Adhir Ranjan Chowdhury, Member of Parliament.
 - ❖ Suggestions were submitted to IRDAI on Appointment of Statutory Auditors. The Committee on Corporate Governance Guidelines for Insurers in India formed by IRDAI had sought suggestions from ICAI on the Appointment of Statutory Auditors by Insurers. The suggestions were submitted to IRDAI in relation to bringing uniformity, transparency and providing equal opportunities to all the members.
 - ❖ The Institute has over the years expressed its concerns on the issue of appointment of auditors of Public Sector Banks by the Banks' Board themselves. The Management of Public Sector Banks do not have any major ownership interest, this autonomy of appointment of auditors by management is fraught with risk in a very important and sensitive sector like banking. To address the issue and in order to bring autonomy in appointment of auditors of Public Sector Banks (PSBs), a web-based application was designed by ICAI for selection and allotment of Statutory Auditors of PSBs by randomly mapping and associating with the vacancies available in the PSBs. ICAI approached to all the Banks for utilizing the said software. Nine banks namely State Bank of India and its subsidiaries, Punjab National Bank, Bank of Baroda, Indian Overseas Bank, Central Bank of India, Canara Bank, Oriental Bank of Commerce, Punjab & Sind Bank, and United Bank of India have utilized the Software for Selection/ Allotment of Bank Branch Auditors.
 - ❖ After implementation of UDIN, lots of malpractices which were done by wrongdoers are noticed. UDINs are being verified by the regulators / stakeholders for establishing the authenticity of being signed by CAs only, more than 20 lakhs UDINs have been verified.
 - ❖ ICAI organises various other programmes supporting the initiatives of the Government for effective implementation of the same in various parts of Country through its strong Network base of CPE Program Organising Units:
 - 950 programmes on GST including 110 programmes specifically on GST Audit were organised by the CPE POUs in various parts of the Country.
 - 306 programmes on Ethical Standards/Code of Ethics/Professional Ethics.
 - 138 programmes on Vivad Se Vishwas Bill 2020 - Issues & Challenges.
 - 102 programmes on Standards on Auditing.
 - 100 programmes on Companies Act.
 - 63 programmes on UDIN.
 - 50 programmes on RERA (Real Estate Regulatory Act).
 - 29 programmes on Investor Awareness.
 - 9 programmes on Foreign Languages in online mode - French and Spanish.
- Bank Audit in Pandemic times**
- ❖ During the onset of the worldwide crisis various pre-emptive measures were undertaken to cope up with the new normal and to sail the Statutory audit smoothly through these unforeseen situations in all possible ways. In this direction, an interactive meet of all the Central Statutory Auditors through VC was conducted on 9th April, 2020 wherein discussion were held about the importance of the Branch Audits in Banks and steps for conducting bank audits in pandemic were discussed.
 - ❖ Public Sector Banks were advised to share the limited information through email or data on cloud so that the preliminary audits can be taken up remotely and also the Banks would remain prepared for the balance audit by keeping all the



Significant Achievements

desired documents ready so that the audit can be completed effectively within 10-12 days on lifting of lockdown.

- ❖ Communication was sent to CMD's of all Banks on 15th April, 2020 informing them about the preparedness of the bank auditors to commence audit during the pandemic.
- ❖ Provided suggestions to Governor of RBI on the manner for effective and timely completion of Bank Branch Audits under this COVID-19 outbreak.
- ❖ A representation was submitted to Governor RBI on 13th May, 2020 in respect of reporting on Internal Financial Control (IFC) while conducting Statutory Audit of Public Sector Banks (PSBs) and foreign banks operating in India for financial year 2019-20. to enable the banks and the auditors to be prepared, RBI was requested to defer such reporting to next year. RBI made such reporting optional for the year ending on 31st March, 2020 on our representation.

National Leadership Encouraging ICAI

- ❖ Shri Om Birla, Hon'ble Speaker, Lok Sabha was the Chief Guest at "Empowering MSMEs towards Aatmanirbhar Bharat" launched MSME Mentorship Programme and 100 Facilitation Centre for MSME/GST.
- ❖ Visit of Smt. Nirmala Sitharaman, Hon'ble Union Minister of Finance and Corporate Affairs as Chief Guest, CA. Piyush Goyal, Hon'ble Union Minister of Railways and Minister of Commerce & Industry as Guest of Honour and CBDT officials on 16th March, 2020 for addressing the live webcast on "Direct Tax - Vivad se Vishwas Bill, 2020" at ICAI, ITO, New Delhi.
- ❖ Shri Suresh Prabhakar Prabhu, India's Shrepa to the G20 inaugurated the first Online Batch of the Certificate Course on Public Finance and Government Accounting held on 22nd May, 2020. Dr. Aruna Sharma, IAS (Retd.) also addressed the participants at one of the sessions of the Certificate Course.
- ❖ Visit by Shri Anurag Thakur Ji, Hon'ble Minister of State for Finance and Corporate Affairs as the Chief Guest at a Virtual CPE Program on Opportunities for Chartered Accountants was organised on 14th October, 2020.
- ❖ E-presence of CA. Piyush Goyal, Hon'ble Minister of Commerce and Industry and Minister of Railways, CA. Arun Singh, Hon'ble Member of Parliament at Global Webinar on the topic "Risk Diversification Strategies - Opportunity for Global Manufacturers in India - Post

COVID-19" on April 30, 2020. The webinar has an eminent panel of speakers Dr. Rajiv Kumar, Vice Chairman, NITI Aayog, Shri Rajkiran Rai G, MD & CEO, Union Bank of India, Shri Satish Marathe, Director, Reserve Bank of India, CA. Gopal Krishna Aggarwal, Economist, CA. Rajiv Kumar Singh, Independent Director, Union Bank of India and CA. Umesh Chandra Pandey, Former Independent Director, Engineers India Ltd.

- ❖ Shri. Vinod Rai, Trustee IFRS Foundation inaugurated the 12th Annual AOSSG Meeting on November 24-25, 2020, held via video conferencing.
- ❖ Hon'ble MP CA. Suresh Prabhu ji addressed the members at ICAI Global Webinar "COVID 19 - Need for Strategic Focus on Sustainable Development Goals (SDGs) - Better Place to Live" as Guest of Honour. Other eminent speakers were Mr. Stathis Gould, Director Advocacy, IFAC, Mr. Andrew Ratcliffe, Chair, Sustainability Committee, ICAEW, Mr. Timothy J. Mohin, Chief Executive, GRI, Dr. Sumila Gulyani, Program Leader for Sustainable Development, World Bank, Dr. Devi Shetty, Chairman & Executive Director, Narayana Health, Dr. Niranjan Hiranandani, President, ASSOCHAM, CA. Rakesh Agarwal, Vice President, Reliance Industries, Shri Ishteyaque Amjad, Vice President, Public Affairs, Communication & Sustainability, Coca Cola India & South West Asia.
- ❖ Shri Gyaneshwar Kumar Singh ji, Joint Secretary, Ministry of Corporate Affairs (MCA) addressed the members at Live Webinar on "Business Responsibility and Sustainability Reporting". Other eminent speakers were Shri Amarjeet Singh, Executive Director, SEBI, Prof. Mervyn King, Chair Emeritus, IIRC, Mr. Charles Tilley, OBE, CEO, IIRC, Mr. Timothy J. Mohin, Chief Executive, GRI, Mr. Stathis Gould, Director, Advocacy, IFAC and Mr. Shikhar Jain, Principal Counsellor, CII – ITC CESD.
- ❖ Ms. Sadhvi Niranjan Jyoti, Hon'ble Minister of State for Rural Development, Government of India addressed the Webinar on Government Schemes for Urban & Rural Centres & Role of CAs organised on 10th May, 2020.
- ❖ Shri Bhupesh Baghel, Hon'ble Chief Minister of Chhattisgarh addressed the Virtual CPE Meeting (VCM) on 'Resurgent Chhattisgarh - Accountability, Transparency & Investment Environment' on 28th June, 2020.
- ❖ Shri Suresh P Prabhu, India's Shepra for G 20 addressed the members at the virtual certificate



Significant Achievements

distribution ceremony of the Certificate Course on Public Finance & Government Accounting on 29th October, 2020.

- ❖ Dr. Nilotpal Goswami, Principal Accountant General, Bihar, Patna, addressed the virtual Workshop on Accounting Standards for Local Bodies organised for the officials of O/o Accountant General, Bihar on 23rd July, 2020.
- ❖ Address by various MCA officials including Shri K. V. R. Murty, Joint Secretary, Mr. K. M. S. Narayanan, Assistant Director and Mr. Bhasker Subramanian, Industry Principal Infosys- MCA 21, Domain Expert at Webcast on Analysis and key features of Company Fresh Settlement Scheme 2020 & Revised LLP Settlement Scheme, 2020 held on 9th April, 2020.
- ❖ Address by various officials of Supreme Court as well as Shri Harish Salve, QC, Senior Advocate, Mr. Arvind Datar, Senior Advocate, and also Mr. Kunal Vajani, Head of Chambers, BlackRobe Chambers & Court Member (India), ICC International Court of Arbitration at live Webinar on "ICAI Leadership Summit – Post COVID 19 Scenario" to discuss counter measures to deal with the impact of Corona pandemic on 26th April, 2020.
- ❖ Address by Dr Vishwajeet Kadam, Hon'ble State Minister, Social Justice & Special Assistance Department at Virtual CPE Program on Co-Operative Sector - 'Sahakar Sanvad' hosted by Pune Branch of WIRC of ICAI on 5th & 6th September, 2020.
- ❖ Second overseas office of ICAI in Singapore was operationalised through e-Inauguration ceremony on December 10, 2020 in the august presence of CA. Arun Singh, Hon'ble Member of Parliament (Rajya Sabha); H.E. Mr. P. Kumaran, Hon'ble High Commissioner of India to Singapore. ICAI's Singapore Office will help to serve more than 1000 ICAI members in Association of Southeast Asian Nations (ASEAN) countries by providing services related to member's areas and in restoring the membership in these countries.
- ❖ Ms. Sadhvi Niranjana Jyoti, Hon'ble Minister of State for Rural Development, Government of India (GoI) and Dr. Sanjeeb Patjoshi, IPS, Joint Secretary, Ministry of Panchayati Raj, GoI addressed the participants on the various National & State Government Schemes for Rural and Urban Centres and the role that can be played by CAs in such schemes at Webinar on 'Government Schemes for Urban & Rural Centres and Role of Chartered Accountants (CAs) therein' on 10th

May 2020.

- ❖ Shri Bhupesh Baghel, Hon'ble Chief Minister of Chhattisgarh was the Chief Guest at VCM on 'Resurgent Chhattisgarh - Accountability, Transparency & Investment Environment' on June 28, 2020. Shri Manoj Kumar Pingua, IAS, Principal Secretary, Department of Commerce & Industries and Shri Sanjay Shukla, IAS, Managing Director, CG State Minor Forest Produce Cooperative Federation Limited also participated in the deliberation.
- ❖ Dr. Rajiv Kumar, Vice Chairman, NITI Aayog was the Chief Guest who addressed the participants on Aatmanirbhar Bharat – Empowering Rural Economy at Webinar on "Accrual Accounting: Towards Transparency & Empowerment" on 25th July, 2020. The participants also got enriched by the oration of Sh. Naresh Salecha, Additional Member (Revenue), Railway Board, Indian Railways, Mr. Ian Carruthers, Chair, CIPFA Standards & IPSAS Board, Mr. Henning Diederichs, Technical Manager, ICAEW.

Meeting with National Leadership, dignitaries

- ❖ Meeting with the officials of NITI Aayog to apprise them of the steps taken by ICAI/ICAIARF in respect of accounting reforms in Government (Sector) in India.
- ❖ Meeting with newly appointed Secretary, Ministry of Corporate Affairs, Shri Rajesh Verma on July 16, 2020, through Video Conference on various aspects related to accounting and Standard setting.
- ❖ Meeting with Shri Girish Chandra Murmu, Hon'ble C&AG of India and Ms. Shubha Kumar, Hon'ble Deputy C&AG of India on 18th November, 2020 during the Virtual Global Meet on Strengthening of Public Financial Management and Governance Mechanism.
- ❖ Pre-budget meeting on 23.12.2020 wherein presentation containing important points related to Direct Taxes were made. Discussed matters with Shri Pramod Chandra Mody, Chairman, CBDT and other officials of CBDT.
- ❖ Meeting between MCA & ICAI to discuss about issues and features of New MCA-21 System.
- ❖ Meeting with Joint Secretary MCA regarding Investor Clearance Cell to understand the regulatory and operational framework for opening of foreign companies in various permissible and to ease out the process of incorporation addressing the various impediments and their resolutions and improve the EoDb rankings.



Significant Achievements

- ❖ Representation as member in “Technical Group on Social Stock Exchange” constituted by SEBI.
- ❖ Participated in the Sustainability Finance Sectional Committee (SFSC), MSD 18 constituted by the Management and System Division Council (MSDC) of Bureau of Indian Standards.
- ❖ Representation in the “Expert Advisory Group” for the project “Private Sector Integration of SDGs” by Niti Aayog in collaboration with the United Nations Residents Coordinators Office
- ❖ Virtual meeting with Ms. Sanyukta Samaddar, Adviser (SDGs), Niti Aayog, on October 21, 2020 for supporting in developing measurement/monitoring framework for Sustainable Development Goals for government projects in the country.
- ❖ Inauguration of three weekends online program for the participants of 1st batch of PQC- DMBF Course with JBIMS CA. Amarjit Chopra, Past President, ICAI on 18th July, 2020. Address by Educationalist Dr. Rajan Welukar, Former Vice Chancellor, University of Mumbai at the event.
- ❖ Address by Mr. Hemant Nagarale, Director General (Technical Services IPS Maharashtra Cadre) at Online Programme for the participants of 1st batch of PQC- DMBF.
- ❖ Bhoomi Poojan by Hon'ble Chief Minister of Gujarat Shri Vijay Rupani in the presence of CA Durgesh Buch, President of Gujarat Chamber Commerce & Industries, CA Jainik Vakil, Ex-Corporate of Ahmedabad Municipal Authority on 29.02.2020 in Ahmedabad.
- ❖ E-inauguration of office at Leh in Union Territory of Ladakh by Chief Guest Hon'ble Shri Jamyang Tesring Namgayal, Member of Parliament, Ladakh Parliamentary Constituency on 17.11.2020.
- ❖ Inauguration of Srinagar office was done by the august hands of Chief Guest Hon'ble Justice Shri P. P. Bhatt President, Income tax Appellate Tribunal, and Guest of Honour Shri G. S. Pannu Vice President, Income tax Appellate Tribunal on 15.12.2020.
- ❖ Meetings on various areas of GST & Indirect Taxes with Government Officials, viz., Shri M Ajit Kumar, Chairman, CBIC, Dr. John Joseph, Member, CBIC Shri Yogendra Garg, Principal Commissioner, GST Policy Wing, CBIC, Shri GD Lohani, Joint Secretary, TRU- I, Shri SK Rahman, Joint Secretary, GST Council, CA. Prabin Dokania, Chief Financial Officer, GSTN, Shri J. P. Gupta, Commissioner, Gujarat and Shri M. A. Siddique, Commissioner of Commercial Taxes, Tamil Nadu as a Policy Outreach Meeting.
- ❖ Virtual meeting with Ms. Sanyukta Samaddar, Adviser (SDGs), Niti Aayog, on October 21, 2020 for supporting in developing measurement/monitoring framework for Sustainable Development Goals for government projects in the country.
- ❖ Meeting with Sh. Amarjeet Singh Bhatia, Director, SIFO and his team through VC on 12th June. 2020 wherein the concept of UDIN was shared and its importance on all their forms certified by CAs.
- ❖ Meeting with Indian Banking Association (IBA). Participated in the sub-group meeting on 3rd October, 2020 to discuss on Specific recommendation of Malegam Committee and action points suggested by the Indian Banks Association Risk Management Committee for identification of the documents/reports where generation of UDIN can be made mandatory to prevent rising NPA and other frauds in Banking Sector.
- ❖ Live Webinar on Role of Investor Education Protection and Fund Authority (IEPFA) in creating Investor Education and Awareness on 22.05.2020. The panelists for the session were Shri Manoj Pandey, Joint Secretary & CEO, IEPFA, MCA, Shri Navneet Chouhan, General Manager, IEPFA, MCA.

Achieving Societal Goals

- ❖ A communication was received from Ministry of Corporate Affairs advising to undertake activities to commemorate 150th Birth Anniversary of Mahatma Gandhi. A proposal was developed & approved towards distribution of educational kits by the Regional Councils and branches of ICAI on October 2, 2020 promoting Sarv Shiksha Abhiyaan of Government. A communication was shared with RCs and Branches to undertake activities as per specified guidelines.
- ❖ Developed a corporate film on “Simple Steps to make our Planet Sustainable” to create awareness on environmental issues among the members and other stakeholders at large. Sustainable Development Goals (SDGs) are the universal plan of action for people, planet, prosperity, peace, and partnership.
- ❖ Developed a corporate film on “Simple Steps to make our Planet Sustainable” to create awareness on environmental issues among the members and other stakeholders at large. Sustainable Development Goals (SDGs) are the universal plan of action for people, planet, prosperity, peace, and partnership. The Board is working relentlessly for increasing sustainability awareness, practices

Significant Achievements



and disclosures which would contribute towards attainment of SDGs.

Curbing Impersonation as Chartered Accountants

❖ Identification and prevention of the fraudulent practices prevalent in financial sector by some non-CAs through impersonation as Chartered Accountants. Fake certificates are issued by them to banks/financial institutions/govt. departments for different purposes in name of CAs thereby misleading them, bringing loss to national exchequer. Address this malpractice of misrepresentation of Chartered Accountants' services and forged certification, ICAI has conceptualized a unique concept which is called "Unique Document Identification Number (UDIN) - A Seal of Authentication". Using the facility of UDIN, the regulators and stakeholders are now able to establish the authenticity of the documents on real time basis. It has been made mandatory for all Practicing Chartered Accountants to obtain and mention UDIN for every document/report/certificate certified/issued by them with effect from 1st July, 2019. ICAI approached various regulators for including a mandatory column for mentioning UDIN in all their forms / reports certified by CAs:

- Validation of UDIN by CBDT- Pursuant to various meetings and communications with CBDT, in all the IT forms and Certificates certified by CAs, UDINs have to be mandatorily filled while uploading these on e-filing and the same UDIN would be validated from UDIN Portal through API. By this initiative, apart from eliminating the wrong and fake Reports, the actual number of Income Tax Reports /Certificates / Documents certified by CA Members would be known in real time.
- IBA has issued a communication to all the Banks to insist for UDIN in all the CA certified documents. SEBI and RERA of few States have included a column in their forms certified by CAs for including UDIN.
- Approached to various regulators such as

Ministry of Corporate Affairs, MoRD, MoET, NHAI, World Bank, Asian Development Bank, CBIC, Chief Secretaries of all the States, RERA Authorities of all states etc. for introducing the concept of the UDIN, its importance and outcomes. They have been impressed upon including a column in their forms certified by CAs for mentioning UDIN.

II. EVOLVING STANDARDS

The Institute upholding an indomitable legacy has continued to play the role of trusted watchdog of the world of auditing and financial reporting. By constantly enforcing regulations orbiting around ethical governance and propagating its principles ingrained in transparency and integrity, it has constantly strived to bring credibility and respect to the accounting profession. Rallying Indian accounting standards with the international ones not only boosts reliability of the accounting data but also empowers the entire fiscal ecosystem.

- ❖ In order to enable Indian entities to derive benefits of globally acceptable framework, it is needed to remain IFRS-converged and, therefore, Ind AS have to be amended or new Ind AS have to be formulated corresponding to amendments, new IFRS or IFRICs, issued by the IASB from time to time. Amendments to Ind AS corresponding to new IFRS or IFRICs recommended to MCA, which have been notified by the MCA in July 24, 2020.
 - Covid-19-Related Rent Concessions (Amendment to Ind AS 116, Leases).
 - Interest Rate Benchmark Reform (IBOR) – Phase I (Amendments to Ind AS 109, Financial Instruments, Ind AS 107, Financial Instruments: Disclosures and Ind AS 116, Leases).
 - Definition of Business (Amendments to Ind AS 103)
 - Definition of Material (Amendments to Ind AS 1 and Ind AS 8).
 - Annual Improvements to Ind AS (2018) (Corresponding to Annual Improvements to





Significant Achievements

IFRS Standards 2015–2017 Cycle issued by the IASB).

- ❖ Amendments to Ind AS were recommended to NFRA.
 - Amendments to Ind AS consequent to Conceptual Framework for Financial Reporting under Ind AS.
 - Editorial corrections in Ind AS corresponding to those issued by IASB in IFRS/IAS and otherwise.
- ❖ Exposure Draft of following Ind AS issued seeking public comments.
 - Amendments to Ind AS 117, Insurance Contracts.
 - Exposure Draft of Interest Rate Benchmark Reform - Phase 2 (Amendments to Ind AS 109, Ind AS 107 and Ind AS 116).
- ❖ On the basis of the discussions held at various standard setting forums, such as, the Accounting Standards Board (ASB) of the Institute of Chartered Accountants of India (ICAI), NACAS and the Ministry of Corporate Affairs (MCA), it has been decided to revise the Accounting Standards notified under Companies (Accounting Standards) Rules, 2006, and those issued by the ICAI. Accordingly, the process of revision of these standards which will be applicable to the entities to whom Ind AS are not applicable has been initiated. While formulating these Standards, It was decided to maintain the consistency with the numbering of Standards of the Ind AS. The revised set of AS would be 32 standards of which the below 11 standards have been approved by Council and submitted to National Financial Reporting Authority (NFRA).
 - Revised AS 1, Presentation of Financial Statements.
 - Revised AS 2, Inventories.
 - Revised AS 7, Cash Flows Statements.
 - Revised AS 8, Accounting Policies, Changes in Accounting Estimates and Errors.
 - Revised AS 10, Events After the Reporting Period.
 - Revised AS 16, Property, Plant and Equipment.
 - Revised AS 20, Accounting for Governments Grants.
 - Revised AS 23, Borrowing Costs.
 - Revised AS 24, Related Party Disclosures.
 - Revised AS 34, Interim Financial Reporting.
 - Revised AS 37, Provisions, Contingent Liabilities and Contingent Assets.
- Further, following Revised is under consideration of Council, ICAI.
- Revised AS 17, Leases.
- Revised AS 21, The Effects of Changes in Foreign Exchange Rates.
- Revised AS 40, Investment Property.
- Revised AS 41, Agriculture.
- Revised AS 109, Financial Instruments.
- ❖ Proposals to several State Governments emphasising the need of organizing the Capacity Building programmes for the officials of Urban Local Bodies, amendments in their respective Municipal Acts with respect to implementation of accrual accounting in the local bodies, and pilot projects for implementation of accrual accounting and ASLBs in ULBs.
- ❖ Standards on Internal Audit issued as Exposure Drafts-
 - SIA 130, Risk Management.
 - SIA 140, Governance.
 - SIA 150, Compliance with Laws and Regulations.
 - SIA 250, Communication with Those Charged with Governance.
 - SIA 520, Auditing in an Information Technology Environment.
 - SIA 530, Third Party Service Provider.
- ❖ Standard on Assurance Engagements (SAE) 3410 “Assurance Engagements on Greenhouse Gas Statements” is being issued to strengthen assurance frameworks for Non-Financial Information.

III. ICAI TOWARDS A GLOBAL FOOTPRINT- ENHANCING BRAND CA GLOBALLY

Basking in its position as a founder patron of International Federation of Accountants, ICAI has always designed its policies in concurrence with global protocols. In its diligent pursuit for dynamic and competent paradigms the Institute has constantly strived to collect the pearls of wisdom from all over the world and crystallize them into tangible strategic plans and standards. ICAI frequently organized international seminars and conferences to provide an interactive platform for its members to engage in dialogue with international accounting dignitaries.

- ❖ ICAI has 37 Chapters and 27 Representative Offices spread across the globe in order to be able to serve the members better by positioning the Brand India CA globally; to create more professional avenues; to assist in informational resource. ICAI has now etched its presence in 64 cities of the world. During the current year ICAI



inaugurated 3 Chapters namely Luxembourg, Fujairah, United Arab of Emirates and Houston. Chapters in New England Region; Chicago and Washington DC and Dallas are going to be inaugurated soon.

- ❖ The Council of ICAI had approved the guidelines of opening up of Representative Offices abroad in this Council year and has inaugurated 27 Representative Offices worldwide.
- ❖ Ministry of External Affairs, Government of India treated the ICAI Overseas Chapters at par with other Apex Trade and Industry organizations such as CII, FICCI and ASSOCHAM for purposes of economic engagement, consular facilitations such as issue of passports and attestation of commercial documents.
- ❖ Second overseas office of ICAI in Singapore was operationalised through e-Inauguration ceremony.

Supporting Overseas Professional Bodies

- ❖ Engaging with SAFA countries for outreach of ICAI Valuation Standards 2018. With a view to have uniform Valuation Standards across SAFA countries and also to promote for adoption of ICAI Valuation Standards, a presentation was made at the 65th meeting of SAFA Board on the need to have uniform Valuation Standards across SAFA countries. It was also proposed that how ICAI will support in implementation of ICAI Valuation Standards in their respective countries. SAFA Board agreed to the proposal and ICAI will support in implementation of ICAI Valuation Standards by undertaking the followings:
 - By preparing the Educational Material, Guidance Notes on practical aspects, Frequently Asked Questions, Interpretations, publications etc.
 - By organising programmes on the valuation standards to create awareness on various requirements of Valuation Standards.
 - By providing the format of valuation report so that the Reporting is uniform and comparable.
- ❖ Support to IFAC's commitment to work with the profession to upskill professional accountants globally in the area of sustainability reporting. Mr. Stathis Gould, Director Advocacy, IFAC addressed the members of ICAI twice on the occasion of Global Webinars.
- ❖ Participated in the webinar on 'SAFA Regional Focus Group for the Revision of the International <IR> Framework' conducted by International Integrated Reporting Council (IIRC) hosted

by SAFA International Relations Committee together with Institute of Certified Management Accountants of Sri Lanka.

- ❖ Submitted to IAASB of IFAC comments on Exposure Draft of ISA 600(Revised), "Special Considerations – Audits of Group Financial Statements (Including the Work of Component Auditors)" issued by IAASB for public comments.
- ❖ Offered various ICAI initiatives to professional accounting organisations, namely Unique Documents Identification Number (UDIN), Digital Learning Hub and Digital Competency Maturity Model (DCMM) 2.0: etc. Received appreciation and interest from:
 - College of Banking and Financial Studies.
 - Association of National Accountants of Nigeria.
 - The Institute of Chartered Accountants of Nigeria.
 - Institute of Indonesia Chartered Accountants (Ikatan Akuntan Indonesia).
 - Corpul Expertilor Contabilisi Contabililor Autorizatidin Romania (CECCAR).
 - National Board of Accountants and Auditors, Tanzania.
 - Institute of Singapore Chartered Accountants.
 - Institute of Chartered Accountants of Nepal.
 - Chartered Accountants Australia and New Zealand.

In its endeavor of expanding its global outreach and getting foothold in African regions, the Institute of Chartered Accountants of India (ICAI) has taken membership of Pan African Federation of Accountants (PAFA) which would enable ICAI to connect closely with the professional organisations based in African countries and also to promote such initiatives of ICAI which are of global relevance with PAOs in these jurisdictions. Established in 2011, PAFA is a non-profit organisation currently with 55 Professional Accountancy Organisations (PAOs) from 44 African countries. Its mission is to accelerate and strengthen the voice and capacity of the Accountancy profession to work in the public interest, facilitate trade, and enhance benefits and quality services to Africa's citizens.

- ❖ Provided inputs/Comments on the exposure draft, questionnaire and other pronouncement issued by International Ethics Standards Boards for Accountants (IESBA) of International Federation of Accountants, sent report to IFAC



Significant Achievements

on the status of adoption of international ethical standards, best practices, and fulfillment of SMO requirements, and provided alike other inputs on ethical standards to CAPA and SAFA.

- ❖ The second Meeting of SAFA Task Force was held on 13th August, 2020 to implement UDIN in SAFA member bodies. The representatives from Bangladesh, Srilanka, Pakistan, Nepal and Afghanistan attended the meeting and while appreciating the concept, sought ICAI's support for implementation of UDIN in their countries.
- ❖ Interactive Meetings with regards to UDIN with various International Professional Accountancy Organizations such as Institute of Chartered Accountants of Nepal, Institute of Indonesia Chartered Accountants (Ikatan Akuntan Indonesia), Corpul Expertilor Contabilisi Contabililor Autorizati din Romania (CECCAR), Romania, National Board of Accountants and Auditors, Tanzania, The Institute of Chartered Accountants of Nigeria (ICAN), Institute of Singapore Chartered Accountants, Singapore, Chartered Accountants Australia and New Zealand, College of Banking and Financial Studies, Association of National Accountants of Nigeria.

Supporting Foreign Accounting Bodies

- ❖ Foreign Organizations with which ICAI has an MRA/MoU for Digital Learning Hub
 - Chartered Accountants Australia and New Zealand.
 - The Institute of Chartered Accountants of Nepal.
 - Institute of Chartered Accountants of Sri Lanka.
 - College of Banking and Financial Studies, Oman.
- ❖ Contributions in Standard setting process at International level - Comments submitted on IASB's Exposure Drafts on:
 - Exposure Draft on Covid-19-Related Rent Concessions (Proposed amendment to IFRS 16, Leases).
 - Exposure Draft of Interest Rate Benchmark Reform (IBOR) – Phase II.
 - Request for Information: Comprehensive Review of the IFRS for SMEs Standards.
 - Exposure Draft on General Presentation and Disclosures (Primary Financial Statements).
 - Discussion Paper on Business Combinations Disclosures, Goodwill and Impairment.

- ❖ Comments submitted to IFRS Interpretations Committee on Tentative Agenda Decisions:
 - Supply Chain Financing Arrangements—Reverse Factoring.
 - Sale and Lease back of an Asset in a Single-Asset Entity (IFRS 10 and IFRS 16).
 - Sale and Leaseback with Variable Payments (IFRS 16).
 - Deferred Tax Related to a Subsidiary's Undistributed Profits (IAS 12).
- ❖ ICAI-Founding member of AOSSG - Leading AOSSG as Chair for the period of 2 years (Nov 2019-2021).
- ❖ A Task Force set up at the initiative of the Trustees of the IFRS Foundation in October 2019 has prepared a Consultation Paper on Sustainability Reporting for public consultation to identify the demand from stakeholders in the area of sustainability reporting and understand what the Foundation could do in response to that demand. Public comments on 11 Questions were invited in the Consultation Paper on Sustainability Reporting. The Board has submitted comments to the Trustees of the IFRS Foundation.
- ❖ ICAI is taking all possible efforts for Mutual Recognition Agreements with maximum foreign accounting Institutes which is the first step for promotion of export of accountancy services in the overseas market. In the current year, ICAI has signed MRA with Institute of Chartered Accountants of Nepal (ICAN) and Malaysian Institute of Certified Public Accountants (MICPA) and following is the list of foreign institutes with which ICAI has reciprocal arrangements:
 - Institute of Certified Public Accountants in Ireland (CPA Ireland).
 - South Africa Institute of Chartered Accountants (SAICA).
 - CPA Canada.
 - Institute of Chartered Accountants in England & Wales (ICAEW).
 - Institute of Chartered Accountants of Nepal (ICAN).
 - Malaysian Institute of Certified Public Accountants (MICPA).
- ❖ The matter for renewal of MRA with the Certified Public Accountants of Australia (CPA Australia), and Chartered Accountants Australia & New Zealand is awaiting clearances/concurrence from Governmental authorities. These agreements are a step forward in increased mobility to



professionals at both end and herald a new dimension for business globally. Talks are on anvil with various accounting institutes for entering into qualification recognition agreements.

- ❖ Chartered Accountants Australia and New Zealand (CAANZ) and Institute of Chartered Accountants of England and Wales (ICAEW) have offered Pilot Pathways program for ICAI members. These are unilateral offers in addition to the bilateral qualification reciprocity agreements.
- ❖ ICAI is also associated in providing framework of Technical Cooperation to countries that lack the accountancy infrastructure. It has signed Technical Co-operation Agreement with Vereniging van Registercontrollers (VRC), Netherlands and Higher Colleges of Technology, UAE in the current year and following are the Institutes with which ICAI is having technical collaboration agreements for institutionalization of accounting profession in these countries.
 - College for Banking & Financial Studies, Oman.
 - Institute of Chartered Accountants of Nepal.
 - Bahrain Institute of Banking and Finance (BIBF).
 - National Board of Accountants & Auditors, Tanzania.
 - Institute of Certified Public Accountants of Kenya (ICPAK).
 - Kuwait Accountants and Auditors Association (KAAA).
 - Saudi Organization for Certified Public Accountants (SOCPA).
 - Vereniging van Registercontrollers (VRC), Netherlands.
 - Higher Colleges of Technology, UAE.
- ❖ The Technical co-operation agreements with CPA Afghanistan and CPA PNG have been approved by the Government of India and are expected to be signed soon.

International Achievements - Important International Meetings / Conclaves

- ❖ 12th Annual AOSSG Meeting - ICAI hosted the first ever virtual meeting, i.e., the 12th Annual AOSSG Meeting on November 24-25, 2020, which was chaired by CA. (Dr.) S B Zaware, Chair, AOSSG. The meeting was attended by 21 member standard-setters of AOSSG. The meeting was also attended by the Ms. Sue Lloyd, Vice Chair, IASB and key delegates of the IASB and the IFRS Foundation and participants from member jurisdictions. ICAI's representatives presented on Issues involved in preparation of Separate Financial Statements.
- ❖ 19th bi-annual Emerging Economies Group (EEG) meeting – Held on May 11-12, 2020 via video-conferencing. ICAI representatives attended the said meeting. Various important matters, such as, Business Combinations—Disclosures, Goodwill and Impairment; IFRS 17 Insurance Contracts; Comprehensive Review of the IFRS for SMEs Standard; Primary Financial Statements; Management Commentary were discussed.
- ❖ 20th bi-annual Emerging Economies Group (EEG) meeting – Held from 30 November-1 December 2020 via video-conference. The meeting provided a platform for discussing specific accounting topics from the perspective of emerging economies, which is helpful in supporting the IFRS Foundation's mission to develop IFRS Standards that bring transparency, accountability and efficiency to financial markets around the world. ICAI representatives attended the said EEG meeting.
- ❖ IFRS Advisory Council meeting - Held on 3rd and 4th November 2020 via video-conference and focused on IFRS Foundation Consultative paper of setting up a Sustainability Standards Board (SSB) similar to IASB. ICAI representatives attended the said meeting.
- ❖ IFASS meeting - Held on September 30-October 1, 2020, wherein Italy, Korea and Brazil presented on one of the topic related to issues involved in Separate Financial Statements (SFS) and some examples of the problems being faced in applying IFRS Standards to SFS were highlighted and asked the IFASS participants to send any issues related to SFS. ICAI representatives attended the meeting. ICAI also expressed interest to join the Working Group on SFS alongwith Italy, Korea and Brazil, which was accepted by the Working Group.
- ❖ Organised Virtual Global Meet on “Strengthening of Public Financial Management & Governance Mechanism” from 18th to 20th November, 2020. The Global Meet got a head start with the address of Shri G C Murmu, Hon'ble C&AG of India who was the Chief Guest of the Inaugural Session. The session was also graced by the presence of Ms. Shubha Kumar, Dy CAG, CA. The 3-days' Global Meet was inter alia addressed by Chairpersons of Singapore, Australia and UK Chapters of ICAI as well as senior Government officials from the office of C&AG and CGA and panelists from CIPFA (UK), ICAEW (UK) and CPA Australia.



Significant Achievements

- ❖ Online training on ICAI Valuation Standards 2018 on 7th January, 2021 for the members of Institute of Chartered Accountants of Nepal.
- ❖ Organized an online training on ICAI Valuation Standards 2018 on 7th January, 2021 for the members of Institute of Chartered Accountants of Nepal. The training received an overwhelming response.
- ❖ Co-hosted Online Regional Focus Group for India to discuss the Consultation Draft of the revised International <IR> Framework (Integrated Reporting Framework) with CII-ITC Centre of Excellence for Sustainable Development. Judge Prof. Mervyn King, Chair Emeritus, IIRC and CA. Koushik Chatterjee, CFO, Tata Steel were Keynote speakers.
- ❖ Participated at GRI South Asia Virtual Regional Summit 2020 – “Empowering Decisions For a Sustainable Future” for the session “Meaningful Disclosures for Effective Decision-Making”. The Summit had participation from 54 countries, as well as 12 speakers contributed from seven different countries.
- ❖ Representations submitted to OECD
 - Response to OECD Questionnaire on the transfer pricing implications of COVID-19.
 - Representation on Public Consultation Document on BEPS Action 14 – Issued by the OECD.
- ❖ Submissions on the PCT’s draft Toolkit on Tax Treaty Negotiations submitted to PCT Secretariat.

ICAI International Virtual Conference 2020

- ❖ The ICAI mega International Conference with theme “Accountancy Profession: Augmenting Economic Sustainability” was successfully held between December 17-19, 2020 virtually for the first time. The conference which had more than 5,500 registrations to attend through specifically created virtual platform was addressed by 58 speakers from different parts of the world. The conference was also live streamed on YouTube and webcast link was created to allow large number of our members get benefit of this historic virtual conference.
- The Conference had participation of eminent speakers both of national as well as international eminence from Government, Industry and Accounting profession including Mr. Alan Johnson, President, International Federation of Accountants (IFAC); Mr. Anurag Singh Thakur, Hon’ble Minister of State for Finance & Corporate Affairs and CA. Piyush Goyal, Hon’ble

Minister of Railways, Commerce & Industry and Consumer Affairs.

The International Conference aimed to highlight the role and importance of sustainable development and the importance of the profession in enhancing the same and provided an apt platform of thirteen technical sessions for members, academicians, researchers and policy makers to dwell upon and deliberate the same.

- ❖ Webinars organized in the pandemic era
 - Global Webinar on “Impact of COVID 19 pandemic on Reporting and Assurance” Organised Global Webinar on “Impact of COVID 19 pandemic on Reporting and Assurance” on April 13, 2020 with the focus to address the challenges that COVID-19 outbreak has impulse on Global Economies and specially addressing the challenge being faced by Professionals & Corporates across the globe on accounting, reporting and assurance perspective. The Webinar was addressed by global leaders including CA. Suresh Prabhu, Hon’ble MP (Rajya Sabha) & Prime Minister’s Sherpa to G 7 & G 20; Dr. In Ki Joo, President, IFAC; Mr. Florin Toma, President, Accountancy Europe; Mr. Salvador Marin, President, European Federation of Accountants & Auditors for SMEs (EFAA); Mr. Wan Tin, President, ASEAN Federation of Accountants; Mr. Tom Seidenstein, Chair, IAASB; Mr. Alan Johnson, Deputy President IFAC and Mr. Arjuna Herath, Chair, PAODC, IFAC.
- ❖ Virtual attendance at SAFA Conference Marking Session for SAFA Best Presented Accounts Awards 2019.
- ❖ Organised a batch of Certificate Course on UAE VAT through virtual classes from 18th Sept to 2nd Oct, 2020 which was attended by 102 members.
- ❖ IESBA Meetings attended by ICAI delegates.
 - March 16-18, 2020 | Virtual Meeting.
 - June 8-12 & 15, 2020 | Virtual Meeting.
 - September 14-21, 29 & October 1, 2020 | Virtual Meeting.
 - November 30 - December 4 & 8-9, 2020 | Virtual Meeting.
- ❖ IAASB-IESBA- National Standard Settlers (NSS) Virtual Meeting attended by Chairperson, ESB held on October 20 and November 2-4, 2020.

ICAI International Research Awards

- ❖ During the year, ICAI gave a major thrust to its research orientation and launched ICAI

Significant Achievements



International Research Awards 2020 to recognise the research scholars in the field of Accounting, Auditing, Taxation, Finance and Economics. A total of 92 Published Research Papers were nominated for ICAI International Research Awards 2020, out of which 18 were International Research Papers (2 from United States, 1 from Australia, 2 from South Africa, 2 from UAE, 3 from Turkey, 3 from Nigeria, 2 from Oman, 2 from Bahrain and 1 from Netherlands) and 74 Research Papers were from India.

- ❖ A Jury Meet for selecting the awardees research papers was held on December 23, 2020, New Delhi. Meeting of the Jury was chaired by Dr. In-Ki Joo, Immediate Past President, IFAC.
- ❖ The award function to honor the awardees for the year 2019-20 was held on January 17th, 2021. The Chief Guest for the function was Shri. Arjun Ram Meghwal, Hon'ble Union Minister, Government of India. A total of 15 awards were given in 5 categories.

International Conference for CA Students, Ahmedabad 16-17 January, 2021

- ❖ International Conference for CA Students was held at Ahmedabad on 16th & 17th January, 2021 with the theme: "Aptitude, Attitude, Altitude", Hosted by Ahmedabad Branch of WIRC of ICAI & Ahmedabad Branch of WICASA with more than 1400 participants. The conference witnessed esteemed Presence of Shri Anurag Thakur (Virtual), IAS Anju Sharma, Pujya Gyan Vatsal Swami, IRS Sachin Gusia, Dr. CA. Justice Vineet Kothari alongwith Prof. Lakshman R. Watawala, President, Institute of Certified Management Accountants of Sri Lanka during Inauguration Session (Virtual).

IV. REGULATORY COMPLIANCES PAR EXCELLENCE

The premier accounting institute has a keen and committed watchful eye that oversees, supervises and regulates the accounting profession in India. Built on the secure bedrock of an inherent public

interest oversight framework of governance, standard-setting and disciplinary mechanism which had been prescribed in the Chartered Accountants Act, 1949; the institute employs a robust disciplinary mechanism complemented by a self-regulated system of Peer Review Board, Financial Reporting Review Board and Taxation Audits Quality Review Board.

- ❖ Code of Ethics benchmarked to international ethical standards.
 - Extensive promotion of new Code of Ethics that have been benchmarked to international ethical standards amongst members and stakeholders.
 - Mandatory completion of 2 Structured CPE Hours on Code of Ethics to members from calendar year 2020 onwards through online/virtual mode. To make the members aware about the provisions of Code of Ethics, the Ethical Standard Board (ESB) has uploaded followings at ICAI's Digital Learning Hub (<https://learning.icai.org/elearning>).
 - Video on Code of Ethics – Uploaded video on recent changes in Code of Ethics at Ethical Standards Board page under Digital Learning Hub of ICAI. It highlights the amendments brought in 12th edition of Code of Ethics.
 - A presentation on recent changes in Code of Ethics has been uploaded at Ethical Standards Board page under Digital Learning Hub of ICAI. It includes all significant changes in Volume-I and Volume-II of Code of Ethics with existing provisions and newly inserted provisions.
- ❖ E-book on Volume-I of Code of Ethics. Issued e-book on Volume-I of Code of Ethics. The E-book is a web-based tool that delivers the Code of Ethics and related resources on a digital platform.
- ❖ During the year, all the cases pending before the Council referred to it u/s 21D of the CA Act 1949 (i.e. under the old mechanism) have been concluded and punishment was awarded/





Significant Achievements

recommended to the concerned High Courts against the erring members except one case on account of stay on the proceedings by the competent Court.

- ❖ An additional bench of the Disciplinary Committee was constituted under Section 21B of the Chartered Accountants Act 1949 to sustain the process of expeditious disposal of cases under enquiry and consideration of the Prima Facie Opinions formed by the Director (Discipline).
- ❖ E-hearings were initiated during the current Council year, thus, saving time and efforts of the members of the Board of Discipline/ Disciplinary Committee as also the parties to the case besides being economical. It also acted as a boon during the current COVID 19 pandemic situation to sustain and improve the disposal of disciplinary cases.
- ❖ Creation of a separate Web Portal for the Disciplinary Directorate – <http://disc.icai.org> –providing all information pertinent to the Disciplinary mechanism at one place.
- ❖ Hosting of the details of disciplinary cases decided by the Board of Discipline/Disciplinary Committee as well as the cause list of cases on the website of the ICAI so as to create more awareness among various stakeholders.
- ❖ Despite the odds created by the COVID 19 pandemic situation, post-June, the meetings of the BOD/DC were held at regular intervals and accordingly, the details of cases considered/ disposed off after 11th February, 2020 and till date(as on 31st Dec 2020) by them are as under :

Name of the Committee	Number of meetings held	PFOs considered	Hearings concluded	Punishment awarded
Board of Discipline	25 Meetings	160	17	37
Disciplinary Committee	65 Meetings	141	170	100
Total	90 Meetings	301	187	137

- ❖ Regular training of the staff of the Disciplinary Directorate on technical and legal matters was conducted to meet challenges of the changing environment.
- ❖ Hosting of the details of disciplinary cases decided by the Board of Discipline/Disciplinary Committee as well as the cause list of cases on the website of the ICAI so as to create more awareness among various stakeholders.

- ❖ ICAI takes steps to improvise the quality of tax audit conducted by the members with a system of three tier review of Tax Audits. During the year 100 reports were selected for review. 29 Tax Audit Reports have been thoroughly reviewed so far. Based on the review, advisories are being issued to members to ensure that such mistakes are not committed again. Suggestions have also been identified to be conveyed to CBDT for changes in the Tax Audit Report e-filing utility, wherever required.

- ❖ During the year, the Financial Reporting Review Board completed review of financial statements among other agendas as follows:

Cases considered and finalised by the Board	74
Cases referred to Director (Discipline) of ICAI for further action where serious non-compliances observed	15 (21%)
Cases referred to Regulators (MCA, RBI)	15 (21r%)
Issued advisories to the auditors	42 (57%)

- ❖ The cases completed during the period include review of 10 financial statements undertaken as special cases and 36 Ind-AS based Financial Statements.
- ❖ Review of financial statements of 206 enterprises selected on suo motto basis or as special case in advanced stage. Out of these, the preliminary review of 169 enterprises (Tier I) has been completed by technical reviewers and review of 113 enterprises (Tier II) has been completed by Financial Reporting Review Groups.

- ❖ ICAI is in the process of achieving another milestone towards use of technology. It is proposed of utilising Artificial Intelligence to systematically identify the non-compliances in financial statements to make the review process more robust. The proposed system will have capability of Artificial Intelligence/ Analytics so that common non-compliance can be flagged using system AI on the basis of XBRL financial statements of the enterprise.

Significant Achievements



V. EMPOWERING MEMBERS

The Accounting Profession is a dynamic and ever-enhancing field, making it imperative for all members to remain in constant touch with the contemporary developments around us. As standards, laws and structures evolve every day, in addition to greater incorporation of digitalisation within the profession; members find themselves face to face with new opportunities to learn, grow and expand their horizons. Post Covid-19, e-learning and virtual programmes came to the forefront for learning, therefore witnessing a paradigm shift in the knowledge dissemination approach of ICAI. A vast spectrum of initiatives were undertaken by the Institute with the aim of multiplying the potential and upskilling the members; a summary of which are enlisted below:

- ❖ Eight new CPE Programme Organising Units (POUs) were opened to reach to a strong network base of 618 POUs spread in all over India and abroad.
- ❖ 555 Live Webinars were organised by Central Committees/ Boards/ Branches/ Foreign Chapters of ICAI on various topics of professional interest.
- ❖ 5782 CPE Programmes were organised for the Members across the country, by the POUs on various topics of professional interests through Physical/Virtual mode.
- ❖ 140 Batches of Certificate Courses of ICAI on GST, Anti Money laundering Laws, Forex and Treasury Management, NPO, Wealth Management and Financial Planning, Concurrent Audit of Banks, Ind-AS, Forensic Accounting and Fraud Detection, Preparation of appeals, Drafting of Deeds & Documents and Representation before Appellate Authorities and statutory bodies, ADR (Arbitration, Mediation & Conciliation), Public Finance & Government Accounting etc. were organised for Members by the Central Committees of ICAI through physical/virtual mode.
- ❖ 31 Batches of Post Qualification Courses on Information Systems Audit (ISA) and International Taxation were organised by Central Committees of ICAI through physical/virtual mode.
- ❖ 5 batches of Pre-registration Education Course organised by ICAI RVO.
- ❖ 8 batches of Pre-registration Education Course organised by IIPI.
- ❖ The Tendering of Professional Services has always been an area of concern. Organisations are sometimes floating the tenders without mentioning any Minimum Fees or quoting very low minimum fees. On the other hand, it has been noticed that sometimes Members of ICAI are also responding to the tenders which do not mention of any Minimum Fees which is violating Council Guidelines. Various steps were taken to streamline the process of tendering.

Post Qualification Courses - Certificate Courses

- ❖ Online course on Ind AS have been conducted through the Digital Learning Hub (DLH) platform of ICAI. Online lecture sessions for the eighteen batches have been successfully completed wherein around 2200 members have been trained.
- ❖ Three batches of Post Qualification Diploma in International Taxation (Physical batches) were completed in March, 2020.
- ❖ Two batches of Diploma in International Taxation through online mode were completed.
- ❖ Conducted 52 batches of Certificate Course on Concurrent Audit of Banks in virtual mode. Around 6000 members has been registered for the said course during the year.
- ❖ Conducted first batch of Refresher Course on Standards on Internal Audit.
- ❖ Conducted eight batches of the Certificate Course on Public Finance & Government Accounting for members of ICAI.
- ❖ Completed 1st batch of PQC- Diploma on Management and Business Finance course. Second batch announced.
- ❖ During the year, 21 batches of Certificate Course on GST have been organised through virtual classes which have been attended by 2489 members.
- ❖ Organized five Eligibility Test Papers online to enable the DIRM registered members to complete the requirement of Course to be eligible to appear in the Technical Examination to be held in November 2020 onwards.
- ❖ Organised a DIRM Orientation Programme online on 23rd – 26th July 2020 to the DIRM Technical Examination passed members of ICAI to enable them to complete the last phase of the Course and make them eligible to award the DIRM Course pass certificate.
- ❖ Two batches of Five-day online Executive Development Program on Business Responsibility and Sustainability Reporting attended by 169 members.
- ❖ Three online batches of the Certificate course on Forex and Treasury Management via virtual/online mode through the Digital Learning Hub (DLH) of the Institute. Further an online



Significant Achievements

assessment test of the said batches was also successfully conducted through DLH.

Launch of ICAI Research Project Scheme 2020

- ❖ The scheme aims to fund research project to be undertaken by members having experience of more than 10 years either in practice or in employment or experienced research scholars of a recognised University. The maximum amount of ₹ 10 lacs will be reimbursed as research expenditure. The Researchers are required to complete the research project within 6 months after the research proposal is approved by the Research Committee.

ICAI Doctoral Scholarship Scheme

- ❖ Introduced ICAI Doctoral Scholarship Scheme to provide requisite support to the eligible candidates with outstanding academic credentials, intellectual curiosity and needed discipline to make scholarly contribution.

VI. TOWARDS BETTER EDUCATION AND TRAINING

- ❖ During the year, a comprehensive exercise for quality enhancement of Study Materials has been undertaken in all subjects across the three levels, by adding more examples/ illustrations/ questions for conceptual understanding including pictorials, flow charts, and tables making the study material more students friendly. Through this process, the content developed has been thoroughly reviewed by faculties. This entire review exercise is intended to incorporate the practical approach in the Study Materials through examples, illustrations and questions, which have been added in sufficient numbers. Almost 750 questions have been incorporated in the Study Materials at the Intermediate level and Foundation level each. At Final level, more than 600 questions have been added.
- ❖ MCQ-based assessment of students is done after completion of first and second year of practical training. In 2020, owing to the pandemic situation, centre-based test could not be conducted, hence, a home-based proctored test was conducted in October, 2020 covering around 33,000 students. Another such test is ongoing in January, 2021 with 36,000+ registrations.
- ❖ Virtual AICITSS (Adv.IT/MCS): Organised Virtual MCS and Advanced IT classes for the students of May, 2019, Nov, 2019, Nov 2020 and May, 2021 students. Further, students who have not completed Advanced IT course prior to May, 2019, are also allowed to undergo through virtual mode.

- ❖ Virtual ICITSS (ITT): Organised Orientation Course and Information Technology Training through virtual mode for Foundation and Direct Entry route students and is to be conducted by the Regional Councils and Branch offices of ICAI.
- ❖ Industrial Training portal <https://app.icai.org> has been launched with enhanced features like, data integration with SSP for convenient retrieval of status information for students and members.
- ❖ Conducted Free Virtual Coaching Classes targeting November 2020 and May 2021 for students of Foundation, Inter and Final.
- ❖ Conducted Free Live Revision Classes targeting May 2020 exams for students of Inter and Final.

VII. DEVELOPING INFRASTRUCTURE NEW BRANCHES CHAPTERS ETC.

An organisation needs reliable infrastructure to connect with its stakeholders. ICAI connects with its members, students and other stakeholders through its regional councils, branches, overseas offices, chapters and representative offices.

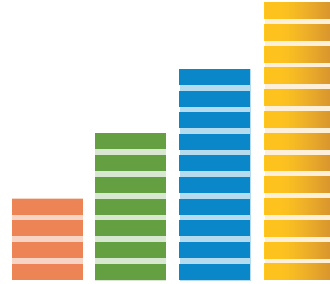
- ❖ Approved new construction proposal at the following locations.
 - ICAI Bhawan – Agra Branch.
 - ICAI Bhawan – Guntur Branch.
- ❖ Approved the appointment of architect for construction/Civil works, Interior & Furnishing works at following locations.
 - Centre for Audit Quality at COE Jaipur.
 - Centre for Excellence at Kolkata.
 - ICAI Bhawan – Ahmedabad Branch.
- ❖ Approved appointment of Contractor for construction/Civil works, Interior & Furnishing works at following locations.
 - ICAI Bhawan – Ghaziabad Branch.
 - ICAI Bhawan - Gurugram Branch.
 - ICAI Bhawan – Rohini Project.
- ❖ Purchased Land measuring 4,562 sq.mt. in Ahmedabad.
- ❖ Participation in Bidding by Chengalpattu Branch for railway land.
- ❖ Finalisation of modifications & updation in Infrastructure policy pertaining to Branches, Regional Councils and COEs, besides the Head Quarters is in process.
- ❖ In-principle approval for purchase of land for Raipur Branch of CIRC of ICAI from Raipur Development Authority. ■■■



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Accounting Clarification on Revenue Recognition under Input Method in Respect of Manufactured Goods-Ready for Despatch

A. Facts of the Case

1. A public sector company (hereinafter referred to as 'the company') has a net worth of ₹ 31,400 crore as on 31.03.2019. The company is an integrated power plant equipment manufacturer engaged in design, engineering, manufacture, construction, testing, commissioning of power projects and also in servicing of a wide range of products and services for the core sectors of the economy viz. power, transmission, industry, transportation (Railways), renewable energy, oil & gas and defence. In power project business, the contracts received by the company are either EPC contracts (Engineering, Procurement & Construction) or BTG Packages (i.e. Boiler, Turbine and Generator packages). In case of BTG contracts, civil works and Balance of Plant (BOP) package items are not in the scope of the company. Power projects are long gestation period projects where the normal execution period of a contract ranges between 3 to 5 years. The scope of the company includes supply of equipment, erection, commissioning, synchronizing the plant to the grid, completing the trial operation and proving the guaranteed parameters. In respect to construction contracts, the company transfers control of goods or services to the customer and recognizes revenue over time based on input cost method.
2. The querist has provided following extracts of the accounting policies of the company:
Accounting Policy No.1(d)(i) states that:
"The Company uses input method based on cost approach in accounting for the revenue in respect of construction contracts. Use of input method requires the Company to estimate its

costs relative to the total expected costs in the satisfaction of its performance obligation. The estimates assessed continually during the term of the contract and the company re-measures its progress towards complete satisfaction of its performance obligations satisfied over time at the end of each reporting period.

Company updates its estimated transaction price at each reporting period, to represent faithfully the circumstances present at the end of the reporting period and the changes in circumstances during the reporting period."

As per Accounting Policy No.8 –

"Revenue is recognized to depict the transfer of promised goods or services to customers in an amount that reflects the consideration to which the entity expects to be entitled in exchange for those goods or services.

In relation to construction and long term service contracts, the company transfers control of goods or services to the customer and recognizes revenue over the time.

Revenue is recognized using input method based on the cost approach. Progress towards complete satisfaction of performance obligation satisfied over time is re-measured at reporting period end.

Revenue from sale of goods and services is recognized on the transfer of control to the customer and upon the satisfaction of performance obligations under the contract."

3. The querist has referred to the following extracts of the Indian Accounting Standard (Ind AS) 115, 'Revenue from Contracts with Customers':

"31 An entity shall recognise revenue when (or as) the entity satisfies a performance

obligation by transferring a promised good or service (ie an asset) to a customer. An asset is transferred when (or as) the customer obtains control of that asset.”

“35 An entity transfers control of a good or service over time and, therefore, satisfies a performance obligation and recognises revenue over time, if one of the following criteria is met:

- (a) the customer simultaneously receives and consumes the benefits provided by the entity’s performance as the entity performs (see paragraphs B3—B4);
- (b) the entity’s performance creates or enhances an asset (for example, work in progress) that the customer controls as the asset is created or enhanced (see paragraph B5); or
- (c) the entity’s performance does not create an asset with an alternative use to the entity (see paragraph 36) and the entity has an enforceable right to payment for performance completed to date (see paragraph 37).

36 An asset created by an entity’s performance does not have an alternative use to an entity if the entity is either restricted contractually from readily directing the asset for another use during the creation or enhancement of that asset or limited practically from readily directing the asset in its completed state for another use. The assessment of whether an asset has an alternative use to the entity is made at contract inception. After contract inception, an entity shall not update the assessment of the alternative use of an asset unless the parties to the contract approve a contract modification that substantively changes the performance obligation. Paragraphs

B6—B8 provide guidance for assessing whether an asset has an alternative use to an entity.”

“B6 In assessing whether an asset has an alternative use to an entity in accordance with paragraph 36, an entity shall consider the effects of contractual restrictions and practical limitations on the entity’s ability to readily direct that asset for another use, such as selling it to a different customer. The possibility of the contract with the customer being terminated is not a relevant consideration in assessing whether the entity would be able to readily direct the asset for another use.

B7 A contractual restriction on an entity’s ability to direct an asset for another use must be substantive for the asset not to have an alternative use to the entity. A contractual restriction is substantive if a customer could enforce its rights to the promised asset if the entity sought to direct the asset for another use. In contrast, a contractual restriction is not substantive if, for example, an asset is largely interchangeable with other assets that the entity could transfer to another customer without breaching the contract and without incurring significant costs that otherwise would not have been incurred in relation to that contract.

B8 A practical limitation on an entity’s ability to direct an asset for another use exists if an entity would incur significant economic losses to direct the asset for another use. A significant economic loss could arise because the entity either would incur significant costs to rework the asset or would only be able to sell the asset at a significant loss. For example, an entity may be practically limited from redirecting assets that either have design specifications that are unique to a customer or are located in remote areas.”

“37 An entity shall consider the terms of the contract, as well as any laws that apply to the contract, when evaluating

whether it has an enforceable right to payment for performance completed to date in accordance with paragraph 35(c). The right to payment for performance completed to date does not need to be for a fixed amount. However, at all times throughout the duration of the contract, the entity must be entitled to an amount that at least compensates the entity for performance completed to date if the contract is terminated by the customer or another party for reasons other than the entity's failure to perform as promised. Paragraphs B9—B13 provide guidance for assessing the existence and enforceability of a right to payment and whether an entity's right to payment would entitle the entity to be paid for its performance completed to date."

"B9 In accordance with paragraph 37, an entity has a right to payment for performance completed to date if the entity would be entitled to an amount that at least compensates the entity for its performance completed to date in the event that the customer or another party terminates the contract for reasons other than the entity's failure to perform as promised. An amount that would compensate an entity for performance completed to date would be an amount that approximates the selling price of the goods or services transferred to date (for example, recovery of the costs incurred by an entity in satisfying the performance obligation plus a reasonable profit margin) rather than compensation for only the entity's potential loss of profit if the contract were to be terminated. Compensation for a reasonable profit margin need not equal the profit margin expected if the contract was fulfilled as promised, but an entity should be entitled to compensation for either of the following amounts:

(a) a proportion of the expected profit margin in the contract that reasonably reflects the extent of

the entity's performance under the contract before termination by the customer (or another party); or

(b) a reasonable return on the entity's cost of capital for similar contracts (or the entity's typical operating margin for similar contracts) if the contract-specific margin is higher than the return the entity usually generates from similar contracts.

B10 An entity's right to payment for performance completed to date need not be a present unconditional right to payment. In many cases, an entity will have an unconditional right to payment only at an agreed upon milestone or upon complete satisfaction of the performance obligation. In assessing whether it has a right to payment for performance completed to date, an entity shall consider whether it would have an enforceable right to demand or retain payment for performance completed to date if the contract were to be terminated before completion for reasons other than the entity's failure to perform as promised.

B11 In some contracts, a customer may have a right to terminate the contract only at specified times during the life of the contract or the customer might not have any right to terminate the contract. If a customer acts to terminate a contract without having the right to terminate the contract at that time (including when a customer fails to perform its obligations as promised), the contract (or other laws) might entitle the entity to continue to transfer to the customer the goods or services promised in the contract and require the customer to pay the consideration promised in exchange for those goods or services. In those circumstances, an entity has a right to payment for performance completed to date because the entity has a right to continue to perform its obligations

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in accordance with the contract and to require the customer to perform its obligations (which include paying the promised consideration).

B12 In assessing the existence and enforceability of a right to payment for performance completed to date, an entity shall consider the contractual terms as well as any legislation or legal precedent that could supplement or override those contractual terms. This would include an assessment of whether:

- a) legislation, administrative practice or legal precedent confers upon the entity a right to payment for performance to date even though that right is not specified in the contract with the customer;
- (b) relevant legal precedent indicates that similar rights to payment for performance completed to date in similar contracts have no binding legal effect; or
- (c) an entity's customary business practices of choosing not to enforce a right to payment has resulted in the right being rendered unenforceable in that legal environment. However, notwithstanding that an entity may choose to waive its right to payment in similar contracts, an entity would continue to have a right to payment to date if, in the contract with the customer, its right to payment for performance to date remains enforceable.

B13 The payment schedule specified in a contract does not necessarily indicate whether an entity has an enforceable right to payment for performance completed to date. Although the payment schedule in a contract specifies the timing and amount of consideration that is payable by a customer, the payment schedule

might not necessarily provide evidence of the entity's right to payment for performance completed to date. This is because, for example, the contract could specify that the consideration received from the customer is refundable for reasons other than the entity failing to perform as promised in the contract."

Measuring progress towards complete satisfaction of a performance obligation

- "39 For each performance obligation satisfied over time in accordance with paragraphs 35–37, an entity shall recognise revenue over time by measuring the progress towards complete satisfaction of that performance obligation. The objective when measuring progress is to depict an entity's performance in transferring control of goods or services promised to a customer (ie the satisfaction of an entity's performance obligation).
- 40 An entity shall apply a single method of measuring progress for each performance obligation satisfied over time and the entity shall apply that method consistently to similar performance obligations and in similar circumstances. At the end of each reporting period, an entity shall remeasure its progress towards complete satisfaction of a performance obligation satisfied over time.

Methods for measuring progress

- 41 Appropriate methods of measuring progress include output methods and input methods. Paragraphs B14–B19 provide guidance for using output methods and input methods to measure an entity's progress towards complete satisfaction of a performance obligation. In determining the appropriate method for measuring progress, an entity shall consider the nature of the good or service that the entity promised to transfer to the customer."

Input methods

“B18 Input methods recognise revenue on the basis of the entity’s efforts or inputs to the satisfaction of a performance obligation (for example, resources consumed, labour hours expended, costs incurred, time elapsed or machine hours used) relative to the total expected inputs to the satisfaction of that performance obligation. If the entity’s efforts or inputs are expended evenly throughout the performance period, it may be appropriate for the entity to recognise revenue on a straight-line basis.”

“43 As circumstances change over time, an entity shall update its measure of progress to reflect any changes in the outcome of the performance obligation. Such changes to an entity’s measure of progress shall be accounted for as a change in accounting estimate in accordance with Ind AS 8, *Accounting Policies, Changes in Accounting Estimates and Errors*.”

4. The querist has stated that in respect of construction contracts, the company designs and manufactures equipments which are meant for specific projects and are not interchangeable. Such designed and manufactured items, when complete, are stored at plant before these are despatched to the customer site. These are despatched based on the requirement at the site considering various issues related to proper storage at site, types of contracts being executed etc.
5. The querist has further stated that considering that such items are very specific to the project (as per design and specification of the project agreed with customer) and enforceable right to payment also exists as per the terms & conditions of the contract, the cost of ‘manufactured items-ready for dispatch’ (for projects), the readiness duly certified by a cross-functional committee at the respective Unit and endorsed by Head of the Unit, will also be considered as cost incurred for measuring the progress under input method

for recognising revenue over time. These fulfill the conditions necessary for satisfaction of performance obligation as per the criteria of paragraph 35 (c) of Ind AS 115 for recognition of revenue over time.

6. The querist has also stated that such manufactured goods-ready for dispatch are based on design specifications that are unique to a particular project/customer. These will not have alternative use broadly under clause B8 of Ind AS 115. There is a practical limitation to direct such completed asset for another use as significant economic losses will have to be incurred to direct the asset for another use.
7. According to the querist, though the raw material and work in progress lying at plant may be specific to project but at that stage, there are possibilities of alternative use of such items during the manufacturing process, i.e., until the work is substantially completed. Hence, the management does not consider the conditions under paragraph 35(c) of Ind AS 115 completely fulfilled in respect of such items and therefore, such items are shown as part of inventory and not considered for measuring progress for revenue recognition under input method.
8. The inclusion of cost of manufactured items-ready for dispatch referred in paragraph 5 above is considered appropriate by the company considering the experience of issues relating to site storage, changes in the market scenario, types of contracts being executed etc.

B. Query

9. On the basis of above, the opinion of Expert Advisory Committee has been sought as to whether the approach of the entity for measuring the progress for revenue recognition is appropriate and is in line with Ind AS.

C. Points considered by the Committee

10. The Committee notes that the basic issue raised in the query relates to whether the approach of the company of determination of cost incurred to include the cost of internally manufactured

and completed items and equipments which are ready for despatch to customer while measuring progress towards complete satisfaction of a performance obligation under cost-based input method so as to recognize revenue over time under Ind AS 115 is correct or not. The Committee has, therefore, considered only this issue and not examined any other issue that may arise from the Facts of the Case, such as, revenue recognition with regard to any other item either manufactured/completed or work-in-progress/inventory, measurement of revenue, other aspects of Ind AS 115, including, whether there are single or multiple distinct performance obligations, whether it is appropriate to recognize revenue over time in the extant case and whether the company fulfills the conditions under paragraph 35(c) of Ind AS 115, whether inputs method of measure of progress is appropriate in the extant case, etc.

11. The Committee notes from the Facts of the Case that in the extant case in respect of items manufactured for certain specific construction contracts for which the issue has been raised, the company's performance does not create an asset with alternative use to the company and the enforceable right to payment also exists as per the terms and conditions of the contract. Accordingly, in respect of such contracts, the conditions necessary for satisfaction of performance obligation as per the criteria of paragraph 35(c) of Ind AS 115 for recognition of revenue over time get fulfilled and therefore, the company recognises revenue over time for these contracts. Without getting into the examination of the above criteria being fulfilled or not and the accounting treatment being followed by the company in this regard, the Committee notes that as per the Standard, when it is determined that a performance obligation is satisfied over time, an entity is required to select a method to measure progress so as to recognise revenue over time. In this context, the Committee notes that the company has selected input method based on cost incurred to measure progress. The issue now, is with regard to the approach of

determination of cost incurred to include the cost of internally manufactured and completed items and equipments which are ready for despatch to customer while measuring progress under cost-based input method so as to recognize revenue over time under Ind AS 115.

12. With regard to the approach of inclusion of cost of items/equipments manufactured and ready for dispatch in the 'cost incurred' under input method of measuring progress towards satisfaction of performance obligation under the contract, the Committee notes paragraphs 39, 41, 42, B14 and B18 as follows:

"39 For each performance obligation satisfied over time in accordance with paragraphs 35–37, an entity shall recognise revenue over time by measuring the progress towards complete satisfaction of that performance obligation. The objective when measuring progress is to depict an entity's performance in transferring control of goods or services promised to a customer (ie the satisfaction of an entity's performance obligation)."

"Methods for measuring progress"

- 41 Appropriate methods of measuring progress include output methods and input methods. Paragraphs B14–B19 provide guidance for using output methods and input methods to measure an entity's progress towards complete satisfaction of a performance obligation. In determining the appropriate method for measuring progress, an entity shall consider the nature of the good or service that the entity promised to transfer to the customer.
- 42 When applying a method for measuring progress, an entity shall exclude from the measure of progress any goods or services for which the entity does not transfer control to a customer. Conversely, an entity shall include in the measure of progress any goods or services for which the entity does transfer

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control to a customer when satisfying that performance obligation.”

“B14 Methods that can be used to measure an entity’s progress towards complete satisfaction of a performance obligation satisfied over time in accordance with paragraphs 35–37 include the following:

- (a) output methods (see paragraphs B15–B17); and
- (b) input methods (see paragraphs B18–B19).”

“B18 Input methods recognise revenue on the basis of the entity’s efforts or inputs to the satisfaction of a performance obligation (for example, resources consumed, labour hours expended, costs incurred, time elapsed or machine hours used) relative to the total expected inputs to the satisfaction of that performance obligation. If the entity’s efforts or inputs are expended evenly throughout the performance period, it may be appropriate for the entity to recognise revenue on a straight-line basis.”

The Committee notes from paragraph 39 of Ind AS 115 that an entity should recognise revenue over time by measuring the progress towards complete satisfaction of performance obligation and while measuring progress, the objective is to depict an entity’s performance in transferring control of goods or services promised to a customer. Paragraph B18 states that under input method, revenue is recognised on the basis of the entity’s efforts or inputs to the satisfaction of a performance obligation, for example, costs incurred relative to the total expected inputs/cost to the satisfaction of that performance obligation. Further, the Committee notes that in the extant case, the conditions of paragraph B 19 of Ind AS 115 are not met as these items and equipments are manufactured and designed internally by the company for specific projects and are not simply procured from a third party

Rather, cost of these items, since reflect the company’s efforts or inputs to the satisfaction of performance obligation as per the contract with the customer, the cost incurred thereon should be included in the measure of progress of the performance.

D. Opinion

13. On the basis of above, the Committee is of the opinion on the issues raised in paragraph 9 above, the approach of the company with regard to the inclusion of the cost of manufactured and completed items and equipments that are ready for dispatch to customer’s site as ‘cost incurred’ under inputs method of measuring the entity’s progress towards complete satisfaction of a performance obligation is correct under Ind AS 115, 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 February 10, 2020. The Opinion must, therefore, be read in the light of any amendments and/or other developments subsequent to the issuance of Opinion by the Committee.
3.	The Compendium of Opinions containing the Opinions of Expert Advisory Committee has been published in thirty seven volumes. This is available for sale at the Institute’s office at New Delhi and its regional council offices at Mumbai, Chennai, Kolkata and Kanpur.
4.	Recent opinions of the Committee are available on the website of the Institute under the head ‘Resources’.
5.	Opinions can be obtained from EAC as per its Advisory Service Rules which are available on the website of the ICAI, under the head ‘Resources’. For further information, write to eac@icai.in .



“e-Sahaayataa” – A Grievance Resolution Mechanism of ICAI

‘e – Sahaayataa’ is the e-Channel for the entire base of Members and Students of the Institute and other stakeholders of the profession where in their queries/ grievances pertaining to the day-to-day working shall be resolved in a time-bound and transparent manner.

Objectives:

- To provide timely services to all the stakeholders of the profession throughout the globe
- To resolve the Query/ Complaint/ Grievance within 3 – 7 days from the date of submission of the same
- To eliminate the operational bottlenecks and smoothen the flow of education process of Chartered Accountancy

Features:

- Automatically sends the query/ complaint/ Grievance to the dashboard of the concerned official as soon as the same is submitted.
- Complete history of Query/ Complaint/ Grievance can be checked.
- E Mail is sent to the user once the query/ complaint and grievance is resolved.
- Query/ Complaint/ Grievance can be reopened by the user in case the user is not satisfied.
- No query/ complaint/ grievance can be deleted from ‘e-Sahaayataa’

Scope:

‘e-Sahaayataa’ caters only to the Queries/ Complaints/ Grievances pertaining to the day to day working of the Institute which are general in nature. This is not meant for registering or making allegations, personal observations, and personal comments. Kindly submit relevant Queries/ Complaints/ Grievances to help you better.

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Mergers & Acquisitions - Growth Driver in Post-pandemic Era

Covid-19 has disrupted global economy, slowed down investments and growth, and impacted merger and acquisitions (M&As). However, covid-19 has taught the importance of being resilient. With vaccines available now, humanity is at the cusp of a turnaround. Strengthening fundamentals with favourable government policies would drive a V-shaped economic recovery, thus increasing opportunities for growth multifold. Post-pandemic, new opportunities and challenges would compel managements to adopt M&A strategies to grow, and increase competitiveness. "Old is Gold" – time-tested traditional defensive and offensive strategies refined with new learnings during



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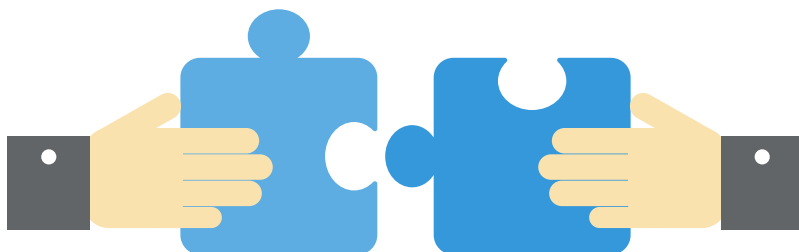
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pandemic would drive M&As post-Covid. With support of highly disciplined and objective due diligence and water-tight legal documentation to mitigate risks, M&A strategies can help companies to succeed and create significant shareholder value over long-term. Read on to know more...

I. Introduction

Globally, M&As have made their presence felt since 19th century. Over more than a century, M&A tides picked up during economic boom driven by technological innovations, deregulation, privatisation, political stability, favourable laws, etc. and receded during economic turmoil driven by wars, recession, market crash, oil crises, pandemic, etc. Each tide achieved different outcomes such as globalisation, consolidation, diversification, conglomerate building, takeovers, management buyouts, leveraged buyouts, etc.

Covid-19 has disrupted global economy. While traditional



MERGERS AND ACQUISITIONS

sectors such as manufacturing, logistics, hospitality, travel, real estate, etc. are bleeding; new-age technology driven sectors with focus on digital space have seen growth. GDP growth forecasts as per October-2020 IMF estimates are:

Region	2020	2021	2021-25 average
Global	4.4%	5.2%	4.1%
India	10.3%	8.8%	7.8%

Covid-19 dramatically shifted investor's outlook, most of whom took conservative wait and watch approach for their investment and growth strategies, impacting global M&A landscape. Certain exceptions, such as M&As in technology and retail sectors, have been a silver lining to this dark cloud providing optimism. With roll-out of vaccines, world is at the cusp of a turnaround. Economic recovery

and M&As would drive each other. Let's revisit some of the traditional M&A strategies and discuss their relevance in post-pandemic era to create shareholder value.

II. Alliance vs. Acquisition

Ultimate objective of each firm is growth in shareholder value. Both alliances and acquisitions drive growth. While viewed interchangeably, both are alternative strategies. It is important to ensure that firms do not acquire where they should collaborate or vice versa. Decision to ally vs. acquire depends on synergies, resources required and market conditions.

Covid-19 dramatically shifted investor's outlook, most of whom took conservative wait and watch approach for their investment and growth strategies, impacting global M&A landscape.

Alliances are less risky, co-operative and negotiated. Acquisitions are risky, competitive and at market price. There is no cookie-cutter approach to decide whether to ally or acquire. Managements err by force fitting the same strategy they once successfully implemented to all scenarios. Business development and M&A teams need to work together to adopt correct strategy every time.

Following are select few scenarios where alliance or acquisition may be adopted:

Scenarios	Suggested Strategy	Example
Pooling of independent resources	Non-equity alliance	<ul style="list-style-type: none"> Partnership between Intermiles loyalty program and airlines and hotels. Consumers earn loyalty points by travelling with airline and burn them to stay at a hotel.
Sequencing interdependent resources	Equity alliance	<ul style="list-style-type: none"> Vaccine marketing company takes equity stake in Covid-19 vaccine developer to secure marketing rights for the vaccine.
Optimising value chain	Acquisition	<ul style="list-style-type: none"> Merger of Exxon and Mobil in 1999 improved combined business and financial performance by strengthening global presence and reducing earnings volatility.
Combining capacity	Acquisition	<ul style="list-style-type: none"> LVMH Moët Hennessy Louis Vuitton SE ("LVMH"), world's leading luxury products group and owner of famous brands such as Louis Vuitton, Christian Dior Couture and Tiffany, made 65+ acquisitions worth ~US\$43.5bn in last 20 years driving growth through vertical integration, diversification and achieving economies of scope at group level.

Scenarios	Suggested Strategy	Example
Eliminating redundant resources	Acquisition	<ul style="list-style-type: none"> • Merger of SBI with its five associate banks in 2017 created large-scale redundancies. To save costs, SBI redeployed and disposed resources by rationalising several duplicate branches and offering voluntary retirement to several employees of associate banks. • Pre-privatisation, BPCL offered voluntary retirement to several employees in redundant roles to reduce costs and become more attractive to bidders.

Clarity on when to use which strategy will help to succeed and increase shareholder value.

III. Traditional M&A strategies and their relevance in post-Covid era

Pre-Covid, over last decade, number of M&As rose globally. Some transactions created value while others eroded value. M&A activities have slowed during pandemic. Post-pandemic, new opportunities and challenges would compel managements to adopt following key M&A strategies for growth:

1. Industry consolidation

This has been one of the biggest drivers of M&A globally. Mature industries such as automotive, steel and petrochemicals suffer from overcapacity and related inefficiencies. Well-established industry leaders combine with less competitive players to regain competitive

advantage through capacity rationalisation, market share gain, portfolio coherence, increased operational efficiency and enhanced innovation capabilities. To succeed, speed of integration and change management without bureaucracy is essential specially in case of merger of equals.

Example: Bayer acquired Monsanto in 2018 for US\$66bn at a premium of ~45% to trading share price. Bayer felt the compulsion to acquire Monsanto, despite high premium, to ensure continued dominance post two large consolidations in global agriculture market in 2015-2017: (a) ChemChina acquired Syngenta for ~US\$43bn and (b) ~US\$130bn merger of Dow Chemical with Dupont. Bayer-Monsanto became a global behemoth with integrated agriculture business, widened product portfolio and strong R&D capabilities enabling it to control the global food value chain in terms of pesticides to be used and seeds to be planted.

Some companies use consolidation cum restructuring to create

coherent portfolios.

Example: Dow Chemicals and Dupont's merger of equals created a global leader in chemicals sector. Both companies first merged their businesses and realised synergies then over 18-24 months restructured in to three businesses: agriculture, material science and specialty products.

Pandemic has led to significant demand destruction and inefficiencies across sectors. While demand would return gradually, there are opportunities across sectors to consolidate through M&A and gain competitiveness. Therefore, post-Covid, consolidation will continue to be one of the biggest drivers of M&A.

2. Diversification

This strategy entails extension of company's product line or market reach. These are win-win propositions. Acquirer gets entry into new product line or new geography with local management. Target gets access to capital, branding, marketing capabilities, modern technology and knowhow to compete rivals. Success depends



Both alliances and acquisitions drive growth. While viewed interchangeably, both are alternative strategies.



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Well-established industry leaders combine with less competitive players to regain competitive advantage through capacity rationalisation, market share gain, portfolio coherence, increased operational efficiency and enhanced innovation capabilities.

on the ability to grow on each other's strengths, market leadership and best practices.

Example: Fuels and advanced mobility joint venture between RIL and BP plc enabled BP to enter India to tap large consumer market. Joint venture will leverage joint branding, RIL's pan-India leadership and millions of consumers, and BP's global experience in high-quality differentiated fuels and advanced mobility solutions.

Example: Some international accounting firms entered India through acquisition of local firms. They acquired local management and talent and local firms benefitted from global brand name and knowhow.

Several manufacturers are planning to fully or partially shift from China to India. M&A with Indian entities would enable global players

to quickly enter India and shift supply-chains without causing severe disruptions to their global operations.

3. Divestment

This strategy involves monetising non-core underperforming assets. This helps sellers to strengthen balance sheet, increase focus on reshaping and strengthening core businesses to increase competitive advantage and unlock shareholder value. It is important to identify correct assets based on strategic unfit, find a suitable buyer through a well-run process and move swiftly to maximise value and avoid stress sale, overcome resistance from stakeholders and minimise opportunity costs.

Example: Jack Welch aggressively divested 117 business units accounting for 20% of GE's assets during his first four years as CEO. Proceeds were deployed to revitalise GE's core businesses and increase competitiveness over long-term. He viewed holding on to losing businesses as threat to GE's existence.

Ongoing economic stress would create several divestment opportunities including assets which rarely go on the block. Using this strategy proactively rather than reactively would help firms to quickly exit unjustifiable businesses, be future proof and protect shareholder value.

4. Ensuring survival

At times M&As do not generate economic returns but are necessary to ensure survival. Survival may be at stake due to changes in technology, changes in consumer preferences, changes in laws, improvement in efficiency and effectiveness of competitors, losing market share, etc. In order to gain competitive parity and advantage and ensure continued survival in the fast-evolving market, an entity may engage in M&A.

Example: Facebook acquired WhatsApp for US\$16bn to stay relevant in the social media space. Walmart acquired Flipkart for US\$16bn to achieve competitive parity, specially in e-commerce, with Amazon globally. In both cases acquirers have not reaped returns but deals ensured their global relevance and survival.

Covid-19 has affected several large players across sectors. To ensure continued survival, large players with strong balance sheets would be scouting for stressed targets with strong fundamentals to regain market share and competitiveness.



Some companies use consolidation cum restructuring to create coherent portfolios.



Deal making is glamorous and exciting. While M&A team's role is to successfully complete a transaction, it is equally responsible to suggest a no-go to management in case the proposed deal does not fit overall strategy.

5. Industry convergence

This strategy involves evolution of new industry and business model which generates synergies by combining resources from existing industries whose boundaries are disappearing. Historically, this strategy has not been very prevalent. Given the recent focus to create digital platforms by combining several existing sectors such as telecom, technology, media, finance, retail, education, entertainment, etc., this strategy has already gained importance globally. As per NASSCOM, technology spending during pandemic has significantly increased with 30% jump in digital transformation deals and 80% jump in cloud spending.

Example: Over last 5 years Jio has converged from a pure play telecom operator to a technology enable digital services company. Driven by this convergence, backed by strong business

model, growth plans and relevance in post-pandemic economy, Jio completed one of its kind fund raise of US\$20bn, despite economic downturn, from strategic investors such as Facebook and Google, and several global marquee financial investors who have similar focus.

6. Deploying free cash flows

Several firms which generate high cash flows have two alternatives: (a) to distribute dividend or buyback shares, (b) to reinvest in opportunities which would generate high returns for shareholders. In the latter, entities deploy M&A strategy to continue to create shareholder value.

Example: In 2017-2018, LVMH deployed its free cash to acquire Christian Dior's Couture Brand and Belmond. These acquisitions coupled with stabilisation of previous acquisitions of Hermes, Bulgari and Loro Piana during 2010-2016 led to almost tripling of LVMH's share price in last four years.

7. Agency problems

Management compensation is linked to entity's growth and performance. At times, in order to increase compensation, management uses M&A to show growth despite no expected returns or synergies. Pandemic has taught importance of efficient use of resources. Therefore, shareholders should identify and block

such management motives to avoid value erosion.

8. Management hubris

At times, out of experience or arrogance and over-confidence, bidding entity's management believes that they can manage the target assets more efficiently. Therefore, investors should correctly assess management's capabilities to manage the target assets before approving the M&A to ensure that the investment and monetary discipline achieved during pandemic is not lost.

While all M&As aim to create shareholder value, they represent different strategies. Post-Covid, objective evaluation of transaction rationale would be increasingly important to ensure continued focus on larger strategic goals and investors do not lose value due to loss of competitiveness or reckless management decisions.

IV. Importance of Due Diligence ("DD")

Deal making is glamorous and exciting. While M&A team's role is to successfully complete a transaction, it is equally responsible to suggest a no-go to management in case the proposed deal does not fit overall strategy. Initial high-level discussions in buy-side M&As focus largely on financial models, valuations and publicity. However, the secret success mantra is a thorough high-quality objective DD deep diving into details to evaluate the following:

1. What are we buying?
– assets, technology, customers, employees, capacity, supply-chain, new products, etc.
2. Synergies – quantum, time and cost to integrate, realisation probabilities, etc.
3. Intrinsic value – determine target's standalone valuation on as-in basis excluding synergies using methods such as discounted cash flow, trading comparables, transaction comparables, etc.
4. Risks and liabilities – litigations, regulatory non-compliances, undisclosed liabilities, contingent liabilities, unfunded employee benefits, charges on assets, etc.
5. Price cap – maximum price beyond which one would



Several transaction issues such as bridging valuation gap, post-closing price adjustments, regulatory compliances, integration plans, governance mechanism, reserved matters, financing mechanism, distribution policy, material adverse event, exit rights, deadlock and dispute resolution mechanisms, warranties and indemnities, etc. get resolved only at documentation stage.

walk away from the deal.

A high-quality objective DD involves testing strategic rationale, SWOT analysis, evaluating entire business case, and identifying unrealistic assumptions and flaws in logic. Some organisations err in considering DD as hypothesis testing paper exercise and end up losing shareholder value. DD is a science as well as an art – combines backward looking findings with forward looking strategy.

Pandemic has disrupted businesses across sectors. Therefore, post-pandemic, highly disciplined DD would be significantly important to equip management with effective tools to make right go-no-go decisions to create or safeguard shareholder value.

V. Risk mitigation through legal documentation

Once decided to go ahead with the transaction, legal documentation is critical to complete the deal. Several transaction issues such as bridging valuation gap, post-closing price adjustments, regulatory compliances, integration plans, governance mechanism, reserved matters, financing mechanism, distribution policy, material adverse event, exit rights, deadlock and dispute resolution mechanisms, warranties and indemnities, etc. get resolved only at documentation stage.

Certain issues have upfront monetary bearing for both parties. They deploy following key measures to mitigate economic risks:

1. Earnouts:

Total consideration may be split in to two parts: (a) Upfront consideration, (b) Earnouts, i.e., deferred / contingent consideration. Payment of earnouts is dependent on achieving certain milestones related to growth, earnings, synergies, approvals, etc. to be achieved over a definite period. Larger the valuation gap or uncertainties, higher the earnout component. Earnouts motivate target's management to deliver promised results and ensure efficient handover to acquirer.

Example: In 2019, Saudi Aramco announced purchase of 70% stake in SABIC from PIF for ~US\$69bn. Initial consideration structure was heavy on earnout due to high growth and synergy estimates. Later, crude prices and petrochemicals margins fell and increased uncertainties. To manage cashflow risks, save costs and access debt market, parties agreed to further increase the earnout component.

Evolution of earnout structure	Upfront (%)	Earnout (%)
Initial agreement in March-2019	50%	50% up to December-2021
Amendment 1 in October-2019	36%	64% up to September-2025
Amendment 2 in June-2020	~10%	~90% up to April-2028

While agreeing terms of earnout, it is important that long-term performance is not compromised to achieve short-term results.

2. Warranties, indemnities and holdback:

Buyers ask for several warranties from sellers to hold them accountable for the disclosures during DD. In case of breach of warranties, sellers are liable to indemnify buyers subject to a de-minimis, basket and cap over a definite period. Buyers aim to include higher indemnities and sellers aim to minimise the same through warranties. Creating a balance through negotiations is a science as well as an art. To ensure that sellers fulfil their indemnity obligations in case of any warranty breaches, buyers may holdback part consideration to adjust the indemnities at the end of the period.

Post-pandemic, buyers would seek Covid-19 specific warranties and higher indemnities to cover the risks of business continuity, operations, and financial performance due to impact of pandemic. Sellers may mitigate this risk by availing Warranty and Indemnity Insurance.

3. Material adverse event ("MAE"):

MAE provides parties with walk away rights in certain events which lead

to a material change after signing. Such events include insolvency, changes in laws / industry / business / assets, etc. Materiality of change and its long-term impact are important to trigger this.

Post-pandemic, buyers would insist on including Covid-19 linked events such as next wave of virus spread, supply-chain interruptions, industry-wide disruptions, etc. Sellers would insist on including only specific and quantifiable events. Tough negotiations would be required to create a balance and ensure that neither party walks away from the transaction at the last minute without penalty.

Covid-19 has only increased the M&A risks. Therefore, importance of risk mitigation through watertight legal documentation has significantly increased for both parties to successfully complete the transaction. Otherwise, the parties would walk away from the deal even if positive synergies are expected.

VI. Conclusion

Covid-19 has taught importance of being resilient to manage continuity, learn and emerge stronger, and prepare for new normal. To counter economic downturn due to Covid-19, globally governments have introduced several positive fiscal, monetary and financial policy initiatives. Several Indian

government initiatives such as "Make in India", "Aatmanirbhar Bharat", changes in FDI and other laws and tax concessions have increased the ease of doing business in India. India has become a hot destination for global investments attracting FDI inflows of ~US\$40bn during April-September 2020, despite slowdown due to Covid-19 restrictions.

With V-shaped economic recovery and strengthened fundamentals, M&A transactions would increase multifold. "Old is Gold". M&A principles have been well established over several decades. They have stood the test of time and only evolved and refined during downcycles. Post-pandemic, a combination of above discussed time-tested traditional and new defensive and offensive strategies would drive M&As to seize the opportunities to create shareholder value and overcome challenges to establish new economic order.

References

1. *Harvard Business Review* – March 2001, May 2002, April 2004, July-August 2004
2. *Gaining and Sustaining Competitive Advantage*, Fourth edition
3. *Media release and public filings of RIL and Saudi Aramco*
4. *International Monetary Fund, World Economic Outlook Database*, October 2020
5. *FDI Statistics updated up to September 2020 by DIPP*



Raising Funds with Rights Issue: A Right Strategy for Listed Companies during Covid-19 Era

“Opportunities don’t happen. You create them.” As the saying goes, we know that due to unprecedented Covid-19 pandemic, several companies are struggling to raise finance and listed companies are not an exception. However, SEBI has pro-actively taken various measures to rationalise the process besides offering various relaxations for rights issues which can help listed companies to quickly raise funds to meet their requirements. Already dozens of large listed companies have taken benefits under this special scheme and their rights issues have got great response from the shareholders. Being an expert in financial domain CAs have a critical role to play by offering comprehensive solutions to listed companies by harness the opportunities and providing necessary support. Read on to know more...



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Background

Rights issue is a primary market offer in which all existing shareholders get an opportunity to acquire additional shares in the company on a pro-rata basis. Every shareholder can use his own discretion while choosing an option to buy shares and may decide to acquire entire or part of the eligible stake while renouncing balance to others. Though there is no compulsion on any shareholder to subscribe for shares as per his entitlement, often companies offer good discount over prevailing market price and so, usually majority of the shareholders opt for

exercising their rights. Any company can raise funds by launching rights issue after complying with the provisions under the Companies Act, 2013, however, if the company is listed on recognised stock exchanges then applicable provisions under multiple SEBI regulations also need to be complied with:

- SEBI Takeover code, 2011
- SEBI LODR Regulation, 2015
- SEBI ICDR Regulations, 2018
- SEBI Buyback Regulations, 2018

Rights issue can be of different types and the company may



Based on Paid-up Status

- Fully Paid Rights Issue
- Partly Paid Rights Issue

Based on Renounceability

- Renounceable Rights Issue
- Non-Renounceable Rights Issue

Based on ICDR Regulations

- Fast Track Rights Issue
- Normal Rights Issue > 50 Cr
- Normal Rights Issue < 50 Cr

choose any one or combination of them to suit their requirements while offering an option to all its shareholders:

Key Process Outline & Basis of Allotment

The companies can opt for 'Fast-Track Rights Issue' of more than ₹ 50 crores if the conditions laid down in Regulation 99 of SEBI ICDR Regulations are met and in such cases, SEBI has offered multiple relaxations. Otherwise, following standard process has to be followed by the company for the rights issue:

1. Obtaining approval from the board
2. Appointment of various intermediaries for the issue including lead manager, registrar, banker, legal advisors, advertisement / PR agency, statutory auditors, etc. Underwriter need not be appointed as underwriting is not compulsory.
3. Carrying out due diligence review and legal documentation besides determining offer price
4. Obtaining in-principle approval from the regulator

5. Fixation of record date in consultation with the lead manager
6. Sending abridged letter of offer and application forms
7. Obtaining ASBA facility through bankers
8. Crediting Right Entitlements in demat accounts through depositories
9. Opening of Issue (15-30 days)
10. Allotment of shares and refund of balance proceeds

Equity shares will be allotted to eligible shareholders in a pre-determined sequential hierarchy in the following manner:

1. Shareholders to the extent of their entitlement;
2. Renouncees to the extent of their entitlement;
3. If shares are still available then one share to those eligible shareholders having fractional entitlement and who applied for at least 1 additional share;
4. If shares are still available then to those eligible shareholders who applied for additional shares in proportion to their holding as

on the record date;

5. If shares are still available then to eligible Renouncees who applied for additional shares;
6. If anything left even after aforesaid allotment then it would be treated as unsubscribed portion of the issue. It is generally distributed among the shareholders and renouncees who have applied for any additional shares.

Normal rights issue of more than ₹ 50 crores may usually take upto 6 months for completion. However, in case of 'Fast-Track Rights Issue' or issue having size less than ₹ 50 crores, the process can be completed in a span of around 3 months.

Pricing Mechanism and Impact

The companies have been given complete freedom to determine pricing for the rights issue as per their choice, however, usually significant discount is offered over the prevailing market price in order to reward loyal shareholders and make offer attractive. Given the regulatory approvals required for issuing of shares below face value, traditionally offer price has been at the face value or higher.

Due to discounted price of rights issue, the price of shares gets diluted. Hence, it is likely to go down with the increase in total number of shares after issue. Share price after issue can be estimated mathematically and is called as "Theoretical Ex-Rights Price" (TERP). Following is the formula of TERP:

$$\text{TERP} = [(\text{Existing Shares} \times$$

Capital Market

Existing Price) + (Rights Shares X Offer Price)] / Total Shares

Value of Right can also be determined as the difference between TERP and offer price using following formula:

Value of Right = TERP – Offer Price

Example: XYZ Company announces rights issue of 1:2 i.e. 1 share for every 2 shares held at a concessional offer price of ₹ 70 while the current market price is ₹ 100. Then, TERP and Value of Right can be calculated as below:

$TERP = [(100 \times 2) + (70 \times 1)] / 3 = 90$

Value of Right = $90 - 70 = 20$

The shares of XYZ company may trade at ₹ 90 ex-rights and value of Right will be ₹ 20. However, it should be noted that this is merely an estimate on the basis of mathematical calculations and actual price may substantially differ based on market sentiments. Further, reduction in price may be temporary and it can even go up if there are good prospects.



Normal rights issue of more than ₹ 50 crores may usually take upto 6 months for completion. However, in case of 'Fast-Track Rights Issue' or issue having size less than ₹ 50 crores, the process can be completed in a span of around 3 months.

Right Entitlements & Options to Shareholders

Rights Entitlements (REs) are the standard rights issued by the company to all its existing shareholders for subscribing to new shares. REs are offered to shareholders on pro-rata basis in proportion with their existing equity shares held as on the record date. If any shareholder is holding shares in physical form then he will have to provide details of his demat account for getting REs.

REs are issued in dematerialised form and have separate ISIN, however, they can be traded in online as well as offline mode. Separate scrip code is issued by stock exchanges for trading of REs and while its opening price is decided by the exchanges, subsequently it is determined by the market dynamics. Anybody can purchase REs and also apply for the rights issue in the given proportion during the issue period. However, if no application is made by the purchaser of REs on or before closing date of issue then such REs will lapse. Once trading in REs stop then it cannot be extended again even if there is an extension of rights issue.

Eligible shareholders can exercise any of the following options as per their discretion during the rights issue:

1. Apply for their rights fully as per their REs
2. Apply for their rights fully as per their REs and also apply for excess rights shares
3. Apply for their rights partly as per their REs and renounce balance REs
4. Apply for their rights partly

as per their REs but don't renounce balance REs

5. Renounce their REs fully
6. Neither apply for rights shares nor renounce REs

Advantages of Rights Issue

Since inception, rights issue has been a highly popular fund raising strategy which has been beneficial to both the corporates as well as shareholders. Cash-strapped companies can adopt this strategy to mobilize funds when they really need it. Following are key advantages to the companies:

1. Very rare chance of failure
2. Fastest mode of raising capital without incurring any extra debt
3. Economical option wherein costs like underwriting, advertisement, etc can be saved
4. Motivation to existing shareholders due to offer to subscribe shares at discounted rates
5. Preferred mode to attract investors as compared to preferential allotment due to relaxation in lock-in requirements

The shareholders are also benefitted in the event of rights issue as below:

1. Existing shareholders can continue to control the company if rights are not renounced
2. Lucrative option to increase stake at a price lower than prevailing market rates
3. SEBI has permitted shareholders having physical certificates to exercise their rights by providing demat account details

4. SEBI has also allowed usage of R-WAP platform to resident individual shareholders and HUF investors

The Promoters can also take an advantage to smartly increase their overall stake and control through rights issue:

1. Under SEBI Takeover Code, the Promoters can acquire upto 5% in a financial year, however, through rights issue the Promoters can acquire even beyond 5% without triggering Open Offer under Regulation 3(2) provided issue price is less than ex-rights price.
2. REs can be bought or sold by the Promoters even during Trading Window closure period as per SEBI's circular dated 23-7-2020.

Recent Relaxation by SEBI

Due to ongoing Covid-19 pandemic, there is an unprecedented economic crisis resulting into huge scarcity of funds.

Every company has to compulsorily wait for at least 1 year after completion of buyback process as per Regulation 24 of SEBI Buyback Regulations, 2018 if it wishes to raise further capital in any manner including rights issue. However, SEBI has temporarily reduced this timeline from 1 year to 6 months in order to give relief to corporates in view of acute liquidity challenges faced by them.

Further, SEBI has issued various circulars after March 2020 in order to rationalise overall process and gave multiple relaxations to listed companies for mobilising funds through

rights issues:

1. Filing of Letter of Offer to SEBI is not required for rights issues upto issue size of ₹ 50 crores which was earlier limited to ₹ 10 crores only
2. Waiver of compulsory 90% minimum subscription criteria, subject to conditions
3. Conditional relaxation to companies for 'Fast-Track Rights Issue' in case of pending show-cause notices provided disclosure is made about potential adverse impact
4. Truncated disclosures by restricting financial statements for last year instead of 3 years

With abovementioned positive measures taken by SEBI, rights issues have now become preferred mode of raising funds. During last few months, more than a dozen big listed companies had successfully completed rights issue process and they also got great response from the investors. Following are few examples of mega issues:

- Reliance Industries – ₹ 53,124 crores
- M&M Financial Services – ₹ 3,089 crores
- Shriram Transport Finance – ₹ 1,500 crores
- Aditya Birla Fashions – ₹ 995 crores

Key Role of CAs

In our grand nation of more than 135 crore Indians, hardly 5000 companies are listed on nationwide stock exchanges but cumulative market valuation of these listed companies is more than USD 2 Trillion. As per



Due to discounted price of rights issue, the price of shares gets diluted. Hence, it is likely to go down with the increase in total number of shares after issue. Share price after issue can be estimated mathematically and is called as “Theoretical Ex-Rights Price” (TERP).

Companies Act, 2013 financial statements of every company have to be audited by a practising Chartered Accountant. Besides audit and assurance, CAs are providing premium services to these listed companies in diverse areas such as ~ accounts, finance, tax, fund raising, corporate restructuring, capital market advisory, risk management, compliance, etc.

With Covid-19 pandemic, there is an unprecedented economic downfall globally and even Indian economy declined by nearly 24% in June quarter but as per global estimates, it is likely to fall by around 10% for the current year. As a result, many businesses are on the verge of collapse and there has been exceptional demand for funding. Large listed companies have their in-house teams to handle such special projects and many of them even came out of rights issues over last few months. However, there is a need to spread awareness about



As per Companies Act, 2013 financial statements of every company have to be audited by a practising Chartered Accountant. Besides audit and assurance, CAs are providing premium services to these listed companies in diverse areas such as accounts, finance, tax, fund raising, corporate restructuring, capitalmarket advisory, risk management, compliance, etc.

relaxations given by SEBI among smaller listed companies which may even need expert guidance and hence, CAs can actively provide them necessary support. Besides using domain expertise in corporate finance, CAs can also bank upon their strong network while assisting listed companies across entire process:

- Analysing requirement of funds and its quantification
- Devising suitable funding structure and issue type
- Appointment of intermediaries for the issue and legal documentation
- Determining size of issue and offer price
- Assisting the company for successful due diligence review
- Meeting requirements of regulators and complying with different regulations

- Co-ordinating with different agencies and bankers for timely receipt of issue proceeds
- Co-ordinating with different agencies and stock exchanges for post-issue formalities

Given the very high quantum of penalties for non-compliances under different securities regulations, it may be recommended to work with maximum precaution. Due to increasing awareness about concessional regulatory provisions due to Covid-19, many listed companies, particularly small / medium sized companies may like to opt for rights issue mechanism in the short term for meeting their urgent funding requirements and Chartered Accountants can certainly play a pivotal role while serving the clients by tapping this opportunity. ■■■



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Startup Ecosystem in India

India is one of the leading hotspots in the world in terms of the startup ecosystem. India has the third largest startup ecosystem in the world, expected to witness year over year growth of a consistent annual growth rate of 12-15%¹. Trying times like these have shown some of the brightest stars in this world. Some of the leading companies in the world were founded when the economies worldwide were in deep recession. The one common thing proved by these examples is that human minds and intellect have been pushed to their maximum during these times and the



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end results have been nothing but wonderful to say the least. The ongoing pandemic would be no exception to it and some large corporates are likely to be formed during these times. Read on...

Some of the leading companies founded during the recession include Netflix (1997, dot.com bubble), Airbnb (2008 recession), General Electric (1876, The Panic of 1873). The one common thing proved by these examples is that human minds and intellect have been pushed to their maximum during difficult times and the end results have been exceptional. The ongoing pandemic would be no exception to it and some large corporates are likely to be



¹ www.startupindia.gov.in



This provides an incentive to these companies as some investors who have invested in the startup from the beginning can exit the company without having to pay tax on the amount received in excess of the fair value of the shares of the company and the company too can receive more funds for further expansion.

formed during these times.

India, the 3rd largest startup ecosystem in the world, has a lot of opportunities to capitalise on the abundance of ideas which may result into wonderful businesses. The mechanism for startups in India is regulated by the Department for Promotion of Industry and Internal Trade (DPIIT). Various benefits, tax as well as non-tax, are available to startups.

Now let us delve deeper into the regulatory bodies and statutory authorities providing various benefits to startups:

Department for Promotion of Industry and Internal Trade (DPIIT)

The DPIIT regulates all the startups in India. It gives recognition to the startups as

such because of which startups are eligible to claim various benefits. The Startup India Initiative was announced by the Hon'ble Prime Minister of India on 15th August, 2015. The flagship initiative aims to build a strong eco-system for nurturing innovation and startups in the country that will drive sustainable economic growth and generate large scale employment opportunities. Further to this, an action plan for Startup India was unveiled by the Hon'ble Prime Minister of India on 16th January, 2016².

To claim the various benefits available to a Startup, the predominant requirement is that the company/LLP/partnership firm should be recognized as such by DPIIT. The eligibility criteria for startup recognition as per DPIIT, is as follows³:

- i. The Startup should be incorporated as a private limited company or registered as a partnership firm or a limited liability partnership (LLP).
- ii. Turnover should be less than ₹100 crores in any of the previous financial years.
- iii. An entity shall be considered as a Startup up to 10 years from the date of its incorporation.
- iv. The Startup should be working towards innovation/improvement of existing products,

services and processes and should have the potential to generate employment/ create wealth.

Note: An entity formed by splitting up or reconstruction of an existing business shall not be considered as 'Startup'.

Benefits to Startups under the Income Tax Act, 1961

Definition of "Eligible Startup" and "Eligible Business" under the Income-tax Act, 1961:

"Eligible Startup" means a company or a limited liability partnership engaged in "eligible business" which fulfils the following conditions namely

1. Incorporated on or after 01st April, 2016 but before 01st April, 2021.
2. The total turnover of the business doesn't exceed ₹100 Crores⁴ in the previous year relevant to the Assessment Year for which deduction is being claimed.
3. It holds a certificate of eligible business from the Inter-Ministerial Board of Certification as notified in the Official Gazette by the Central Government.

"Eligible business" means a business carried out by an eligible startup engaged in innovation, development or improvement of products or processes or services or a scalable business model with a high potential of employment

² Ibid

³ G.S.R. notification 127 (E) dated February 19, 2019



Uniformity in criteria in terms of startup recognition would be more beneficial overall including tax benefits.

generation or wealth creation.

The various sections/provisions of the Income-tax Act, 1961 which give benefits to startups are as follows:

1. **Section 80-IAC:** The gross total income of an eligible startup from an eligible business will be allowed a deduction of 100% for a period of three consecutive assessment years from any of the 10 assessment years⁵ starting from assessment year relevant to the previous year in which the company was first incorporated. This period of three assessment years would be at the option of the assessee. It has to be noted by the assessee that only gross total income relating to the eligible business will be allowed as deduction under this section. Any income other than income from eligible business would not be allowed as deduction.

2. **Section 54GB:** When the eligible assessee (being Individual or HUF) transfers any residential property (being a house or a plot of land and should qualify as a long term capital asset) and out of the net consideration⁶ received, subscribes for the shares of an eligible company before furnishing return of income before due date u/s 139(1) and the eligible company within one year from date of subscription by the assessee, purchases a new asset, than the capital gains arising on such residential house property will be exempted from tax. However, the capital gains will be exempted on a proportionate basis i.e. if amount of cost of acquisition of new asset is less than consideration, than only that proportion of capital gains which bears to the amount invested in new asset as divided by net consideration will be exempt from tax and the balance would be taxable. However, if amount of cost of acquisition of new asset equals to or exceeds net consideration, then the entire capital gains will be exempt. The eligible

assessee should have at least 25% shareholding or 25% voting power in the company⁷. However, the shares subscribed to by the eligible assessee in the new company have to be held for a minimum period of five years and the new asset acquired by the new company also have to be held for a minimum period of five years. If the shares are sold by assessee before five years or new asset acquired by the company is sold within a period of five years, then the capital gains exempted earlier will become taxable.

3. **Section 56(2)(viib):** This section provides for taxation of income of such amount received for issue of shares to a Resident which exceeds the fair market value of such shares. However, for such amount to be taxed as income, the fair market value of the share should be more than its face value. However, such excess amount would not be taxable as such if such amount is received by a venture capital undertaking⁸ from a venture capital company or a venture capital fund. This provides an incentive

⁴ Substituted for ₹25 Crores by the Finance Act, 2020 w.e.f. 01-04-2021.

⁵ Substituted for 7 assessment years by the Finance Act, 2020 w.e.f. 01-04-2021

⁶ Net consideration = Consideration received – expenses for transfer

⁷ Substituted for 50% by the Finance (No. 2) Act, 2019, w.e.f. 01-04-2020.

⁸ "Venture Capital Undertaking" as per Alternative Investment Funds Regulations means a domestic company which is not listed on a recognized stock exchange in India at the time of investment and is engaged in the business for providing services, production or manufacture of article or things and does not include companies engaged in the following sectors/activities viz. non-banking financial companies, gold financing, activities not permitted under industrial policy of Government of India and any other activity which may be specified by SEBI in consultation with Government of India.

to these companies as some investors who have invested in the startup from the beginning can exit the company without having to pay tax on the amount received in excess of the fair value of the shares of the company and the company too can receive more funds for further expansion.

Difference in Startup Recognition as per DPIIT vis-à-vis Income-Tax Act, 1961

1. DPIIT recognises a partnership firm as a Startup whereas Income-tax Act, 1961 ("the Act") doesn't recognise a partnership firm as a startup.
2. DPIIT recognises foreign LLPs as startups as well. However, the Act is silent on whether foreign LLPs

too would be eligible to be recognised as startups if other conditions are satisfied.

Differences in policies adopted by Income tax Department and DPIIT for this flagship initiative of the Government of India be streamlined so that startup as per the Income-tax Act, 1961 and as well as DPIIT are at the same page. Uniformity in criteria in terms of startup recognition would be more beneficial overall including tax benefits.

Concluding Remarks

Overall, the Indian Startup ecosystem appears to be booming in the years to come. With the appropriate measures taken by the Government, both the Government as well as the startups would benefit. Apart from the various tax benefits



To provide equity funding support for development and growth of innovation driven startups, the GOI has also set aside a corpus fund of INR 10,000 crores managed by SIDBI.

given by the Government to startups, it also provides various other services to startups like self-certification under labour and environment laws, faster exit for startups⁹, etc. To provide equity funding support for development and growth of innovation driven startups, the GOI has also set aside a corpus fund of INR 10,000 crores managed by SIDBI. The fund is in the nature of Fund of Funds, which means the GOI participates in the capital of SEBI registered Venture Funds, who invest twice the amount in startups.

All the above measures taken by the Government only emphasise the Government's belief in the Startup ecosystem and in the minds, ideas and capabilities of Indians to create wonders. Undoubtedly, India will be instrumental in upspring of unicorns in the years to come.



⁹ The Ministry of Corporate Affairs (MCA) has notified Startups as 'fast track firms' enabling them to wind up operations within 90 days vis-à-vis 180 days for other companies.

E-Invoicing: Accelerating Digitisation

The introduction of E-invoicing under GST in India can be regarded as a conscious step made by the government towards digitisation and transparency which was always been the motive ever since GST was implemented in India. As far as the history of Indian Indirect Taxes regime is concerned, digitisation was a barely explored possibility. It can definitely be argued that introduction of GST has pushed this possibility to a higher extent, by infusing technology into reporting, compliance and communication. One of the major reforms as part of this digitisation effort so far, is the introduction of E-invoicing. Read on to know more...



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Introduction of e-invoicing received mixed response from the industry and information technology solution providers, it is evident that they accepted it as a challenge, without which it would not have become a success within such a short span of implementation. In this article, I would like to give a walk through of what E-invoicing is, how it affects the way business functions and what could be some of the best practices.

What is E-invoicing?

E-invoicing was initially misinterpreted as the generation of invoice on a government-owned portal. However, CBIC through its various FAQs clarified that E-invoicing is only a reporting of an already generated invoice. This is quintessential as business requirements differ significantly from industry to industry so do the form and contents of the tax invoices raised. It is pertinent



to note at this point that Section 31 of the CGST Act, 2017 ("the Act") read with Rule 46 of the CGST Rules, 2017 ("the Rules") prescribes only the particulars to be included in a tax invoice. Neither does it prevent taxpayers from mentioning particulars over and above those listed in the Rules nor it prescribes any particular format.

- **E-invoicing' is a system in which Business to Business (B2B) invoices are authenticated electronically by GST Network (GSTN) for further use on the common GST portal.**
- **A 64-digit identification number called as Invoice Reference Number (IRN) will be issued against every invoice by the Invoice Registration Portal (IRP) managed by the GSTN.**
- This IRN serves as a **unique number** in the GST system, irrespective of tax payer, financial year and document type.
- A B2B invoice generated by a specified person (to whom E-invoicing applies) without an IRN will not be considered valid under GST.
- **A Quick Response code (QR code) will also be generated for every invoice reported to IRP,** which if scanned with the NIC QR code scanning application, will display details relating to the

particular invoice including the IRN.

The primary purpose of E-invoicing is to bring in more transparency into the reporting in the light of leakage of Government's revenue due to issue of fake invoices and reporting of bogus transactions for benefitting from input tax credit. The purpose however, is not single-sided. Businesses are also expected to benefit considerably by way of simplification of business to business communication and also from the inter-operability and standardisation which in turn results in ease of flow of information to various returns and other compliance requirements.

Applicability of E-invoicing

- **Registered persons covered:**

To facilitate the implementation of this new mandate, Sub rule 4 to 6 was inserted in Rule 48 vide CGST (Eighth Amendment) Rules, 2019 vide Notification No.68/2019 CT (dated 13/12/2019). Sub rule 4 gave the Government the power to notify the class of registered persons to be whom E-invoicing shall be applied. Accordingly, Central Board of Indirect Taxes and Customs (CBIC) released its first notification (Notification 70/2019 dated 13/12/2019) prescribing April 1, 2020 as the date by which E-invoicing shall be implemented by registered persons whose



Further, as the second phase of implementation of E-invoicing, vide Notification 88/2020 dated 11/11/2020, CBIC further extended the applicability to registered persons having aggregate turnover above ₹100 crores with effect from 01/01/2021.

aggregate turnover in a financial year exceeds ₹100 crores. Subsequently, CBIC extended the time limit to October 1, 2020 and enhanced the turnover limit to ₹500 crores through the notifications that followed. Further, as the second phase of implementation of E-invoicing, vide Notification 88/2020 dated 11/11/2020, CBIC further extended the applicability to registered persons having aggregate turnover above ₹100 crores with effect from 01/01/2021.

It is worth noting that the aggregate turnover for this purpose has to be calculated at the PAN level, and not at the GSTIN level. This ensures that businesses which functions across states and across industries under different GSTINs will be uniformly covered under this compliance irrespective of their individual annual turnover, if the aggregate annual turnover of the

business as a whole, at the PAN level exceeds the prescribed limit.

However, exemptions have been given to the following entities from application of E-invoicing.

- a) Special Economic Zone Units
- b) Insurer or a banking company or a financial institution, including a non-banking financial company
- c) Goods transport agency supplying services in relation to transportation of goods by road in a goods carriage
- d) Suppliers of passenger transportation service
- e) Suppliers of services by way of admission to the exhibition of cinematograph films in multiplex screens

It has to be noted that the exemption in a) above is available only to SEZ units and not to SEZ developers.

• **Documents covered:**

Following are the documents on which E-invoicing shall be applied.

- Invoices issued by the Supplier;
- Debit Notes issued by the Supplier;
- Credit Notes issued by the Supplier;

- Any other document as notified under the Act to be reported under e-invoicing

This means that documents issued under the Act in respect of a taxable supply alone are subject to E-invoicing. Other documents such as bill of supply, delivery challan etc. do not represent taxable supplies and hence are not under the purview. This essentially safeguards the interests of government towards protecting revenue and curbing fake ITC claims.

Process Flow under E-invoicing

1. **Invoice is generated as per the existing procedure:** As discussed earlier, there are no changes in the process of generation of invoice, which can be done as per the existing business process.
2. **Details of the invoice are transmitted on to the IRP:** This is the first crucial step under the E-invoicing whereby businesses have to establish a connection between their local ERP and the GST IRP. At this step, we can examine in detail, what details must be transmitted and how it can be done.

a) **What must be transmitted?**

The CBIC has notified the e-invoice schema which is a standard format

that contains mandatory and optional fields to be transmitted to the IRP for receiving IRN. Mandatory fields are those that must be compulsorily sent to the IRP without which a successful IRN will not be returned, whereas optional fields may/ may not be transmitted based on the business needs. For better understanding, the overall e-invoice schema which contains more than 200 fields can be broadly classified as under. However, each of the individual fields contain various specifications and validations which must be analysed one-by-one by taxpayers who are in the process of implementation.

1. Basic Invoice details
2. Supplier details
3. Recipient details
4. Item wise details
5. Document level details
6. Other references & additional details

b) **How it must be transmitted?**

1. **Using the offline tool:** Under this method, taxpayer has to log onto the E-invoice portal and prepare and upload the details using the offline tool. Least automation and direct interaction between taxpayer and the IRP are the specialties of this method.



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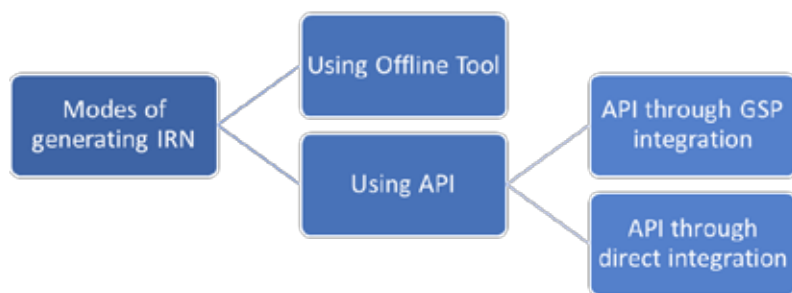
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2. **Using API (Application Programming Interface) through GSP integration:**

This is an automated process wherein the taxpayer's ERP is integrated with any of the GST Service Providers (GSPs). GSPs are authorized organisations which provide services to taxpayers in various GST compliances through its web platform. Under this method, the taxpayer has to register their GSP on the IRP. The data undergoes a two-step transmission from taxpayer to GSP and then from GSP to IRP (through the established API connectivity) and receives the valid IRN back to the ERP.

3. **Using API through direct integration:**

This method also involves integration with IRP similar to the second method, the difference being the absence of GSPs. Instead, the taxpayer establishes integration directly between the

ERP and the IRP. This calls for considerably robust and stable Information Systems and network and hence involves higher cost considerations.

3. **IRN and QR code are generated by IRP upon successful validation of the details:**

Upon validation, either the IRP returns error(s) or successfully validates the data. If errors are received, the taxpayers have to analyse the reasons for the error(s) and rectify and reprocess such documents. After successful validation by the IRP, IRN and QR codes are generated.

4. **IRN and QR code are received by the taxpayer:**

In this step, the taxpayer receives back the IRN and QR code from the IRP. Mode of receipt differs based on the transmission methodology.

5. **E-invoice data is automatically transmitted to GST common portal and E-way bill portal:**

Though the cycle of transmission and validation of invoice details end with the preceding step,

the process does not stop there. After the successful generation of IRN, the taxpayer's invoice data enters into the GST database and is shared with different GST networks such as the common portal, E-way bill portal etc. The purpose of E-invoicing is completed only in this step, which introduces interoperability of data. Details are auto-populated to GSTR-1 returns and E-way bill portal.

Impact of E-invoicing

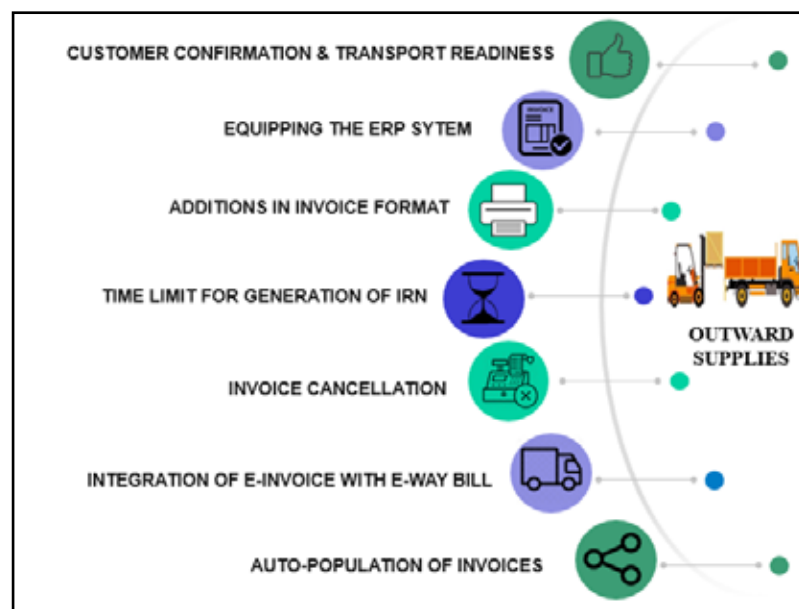
Impact of E-invoice implementation may differ from industry to industry and from entity to entity, based on the nature of their supplies, business processes, billing processes, volume of transactions, level of automation in existing systems etc. However, certain



One of the major benefits of E-invoicing is auto-population of data. The invoice details which are reported to IRP automatically get filled in the GSTR-1 return of the supplier. This simplifies the process of filing the return by avoiding the requirement to upload invoices and thereby also eliminating possibilities of errors.

general aspects which may be points of concern for most of the taxpayers can be broadly classified and analysed into two major categories- Outward supplies and Inward supplies.

Outward supplies:



- **Customer confirmation and transport readiness:** It might to be essential to ensure confirmation from customer before invoicing owing to the intricacies in the process of invoice cancellation once IRN is generated (discussed in detail later).
- **Equipping the ERP system:** Before the taxpayer decides to opt for API intergration method, it is very important to understand the impact of the same in their ERP, identifying the extend to which the ERP can support the integration and enhancing the same to cater

to the additional needs. This is a point where the respective IT support teams come into picture.

- **Additions in the invoice format:** QR code generated by IRP must be printed

on the face of the invoice. Printing of the 64-digit IRN is optional and is left to the businesses to decide. These additional components in invoice will require consequent changes in the print format in the ERP/ billing software used by the taxpayer.

- **Time limit for generation of IRN:** IRN has to be generated latest by the day succeeding the date of invoice. That means, for an invoice raised today, IRN has to be generated today or tomorrow. This time limit has to be read keeping in mind Rule 48(5) which says that every invoice issued by a person to



E-invoicing can be a major challenge for those businesses having limited access to sophisticated IT infrastructure that the reform calls for. However, in the long run it will bring more transparency and ease of operation for the MSMEs which can improve their credibility as well as operational efficiency.

whom E-invoicing applies shall not be treated as an invoice if does not satisfy the e-invoice requirements. Therefore, the time limit for validation of an invoice is practically end of the succeeding day of invoice after which the document becomes invalid in the eyes of GST law.

- **Invoice Cancellation:** One of the significant impacts of E-invoicing on the billing process is the procedure for invoice cancellation. Taxpayers enjoyed practical freedom in raising and cancelling an invoice until they have filed their GSTR-1 for that particular month. However, E-invoicing provisions goes further and places a time limit for cancellation of E-invoice, as 24 hours. This means that an invoice once reported to

IRP can be cancelled only within 24 hours from the time of generation of IRN, beyond which the invoice becomes automatically valid and can only be reversed by way of issue of a credit note. This provision ensures discipline in invoicing process and helps avoid unwarranted and delayed cancellations.

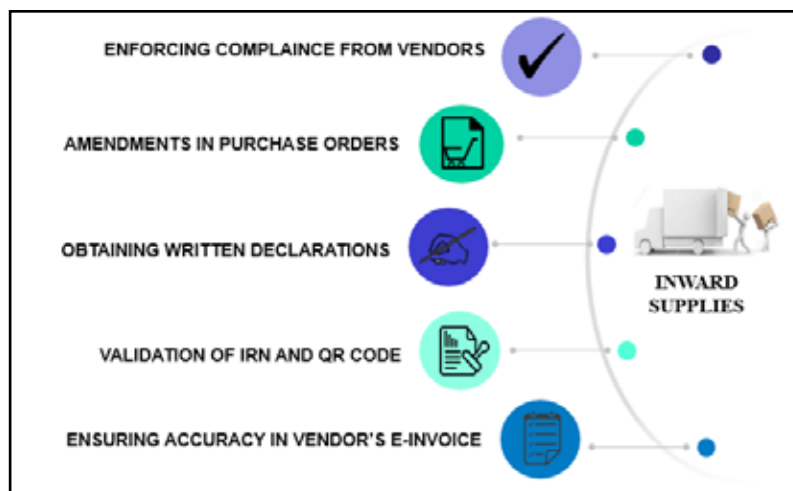
- **Integration of E-invoice with E-way bill:** At the time of implementation of E-invoicing, the option was left to the taxpayer to send details simultaneously to the E-way bill portal along with IRN generation. This helps in autopopulation of the invoice details in the E-way bill portal where the taxpayer can enter the transporter details and generate the E-way bill. **However, as per the CBIC notifications, with effect from January 1, 2021 this has been made mandatory for all B2B and export invoices.** This integration helps the Government considerably in terms of linking the invoice with E-way bill thereby in better tracking of the movement of taxable goods.
- **Auto-population of invoices:** As explained earlier, one of the major benefits of E-invoicing is auto-population of data. The invoice details which are reported to IRP automatically get filled in the GSTR-1 return of the supplier. This simplifies the

process of filing the return by avoiding the requirement to upload invoices and thereby also eliminating possibilities of errors. From the month of December 2020, this feature has been enabled, through which auto-populated data can be viewed and verified by the taxpayer, and in case of any deviations from the actual invoice details, can be modified/ updated as well.

Inward supplies:

IRP for downloading the list of taxpayers following E-invoicing all over the country, which will be of use.

- **Amendments in purchase orders:** Since E-invoicing is an additional compliance requirement to be taken care by the vendors, a separate clause must be added in purchase orders for enforcing the compliance with E-invoicing regulations.



- **Enforcing compliance from vendors:** It has to be ensured that the vendors having an annual turnover of more than ₹500 Crores at the PAN level submit invoices with valid IRN and QR code. This is important as the invoices issued without IRN will be invalid and accordingly ITC cannot be claimed on such invoices. Hence it is important to identify the vendors covered under E-invoicing. Currently, a functionality is made available on the
- **Obtaining written declarations:** It is advisable to obtain written declarations from vendors regarding applicability of E-invoicing to them and confirmation of compliance, if applicable. This will serve as a basis for the recipients for availing the ITC.
- **Validation of IRN and QR code:** Since invoice must contain a valid IRN and QR code, verification of the same using the NIC QR code reading application



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is important. This is a challenging requirement considering the volume of purchase invoices that the taxpayer may be dealing with, on a daily basis.

- **Ensuring accuracy in vendor's E-invoice:**

E-invoicing adds one more layer to the GSTR-2A reconciliation and further complicates the process. Suppose the vendor reports an invoice against a wrong GSTIN and generates IRN on the same. The invoice will be missing in our GSTR-2A and the same will be reflected only at the time of reconciliation. By that time the time limit for cancellation or amendment of the invoice would have expired and the vendor is left with the only option of issuing a credit note. Hence, close monitoring of the GSTR-2A is furthermore necessitated by the E-invoicing regulations.

It is important to note that the second phase of E-invoice

implementation has brought under the ambit, those enterprises qualifying as Medium Enterprises as per the new MSME definition (having turnover up to ₹ 250 Crores). E-invoicing can be a major challenge for those businesses having limited access to sophisticated IT infrastructure that the reform calls for. However, in the long run it will bring more transparency and ease of operation for the MSMEs which can improve their credibility as well as operational efficiency.

Best practices under E-invoicing

Following could be some of the best practices under E-invoicing to ensure smooth functioning.

- Ensuring the existence of values in all mandatory fields to avoid errors at the time of IRN generation
- Securing access rights on ERP and IRP for generation and cancellation of documents

- Daily monitoring of IRNs generated on the previous day by an independent person (preferably person handling GST compliances) could be useful to identify errors if any and enabling cancellation within 24 hours
- Printing IRN on the invoice even though optional, is being followed by taxpayers as an additional compliance
- Reconciling the ERP report for outward supplies with the auto-populated details as per the GSP/ GST portal
- Closely interacting with GSPs and IT personnel to assess the impact and implement changes in the e-invoice schema.

GST has brought a new era of digitisation in tax compliance and E-invoicing is a bold move in this direction. Entering into the fourth month of implementation, amidst the difficulties due to changes in schema and technical issues, this initiative has been welcomed by the major GST taxpayers. Going forward, through the phased implementation by other categories of taxpayers as well, it is expected to create an impact on the way businesses function in the Indian economy. Let us appreciate CBIC and NIC for their tremendous efforts in this initiative.

References:

- 1) GST Act and Rules
- 2) CBIC notifications and FAQs



Consideration - Evolving Judicial trends

The article attempts to discuss the broad principle of what constitutes 'consideration' alongwith two important decisions under the service tax regime which have been rendered in the context of banks and NBFCs. These decisions crystalize certain crucial guidelines to determine as to what constitutes 'consideration' and how, not every payment which is collected is a consideration for a service. Read on to know more...

What constitutes 'consideration' has become one of the most disputed areas of litigation under indirect taxes. The phrase '**consideration**' attains significance in the context of taxes which are contract-based levies. Under the erstwhile service tax regime, the tax was payable on the consideration which was received by the service provider for the provision of service. In the



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GST regime as well, but for the exception to Schedule I transactions, a supply is taxed only when it is made for a 'consideration'.

Usually, to tax a transaction, the steps to be followed are:

- (i) Establish the occurrence of the taxable event of provision of service or making of a supply, and
- (ii) Identify if there exists a consideration towards such an activity of provision of service or making of a supply.

If the conditions given in the aforementioned steps are cumulatively satisfied, one may state that there exists a liability

to discharge tax. However, by looking at the recent litigation trends, the revenue authorities appear to directly jump to Step 2 without crossing the threshold of Step 1. In other words, whenever there is any amount which is received or retained by a party, the revenue deems this amount to be a consideration. Subsequently, this amount is mapped towards some activity (in most cases under the declared entry of agreeing to the obligation to perform any act) and tax demand is made. These litigation trends are expected to continue into the GST regime as well.

Concept of Consideration

Before dealing with these



decisions, it is pertinent to discuss the meaning and scope of the phrase 'consideration' and how it is different from a mere condition of the contract.

Under the Service Tax regime, consideration was defined under Explanation to Section 67 *inter alia* to include any amount that is payable for the taxable services provided or to be provided and any reimbursable expenditure or cost incurred by the service provider and charged, in the course of providing or agreeing to provide a taxable service, except in such circumstances, and subject to such conditions, as may be prescribed. Further, Section 2(31) of the CGST Act defines the term 'consideration' as any payment **(in money or otherwise)** or monetary value of any act or forbearance can constitute consideration if it is made in respect of, in response to or for the inducement of supply.

In order to understand the true meaning of 'consideration', reliance is also placed on the definition of the term 'consideration' under Section 2(d) of the Indian Contracts Act, 1872 as follows:

"When, at the desire of the promisor, the promisee or any other person has done or abstained from doing, or does or abstains from doing, or promises to do or to abstain from doing, something, such act or abstinence or promise is called a consideration for the promise"

As per the above definition, 'consideration' requires that something of value must be given and that something will either have a benefit to the promisor or be a detriment to

the promisee. But the benefit or detriment for each promise should be looked at separately. *[Chitty on Contracts, 28th Edition – Page 170 Para 3-007].*

Thus, on a conjoint reading of the above definitions, 'consideration' would refer to everything received or recoverable in return for a promise of supply which may be in the form of a monetary or even non-monetary term.

At this juncture, it is also important to note the decision of the Pinnel's Case (1602) 5 Co Rep 117, wherein it has been held that the promise to pay part of a debt cannot be consideration for a discharge of the whole debt.

In the Indian context, Section 63 of the Indian Contract Act states *'Every promisee may dispense with or remit, wholly or in part, the performance of the promise made to him, or may extend the time for such performance, or may accept instead of it any satisfaction which he thinks fit.'*

The effect of this section is that the consideration agreed between the parties will change based on the performance of the contract and consideration need not be static.

Condition of contract vs. consideration

The question of ascertainment of consideration in a particular contract has to be answered from the terms and conditions of a contract. In such a case, the 'consideration' in a contract has to be distinguished from the mere 'conditions of the contract'.

The determining factor, therefore, to treat a monetary payment or non-monetary facility as consideration is



Thus, on a conjoint reading of the above definitions, 'consideration' would refer to everything received or recoverable in return for a promise of supply which may be in the form of a monetary or even non-monetary term.

whether it is in the nature of a mere condition of the contract or consideration providing an economic value to the supplier.

Decision of N.M. Goel

To understand the concept of condition of contract in contradistinction to consideration, it is important to discuss the decision of the Hon'ble Apex Court in **N.M. Goel & Co Vs Sales Tax Officer, Rajnandgaon** [1989 AIR SC 285]. In this case, the assessee was engaged by Public Works Department (PWD) for construction work, wherein PWD agreed to supply the materials from its stores for the construction work and the agreement further provided for deduction of the prices of materials so supplied and consumed in the construction, from the final bill of the assessee.

The issue therefore was whether there was sale of the material by the PWD (an unregistered dealer) to the assessee. The Hon'ble Apex court held that as per the agreement the iron, steel and cement were supplied by PWD to the assessee not free



One of the incentives for the borrowers to close the loan before its tenure is in cases where the rates of interest in the market is lower and the interest which he has to pay on the original loan obtained is higher than the market rate.

of cost but were to be deducted from the bills payable by PWD to the assessee. Though there is no inherent sale, a sale can be inferred from the transaction. Thus, the Hon'ble Apex Court held that there was passing of property in the goods to the assessee from the PWD, though these materials were later incorporated in the construction for the benefit of PWD.

Repco Finance's case

Having laid out the context and scope of the definition of Consideration, the first decision which merits consideration is the case of the **Hon'ble Larger Bench** of the Tribunal in the case of Repco Home Finance Limited¹.

The issue pertains to taxability of foreclosure/pre-closure charges collected by the banks. Any financial institution's primary business involves lending of money and the consideration for such money lent is collection of 'interest'. The interest compensates for the 'time value of money'. The

arrangement with the borrowers usually contains a clause which allows the borrower to 'foreclose' or 'pre-close' the loan by repaying the outstanding principal amount before the specified time period. One of the incentives for the borrowers to close the loan before its tenure is in cases where the rates of interest in the market is lower and the interest which he has to pay on the original loan obtained is higher than the market rate.

Although, *prima facie*, it may appear that the recovery of principal from borrowers is beneficial for the financial institution; this practice is in fact detrimental as the financial institutions must now find out new investment opportunities to keep earning the 'interest' on this principal. In order to compensate for the 'interest loss', the banks usually charge foreclosure charges from the borrower who is foreclosing the loan.

In this backdrop, the revenue alleged that the amount received by the financial institution in the form of foreclosure charges would constitute a consideration for provision of banking services. The Hon'ble Tribunal examined the concept of 'consideration' in detail and held that an amount would qualify as a consideration only if such amount flows from the service recipient to the benefit of the service provider. The foreclosure of loan is, therefore, a material breach of contract as it curtails the loan service period unilaterally, which can prompt the promisor to claim

damages. The Tribunal further observed that the charges in the present case are recovered as compensation for disruption of a service and not towards provision of "lending" services.

The Tribunal also examined the definition of consideration under Section 2(d) of the Indian Contract Act, 1872, which states that **consideration should flow at the desire of the promisor**. The Tribunal observed that the financial institutions being the promisors did not desire pre-mature termination of the loan. Once the money did not flow at the desire of the service provider, it no longer retains the character of a consideration.

State Bank of Bikaner's case

Another judgement laying emphasis on the aspect of consideration is the decision of the Hon'ble Tribunal in the case of *M/s State Bank of Bikaner*². In this case, a humongous demand of over ₹100 Crores was raised on the Assessee claiming they were the recipients of service provided by Foreign Bank. For greater clarity, the brief facts of the case in one of the transactions are stated herein. The Assessee bank was appointed by an Indian Exporter for enabling him to realise the export proceeds from a foreign importer to whom the goods were sold. The Assessee bank, thereafter, co-ordinated with the Foreign Bank of the foreign importer, for realizing the proceeds. For this purpose, various activities were performed by the foreign bank and the Indian Bank (banks in

¹ (2020) 117 taxmann.com 755 (Chennai – CESTAT) (LB)

² 2020 (8) TMI 80 - CESTAT NEW DELHI

India) such as sending export documents, issuing Letter of Credit, providing documents of title to goods etc. Converse scenarios also existed where the assessee may be an importer and may avail the service of the Indian Bank for remitting payments to foreign suppliers. However, the demand under reverse charge mechanism was made only on export related transactions.

In case of exports, the foreign bank usually deducted their fee for the performance of the activity and remitted the net amount to the Indian Bank. Such fee was either borne by the Indian Assessee or the foreign importer based on mutual agreement between the parties. The Department took a view that the amount retained by the Foreign bank was a consideration for the service it provided to the Indian Bank. In other words, the income earned by the foreign bank was an input service for the Indian Bank for them to provide their output service to the Indian Assessee. The matter was extensively argued before the Hon'ble Tribunal.

The Hon'ble Tribunal dealt with the core issue of whether the amount retained by the Foreign bank would constitute a consideration for the service provided to the Indian Bank. After relying on the landmark decisions of the Hon'ble Supreme Court in *M/s Bhayana Builders*³ and *M/s Intercontinental Consultants and Technocrats*⁴, the Tribunal held that the Assessee Bank has not paid any consideration

to the Foreign Bank and the assessee bank would not qualify as a recipient of any service by the Foreign Bank. The Assessee bank was merely facilitating the transaction of export on behalf of the Indian Exporter and there was no service provider and service receiver relationship between the Indian Bank and Foreign Bank. While holding so, the Hon'ble Tribunal also emphasised on the very important facet that there is a marked distinction between a condition of a contract and a consideration for the contract. A service provider or recipient may be required to fulfil certain conditions of the contract but that may not necessarily mean that same becomes a consideration and thus, a part of the value of the service.

The important take away from the State Bank judgement is that before making a demand of tax, it is imperative to clearly identify the four elements of taxation which creates the levy viz. (i) person providing service, (ii) person receiving service, (iii) actual rendering of service and, (iv) consideration for service⁵.

Conclusion

The two decisions discussed supra are seminal decisions in their own right for determining what constitutes consideration for a service and how to differentiate between a mere condition of the contract which the parties are required to fulfill and the consideration which flows at the desire of the service provider/supplier and has a direct nexus with the service provided.



The important take away from the State Bank judgement is that before making a demand of tax, it is imperative to clearly identify the four elements of taxation which creates the levy viz. (i) person providing service, (ii) person receiving service, (iii) actual rendering of service and, (iv) consideration for service.

Further, even though the judgements were rendered in the pre-negative list regime, it will nonetheless go a long way in shaping the jurisprudence on ascertaining the liability to pay service tax (negative list regime)/GST on different types of remittances/retentions. To illustrate a few:-

- a. Forfeiture of advance;
- b. Liquidated damages due to delay in performance;
- c. Failure to comply with minimum commitment requirements;
- d. Notice pay

One can only hope, that the taxman and the taxpayers truly appreciate the ratio of the above rulings and adopt their positions on taxability of various transactions accordingly. ■■■

³ [(2018) 91 taxmann.com 109 (SC)]

⁴ [(2018) 91 taxmann.com 67 (SC)]

⁵ These four elements were explicitly propounded by the Hon'ble Delhi High Court in *Delhi Chit Fund Case* [(2013) 32 taxmann.com 332 (Delhi)]

Are there any Fetters to the Concept of 'Supply' under GST?

"In levying taxes and in shearing sheep it is well to stop when you get down to the skin", —Austin O'Malley. Even though the definition of 'supply' under the GST law is wide, but the courts in India and abroad while dealing with different fact situations have carved out inherent limitations to the scope and meaning of 'supply'. Such limitations have been determined irrespective of the wording of the charging section, i.e. whether the same is inclusive or restrictive. Read on...



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to mean **'anything other than goods'** with specific exceptions.

- 1.2 Further, the term 'supply' has been given an inclusive scope under the GST law.
- 1.3 Given that there is, (a) the scope of 'supply' is extensive; and (b) the word 'services' entails a very wide meaning, it is relevant to study whether GST applies on each and every economic activity or there are some boundaries or limitations on its applicability.
- 1.4 To put this into perspective, understanding the scope of supply is relevant to determine whether GST applies on activities such as, payment of liquidated damages; insurance compensation on account of damage of office building due to fire; payment as a result of out of court settlement with an agreement not to file any court case; government grants etc.
- 1.5 The purpose of this study paper is to discuss the scope of 'supply' and the fetters, if any, that apply so as to limit its applicability in the light of relevant legal provisions, rulings etc. in India and abroad.

1. Background

- 1.1 GST is a tax levied on the **'supply'** of 'goods' or 'services' or both. While the word 'goods' has a specific meaning assigned under the GST law, **'services'** has been primary defined



2. Relevant GST provisions in India concerning 'supply'

2.1 Legal provisions under the GST law to the extent they are relevant for the present study along with their analysis is made hereinbelow¹.

Legal Provisions	Analysis
<p>Section 9 of the CGST Act: Levy and Collection</p> <p>(1) Subject to the provisions of sub-section (2), there shall be levied a tax called the Central Goods and Services Tax on all intra-State supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption, on the value determined under section 15 ...</p> <p>...</p>	<ul style="list-style-type: none"> • This is the charging section for levy of GST • According to the section, the tax is levied on 'supply' of 'goods' or 'services' or both • The section does always not require the presence of two persons for attracting the levy. In other words, as soon as a taxable person 'supplies' goods or services or both, GST becomes chargeable. • There is no distinction between business purpose or non-business purpose
<p>Sections 2(52) and 2(102): Definitions of 'goods' and 'services'</p> <p>2(52) "goods" means every kind of movable property other than money and securities but include actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply;</p> <p>2(102) "services" means anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form currency or denomination for which a separate consideration is charged;</p> <p><i>Explanation : ...;</i></p>	<ul style="list-style-type: none"> • Due to the use of word 'means' both the definitions are restrictive in nature • Only the specific elements are included in the definition of 'goods' (e.g., specific movable properties, actionable claims etc.) • However, 'services' are defined to mean 'anything other than goods' • The word 'anything' has very wide connotation. Accordingly, any activity, action, transaction, thing or subject that is not covered in the definition of 'good' falls under the definition of 'service'²
<p>Section 7 of the CGST Act Scope of Supply</p> <p>(1) For the purposes of this Act, the expression "supply" includes–</p> <p>(a) all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business;</p> <p>... ..</p>	<ul style="list-style-type: none"> • The definition specifically lists various forms of supplies, i.e.: <ul style="list-style-type: none"> - sale - transfer - barter - exchange - licence - rental - lease - disposal • In spite of specifically stating various aspects of a transaction, the legislators have still chosen to keep the definition an 'inclusive' one, connoting that the scope is wider than what is explicitly stated in the provision

¹ For the purpose of present study paper, reference has been drawn to the CGST Act for examining the relevant legal provisions

² Even under Article 266(29A) of the Constitution of India, 'services' has been defined to mean anything other than goods

2.2 Thus, solely on a literal interpretation of the provisions one may say that the scope of supply is limitless, i.e. it covers within its ambit each and every economic activity irrespective of its nature apart from the specific forms of supply stated in the section. If that were correct, GST would apply even on alimony money received by a wife upon divorce, winning from game shows (e.g., *kaun banega karorpati*) etc.

2.3 However, a conclusive view on the nature and scope of supply is only possible on the basis of the careful examination of the legal provisions surrounding the scope of supply in other jurisdictions.

3. Scope of Supply – International Perspective

3.1 For the purpose of the present study, three overseas laws viz., EU, Australia and New Zealand are examined for understanding the scope of supply from an international perspective.

3.2 Unlike India, the term ‘supply’ under European Union VAT and Australian GST laws has restrictive definition (due to the use of word ‘means’). However, the GST law in New Zealand provides an inclusive definition of supply (due to the use of word ‘includes’) similar to the one provided under the CGST Act.

3.3 At this stage, it is relevant to examine further key legal provisions and court rulings deliberating on the scope of supply in these three jurisdictions.

3.4 European Union

3.4.1 The EU VAT law provides that the supply of services for consideration within the territory of a Member State by a taxable person acting as such shall be subject to VAT³.

3.4.2 Due to the wide ambit of the definition of ‘service’ (i.e. any transaction which does not constitute a supply of goods),⁴ the courts on multiple occasions have commented on the true nature of supply.

3.4.3 The ECJ ruled in *Tolsma’s* case⁵ that for supply of services is taxable only where it is provided for a consideration:

“only if there is a legal relationship between the provider of the service and the recipient pursuant to which there is reciprocal performance, the remuneration received by the provider of the service constituting the value actually given in return for the service supplied to the recipient.”

Applying the above principle, it was held that:

“if a musician who performs on the public highway receives donations from passers-by, those receipts cannot be regarded as the consideration for a service supplied to them.”

3.4.4 Another issue came up in the context of the provision that ‘the obligation to refrain from an act, or to tolerate an act or situation’ is included in supply of services⁶. The question was about applicability of

EU VAT	Australia	New Zealand
Article 14 - Supply of goods: 1. ‘Supply of goods’ shall mean the transfer of the right to dispose of tangible property as owner..... Article 24 – Supply of services: 1. ‘Supply of services’ shall mean any transaction which does not constitute a supply of goods.....	You make a taxable supply if: (a) you make the supply for consideration; and (b) the supply is made in the course or furtherance of an enterprise that you carry on; and.....	5. Meaning of term supply (1) For the purposes of this Act, the term supply includes all forms of supply.

³ Article 2(1)(c) of EU VAT Directive

⁴ Article 24(1) of EU VAT Directive

⁵ *Tolsma vs. Inspecteur der Omzetbelasting* [Case C-16/93]

⁶ Article 25 of EU VAT Directive (Sixth Directive prior to amendment)

VAT on the compensation received by a farmer from Government pursuant to an undertaking given by him that he would not harvest at least 20% of his potato crop.

Giving the verdict, ECJ in *Landboden-Agrardienste's* case⁷ held that:

“since the undertaking given by a farmer to reduce production does not entail either for the competent national authorities or for other identifiable persons any benefit which would enable them to be considered to be consumers of a service, it cannot be classified as a supply of services within the meaning of Article 6(1) of the Sixth Directive”

3.4.5 Similarly, in *Jurgen Mohr's* case⁸, ECJ ruled that VAT is a tax on consumption of goods or services. Accordingly, the court held that:

“the undertaking given by a farmer that he will discontinue his milk production does not entail either for the Community or for the competent national authorities any benefit which would enable them to be considered consumers of a service. The undertaking in question does not therefore constitute a supply of services within the meaning

of Article 6(1) of the Directive. Consequently, any compensation received for that purpose is not subject to turnover tax.”

3.4.6 Hence, by drawing an analogy from the ECJ rulings, it can be said that in order to constitute a taxable supply there should exist:

- legal relationship between the supplier and recipient;
- reciprocal performance by the supplier and recipient; and
- consideration for both supplier and recipient.

3.5 Australia

3.5.1 Even the Australian courts have restricted the scope of supply to a certain extent by holding that the term supply clearly shows that it requires a voluntary act by the supplier.

3.5.2 In *Shaw's* case⁹, it was held that:

“The verb “make” indicates a legislative intention to impose the tax only on voluntary supplies, not upon those supplies that occur without an act of the releasor...”

3.5.3 In furtherance of this principle, it was ruled that the compulsory acquisition by the government does not qualify as supply under the

Australian GST law as there is no voluntary act by the supplier.¹⁰

3.5.4 In this regard, another ruling¹¹ laid down the general principles with respect to consideration:

“There must be a sufficient nexus between a particular payment and a particular supply for the payment to be consideration for that supply. ... GST is not payable on a supply unless it is made for consideration, and the other tests in section 9-5 are satisfied. There must be a sufficient nexus between the supply and the payment.”

3.5.5 Hence, even under the Australian jurisprudence, for levying the tax on supply:

- there should be an act of making supplies, i.e. supplies that are involuntary (e.g., compulsory acquisition) are outside the ambit of the tax net;
- there should be a consideration for making the supply; and
- nexus should be present between the supply and payment.

3.6 New Zealand

3.6.1 GST law in New Zealand provides a wider ambit to the scope of supply, and

⁷ *Landboden-Agrardienste vs. Finanzamt Calau* [Case C-384/95]

⁸ *Jürgen Mohr vs. Finanzamt Bad Segeberg* [Case C-215/94]

⁹ *Shaw vs. Director of Housing and State of Tasmania* (No. 2) [2001] TASSC 2

¹⁰ GST Ruling 2006/9 issued by Australian Tax Office

¹¹ GST Ruling 2001/6 issued by Australian Tax Office

the courts have examined its scope on multiple occasions.

3.6.2 In *Databank Systems'* case¹², while interpreting the scope of supply, the court laid down that the term supply means to 'furnish' with or 'provide'. It was observed that the definitions of 'provide' and 'furnish' in the *Concise Oxford English Dictionary* include 'make available for use; supply' (provide) and 'be a source of; provide' (furnish). Basis this discussion it was held that the scope of 'supply' is, wide enough to include both active and passive activities.

3.6.3 In yet another ruling, while interpreting Section 5(1) of the New Zealand GST Act, it was held that supply "includes all forms of supply" which means that virtually any transaction constitutes a supply but a supply is only subject to GST if it is made in the course or furtherance of a taxable activity.¹³

3.6.4 As regards presence of consideration in order to constitute a taxable supply, in *NZ Refining Company's* case¹⁴ the court held that for payment to be consideration for a supply, a sufficient connection must exist between the supply and the payment.

3.6.5 Thus, in spite of the wide and inclusive definition of supply the courts in New Zealand have held that for taxability of a transaction:

- a sufficient connection must exist between the supply and payment of consideration;
- legal nature of the transaction and the rights and obligations of the parties need to be considered to determine if the necessary relationship exists between the supplier and receiver.

3.7 Having discussed the jurisprudence on the scope of 'supply' in the three overseas jurisdictions, it is of utmost importance to discuss one recent ruling by Bombay High Court on the scope of supply.

4. Ruling of Bombay High Court in *Bai Mamubai Trust's* case¹⁵

4.1 Bombay High Court in *Bai Mamubai's* case got an opportunity to divulge the scope of 'supply'. The issue under consideration was whether GST applies on the royalty that is collected from the occupant for the period he remains in possession of the suit premises either during the pendency of the eviction suit or at the time of passing of the decree of eviction.

This issue came up because during the pendency of the case, a Court Receiver was appointed for collection of the royalty (i.e. payment in lieu of the occupation) during the pendency of the dispute.

4.2 The court after closely examining the provisions of CGST Act and various case laws (including case laws of foreign jurisdictions) explained the scope of 'supply'. The key finding of the court in this respect is summarized below:

- The supply doctrine does not contemplate or encompass a wrongful unilateral act or any resulting payment of damages (para 58)
- Presence of reciprocal enforceable obligations is necessary in order to constitute taxable 'supply' (para 76)
- For a supply to fall under Section 7(a), 7(b) or 7(d) of the CGST Act there must be a contemplated consideration. Only activities specified in Schedule I to the CGST Act are considered as supply, even if made without consideration. Other activities (that are not part of Schedule I) if made without consideration, are not taxable (para 79)

¹² *Databank Systems Ltd vs. CIR* (1987) 9 NZTC 6,213

¹³ *Case S84* (1996) 17 NZTC 7,526

¹⁴ *CIR vs. NZ Refining Co Ltd* (1997) 18 NZTC 13,187

¹⁵ *Bai Mamubai Trust and Others vs. Suchitra wd/of Sadhu Koraga* 2019-VIL-454-BOM

4.3 Basis the above, the Hon'ble Court concluded that in the absence of any reciprocal relationship, no GST is payable on the royalty amount.

5. Conclusion

5.1 On a holistic view of the above discussion, it can be noticed that across different jurisdictions there are various common threads about the scope of 'supply'. The courts while dealing with different fact situations have carved out **inherent limitations** to the scope and meaning of 'supply'. Such limitations have been determined irrespective of the wording of the charging section, i.e. whether the same is inclusive or restrictive.

5.2 Three key principles that can be churned out on the basis of the present study are summarized herein below, along with their practical applicability to different activities:

- **An unliteral or voluntary act does not constitute taxable supply:**

For example:

- (i) an athlete receiving award from government or corporates for winning a medal in an international event, cannot be said to have provided taxable supply for earning the award money.

(ii) receiving compensation from accident claims tribunal for the injury caused due to road accident is not a taxable supply. Hence, no GST should apply on such compensation amount.

- **Relation between the supplier and recipient and reciprocity of performance is necessary to constitute a taxable supply:**

For example:

- (i) giving unconditional grant without any obligation should not attract GST due the absence of reciprocity;¹⁶
- (ii) winning from game show should also not be subject to GST on the application of this principle.

- **There should be presence of consideration for both supplier and recipient and the consideration should have nexus with the supply:**

For example:

- (i) making gratuitous payment or giving voluntary donation should not constitute a taxable supply in the absence of consideration for both the parties;
- (ii) as payment of alimony money on divorce is

not a consideration for supply in the eyes of law, the same cannot be subject to GST.

5.3 Please note that in the context of GST law in India, the above principles may not apply in the case of 'activities treated as supply even if made without consideration' (i.e., supplies listed in Schedule-I of the CGST Act). For example, giving television as a prize in new year draw by a store, after claiming input tax credit on the television.

5.4 In other words, the above three fetters should apply while interpreting the scope of supply with respect to all the transactions other than those listed in Schedule I of the CGST Act.

5.5 In view of the above principles, the tax authorities in India are expected not to go down below the skin and levy GST on tax each and every receipt on the basis of the literal interpretation of the provisions relating to 'supply'.

5.6 In any event, since GST law is still in the nascent stage in India, it is likely that in the times to come the courts will further strengthen the above inherent principles while interpreting supply in relation to different fact situations. ■■■

¹⁶ In specific situations, Government grants are exempt from the levy of GST subject to fulfillment of conditions.

Analysis of Provisional Attachment of Property under GST



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Provisional attachment of property is not a new concept under GST. Similar provisions were also there in the pre-GST regime. Recently it has been observed that the officers are invoking provisions of Section 83 of the CGST Act as per their whims and fancies. However, while invoking provisions of provisional attachment the officers must follow the law. This article analyses the provisions of Section 83 of the CGST Act and when it can be invoked by the officers. Read on...

Provisions related to provisional attachment of property under GST are as under:

Section 83 of the CGST Act

83. (1) Where during the pendency of any proceedings under section 62 or section 63 or section 64 or section 67 or section 73 or section 74, the Commissioner is of the opinion that for the purpose of protecting the interest of the Government revenue, it is necessary so to do, he may, by order in writing attach provisionally any property, including bank account, belonging to the taxable person in such manner as may be prescribed.

(2) Every such provisional attachment shall cease to have effect after the expiry of a period of one year from the date of the order made under sub-section (1).

Rule 159 of the CGST Rules reads as under:

159. (1) Where the Commissioner decides to attach any property, including bank account in accordance with the provisions of section 83, he shall pass an order in FORM GST DRC-22 to that effect mentioning therein, the details of property which is attached.



(2) The Commissioner shall send a copy of the order of attachment to the concerned Revenue Authority or Transport Authority or any such Authority to place encumbrance on the said movable or immovable property, which shall be removed only on the written instructions from the Commissioner to that effect.

(3) Where the property attached is of perishable or hazardous nature, and if the taxable person pays an amount equivalent to the market price of such property or the amount that is or may become payable by the taxable person, whichever is lower, then such property shall be released forthwith, by an order in FORM GST DRC-23, on proof of payment.

(4) Where the taxable person fails to pay the amount referred to in sub-rule (3) in respect of the said property of perishable or hazardous nature, the Commissioner may dispose of such property and the amount realized thereby shall be adjusted against the tax, interest, penalty, fee or any other amount payable by the taxable person.

(5) Any person whose property is attached may, within seven days of the attachment under sub-rule (1), file an objection to the effect that the property attached was or is not liable to attachment, and the Commissioner may, after affording an opportunity of being heard to the person filing the objection, release the said property by an order in FORM GST DRC-23.

(6) The Commissioner may, upon being satisfied that the property was, or is no longer liable for attachment, release such property by issuing an order in FORM GST DRC-23.

Opportunity of being heard in case of provisional attachment of property

Any person whose property is attached under Section 83(1) of the CGST Act may file an objection within seven days of the attachment under FORM GST DRC-22. On the principals of natural justice and Rule 159(5), the commissioner must give an opportunity of being heard to the person filing the objection and if the commissioner is satisfied with the objections raised by the person, he may release the said property by an order in FORM GST DRC-23.

Provision for objection, hearing, and release is provided in sub-rule (5) to Rule 159 of the CGST Act to ensure that the said power is exercised after due consideration and in a reasonable manner and to provide an opportunity to the taxpayer to explain his case¹.

It is imperative to note here that, as per Rule 159(2) of the CGST Rules, the Commissioner is not required to serve the order in FORM GST DRC-22 to the person whose property has been attached. Therefore, it has been observed practically that due to non-communication of the order of provisional

attachment to the concerned person, the right provided to him under Rule 159(5) cannot be exercised within a given time of seven days.

Who can provisionally attach the property?

As per Section 83 of the CGST Act, the Commissioner may pass an order in **FORM GST DRC-22** for provisional attachment of any property belonging to the taxable person. Further, as per Section 5(2) of the CGST Act, an officer of central tax can exercise the powers and discharge the duties of other officers of central tax who are subordinate to him. Therefore, the commissioner and any officer superior to him can exercise the powers under Section 83.

Further, Section 3 of the CGST Act equates the 'Principal Commissioner of Central Tax' to "Principal Additional Director of Central Tax" and "Commissioner of Central Tax" to 'Additional Director General of Central Tax'. Therefore, Principal Additional Director General, DGGI, and Additional Director General, DGGI are also competent to pass orders under Section 83 of the CGST Act, 2017².

Proceedings must be pending in either of the Sections 62, 63, 64, 67, 73 or 74 of the CGST Act

It is important to note that powers under Section 83 can be invoked only when any proceeding is pending under Section 62 or section 63 or

¹ *SiddharthMandavia Vs Union of India &Ors.2020-VIL-525-BOM*

² *M/s. Amazonite Steel Pvt. Ltd. &Anr. Versus Union of India &Ors2020 (3) TMI 1179 - Calcutta High Court*

section 64 or section 67 or section 73 or section 74 of the CGST Act.

In the absence of pendency of any proceedings under sections 62, 63, 64, 67, 73 or, 74 of the GST Acts, the orders of provisional attachment of the bank accounts of the petitioners under section 83 of the GST Acts are without the authority of law and are rendered unsustainable³

Section 62, 63, 64, 73, and 74 relates to quantification of demand against the assessee. Pendency of proceedings under these sections has been made a precondition for invoking powers under Section 83. The palpable reason could be that the while assessing/adjudicating the case, Commissioner may from an opinion that attachment of property is required and he may proceed to do so.

It is worth pondering that Section 83 does not refer to Section 61 and 65. In the opinion of the author, one possible reason for doing so could be that once the proceeding under Section 61 or 65 gets culminating than consequently proceedings under Section 73 or 74 gets started. However, it must also be considered that the legislature in his wisdom has chosen to exclude Section 61 and 65 from the purview of Section 83.

Provisions of Section 83 can be invoked only before the conclusion of adjudication proceedings or before passing of order-in-original. Once an

adjudication order is passed under Section 73 or 74, the proceedings cannot be said to be 'pending' under the said sections. Further, once a demand is crystallized against the assessee and an order has been passed than the recovery proceedings under Section 79 to 82 comes into play.

Can Section 83 be invoked merely on the basis of summons issued under section 70 of the CGST Act?

In a case where no proceeding is pending under any section mentioned in Section 83 but a summon is issued to a person, the question that needs consideration is whether in such cases Section 83 can be invoked?

The High court of Bombay⁴ specifically stated that Section 83 cannot be invoked merely on the basis of summon issued under section 70. The Hon'ble High Court of Bombay held as under:

15. Power to provisionally attach bank accounts is a drastic power. Considering the consequences that ensue from provisional attachment of bank accounts, the Courts have repeatedly emphasized that this power is not to be routinely exercised. Under Section 83, the legislature has no doubt conferred power on the authorities to provisionally attach bank accounts to safeguard government revenue, but the same is within well-defined ambit. Only upon contingencies provided therein

that the power under section 83 can be exercised. This power is to be used in only limited circumstances and it is not an omnibus power.

16. It is therefore not possible to accept the submission of the Respondents that even though specified proceedings have been launched against one taxable person, bank account of another taxable person can be provisionally attached merely based on the summons issued under section 70 to him.

To sum up, Section 70 is not mentioned in Section 83. Therefore, merely on the basis of summons issued under Section 70, the Commissioner cannot invoke Section 83 against the person who has been summoned.

A detailed analysis of: 'For the purpose of protecting the interest of the Government revenue'

Commissioner can invoke Section 83 only when he is of the opinion that *for the purpose of protecting the interest of the Government revenue, it is necessary to provisionally attach the property. The phrase 'for the purpose of protecting the interest of Government revenue'* is nowhere defined in the CGST Act. It has to be understood on case to case basis depending on the facts and circumstances of each case.

The Hon'ble Gujarat High Court⁵ dealt extensively on this issue and laid down certain basic requirements on the

³ Kushal Ltd. versus Union of India 2019 (12) TMI 1116 - Gujarat High Court

⁴ KaishImpex Private Limited Vs. Union of India 2020 (1) TMI 933-Bombay HC

⁵ Valerius Industries Vs. Union of India 2019-TIOL-2094-HC-AHM-GST

fulfillment of which the officers can resort to Section 83. The important extract of the said judgments is reproduced as follows:

"52 Our final conclusions may be summarized as under:

[1] The order of provisional attachment before the assessment order is made, may be justified if the assessing authority or any other authority empowered in law is of the opinion that it is necessary to protect the interest of revenue. However, the subjective satisfaction should be based on some credible materials or information and also should be supported by supervening factor. It is not any and every material, howsoever vague and indefinite or distant remote or far-fetching, which would warrant the formation of the belief.

[2] The power conferred upon the authority under Section 83 of the Act for provisional attachment could be termed as a very drastic and far-reaching power. Such power should be used sparingly and only on substantive weighty grounds and reasons.

[3] The power of provisional attachment under Section 83 of the Act should be exercised by the authority only if there is a reasonable apprehension that the assessee may default the ultimate collection of the demand that is likely to be raised on completion of the assessment. It should, therefore, be exercised with extreme care and caution.

[4] The power under Section

83 of the Act for provisional attachment should be exercised only if there is sufficient material on record to justify the satisfaction that the assessee is about to dispose of wholly or any part of his / her property with a view to thwarting the ultimate collection of demand and in order to achieve the said objective, the attachment should be of the properties and to that extent, it is required to achieve this objective.

[5] The power under Section 83 of the Act should neither be used as a tool to harass the assessee nor should it be used in a manner which may have an irreversible detrimental effect on the business of the assessee.

[6] The attachment of bank account and trading assets should be resorted to only as a last resort or measure. The provisional attachment under Section 83 of the Act should not be equated with the attachment in the course of the recovery proceedings.

[7] The authority before exercising power under Section 83 of the Act for provisional attachment should take into consideration two things: (i) whether it is a revenue neutral situation (ii) the statement of "output liability or input credit". Having regard to the amount paid by reversing the input tax credit if the interest of the revenue is sufficiently secured, then the authority may not be justified in invoking its power under Section 83 of the Act for the purpose of provisional attachment.

The commissioner **must**

be of the opinion that it is necessary to provisionally attach the property in order to protect the interest of the government revenue. Such an opinion cannot be formed without any substantive and material evidence. The power given under Section 83 is very drastic and affects the right of the person granted under Article 19(1)(g) and Article 301 of the Constitution of India. This contention has also been examined by various courts as follows:

The object and intention of the legislature to endow the Commissioner with the power of attachment under Section 83 are very clear. It is a drastic and far-reaching power that must be used sparingly and only on substantive weighty grounds and reasons. The power should be exercised only to protect the interest of revenue and not to ruin the business of any taxable person⁶.

Section 83 talks about the opinion which is necessary to be formed for the purpose of protecting the interest of the government revenue. Any opinion of the authority to be formed is not subject to an objective test. The language leaves no room for the relevance of an official examination as to the sufficiency of the ground on which the authority may act in forming its opinion. But, at the same time, there must be material based on which alone the authority could form its opinion that it has become necessary to order provisional attachment of the

⁶ Bindal Smelting Pvt. Ltd. Vs. Additional Director General 2020-TIOL-92-HC-P&H-GST

goods or the bank account to protect the interest of the government revenue. The existence of relevant material is a precondition to the formation of opinion⁷.

The Hon'ble Gujarat High Court stated that while exercising powers under section 83, the authorities should try to balance the interest of the Government revenue and the position of the taxable person to continue with his business."

Cases where the taxpayer is fully co-operating in all the proceedings and is not likely to abscond or flee away from justice than invoking Section 83 is a malicious action and will not stand the judicial scrutiny of law. One like example could be invoking Section 83 as a tool for recovery before adjudication, which is obviously not the intent of the legislature.

Provisional attachment shall cease to have effect after the expiry of a period of one year if no action is taken

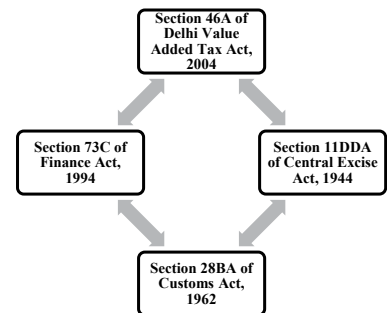
The proviso to Section 83 of the CGST Act states that every provisional attachment shall cease to have effect after the expiry of a period of one year from the date of the order passed in FORM GST DRC-22. It is crystal clear that every provisional attachment will be valid for a period of 1 year and after the expiry of 1 year, the said provisional attachment of any property shall cease to have effect. However, it has

been noticed that even after the expiry of 1 year the officers do not release the provisionally attached property, which is illegal and in violation of the statutory provisions. This view has also been supported by the Hon'ble High Court of Calcutta⁹. The Hon'ble High Court of Calcutta in the said case held as under:

It is obvious that the authorities have acted in a blatantly highhanded and illegal manner by keeping the provisional attachments in a state of continuance for the period from 5th June, 2019 (when the first order of provisional attachment ceases to operate) till 31st October, 2019 (when fresh order for provisional attachment was passed). Section 83(2) is crystal clear that the provisional attachment shall cease upon expiry of one year. It was therefore incumbent on the authorities to either release the provisional attachment by informing the bank or by issuing a fresh order of provisional attachment, if the law so allowed. The failure to do the above is nothing short of being an act of highhandedness.

In other laws, there was/ is a provision for extension of the period of provisional attachment of property and there was an outer limit prescribed by which the said period can be extended, and in most cases, it is 2 years. However, in GST law there is no provision for extension of the period of provisional

attachment. In GST law the property can be provisionally attached only for a period of 1 year without any extension and thereafter the officers are duty-bound to release the said property. Provisions related to provisional attachment to protect revenue in certain cases in other laws are defined as per the following Sections:



Provisional attachment should be vacated immediately on the completion of adjudication proceedings against the person whose property has been attached and the assessee should be permitted to take recourse of filing an appeal where he may get a statutory stay on demand in terms of Section 107(7) of the CGST Act.

Re-attachment of property

Another question that needs consideration is whether the authorities can issue fresh order of provisional attachment/ multiple orders under Section 83 of the CGST Act, 2017? This issue was squarely covered by the High Court of Calcutta¹⁰ and the Hon'ble Court was of the view that if the authority is of the opinion that it is further necessary to protect the interest

⁷ M/S Jay Ambey Filament Pvt. Ltd. Vs. Union of India 2020-VIL-544-GUJ

⁸ M/s Patran Steel Rolling Mill versus Assistant Commissioner of State Tax [2018 (12) TMI 1441 - GUJARAT HIGH COURT]

⁹ M/s. Amazonite Steel Pvt. Ltd. &Anr. Versus Union of India &Ors., 2020 (3) TMI 1179 - Calcutta High Court

¹⁰ M/s. Amazonite Steel Pvt. Ltd. &Anr. Versus Union of India &Ors 2020 (3) TMI 1179 - Calcutta High Court

of revenue than a fresh order under Section 83 may be issued and held as follows:

Section 83 empowers the competent authority to issue an order for provisional attachment of property including bank accounts if it is of the opinion that such step is necessary for protecting the interest of the Revenue. It is palpably clear that Section 83(2) permits continuation of a provisional attachment order for a period of one year from the date of order after which it ceases to remain in effect. However, there is nothing in the section which indicates that upon completion of the prescribed period, a fresh order cannot be issued. To say this would amount to supplying such requirements into the section which would go against the well-established principles of interpretation of statutes. In the view point of the Court, after the expiry of the time period, the appropriate authority may be of the opinion that such an attachment is further required to protect the interest of Revenue, and may therefore, issue a fresh order upon compliance of the formalities in Section 83(1).

Further, it is pertinent to mention here that at the time of issue of a fresh order of provisional attachment all the

requirements mentioned under Section 83 should be fulfilled. Fresh order cannot be issued only on the basis of reasons that existed at the time of earlier attachment. The authority must satisfy all the requirements of Section 83 again on the date of issuance of a fresh order of provisional attachment.

Property belonging to a 'taxable person' can be attached under Section 83 of the CGST Act

Another issue that needs to be examined is whose property can be attached under Section 83. Section 83 states that the property belonging to a taxable person can be attached. Therefore, properties belonging only to the taxable person can be attached. Section 2 (107) of the CGST Act defines 'Taxable person' as, *person who is registered or liable to be registered under section 22 or section 24*"

In one such case, proceedings were initiated under Section 67 against M/s X, which is a proprietary concern. In this case, Commissioner attached bank accounts belonging to M/s X, Mr. Y (authorized signatory of M/s X), and Ms. Z (wife of Mr. Y). Neither Mr. Y nor Ms. Z was 'taxable person'. Now, the legal issue is whether the personal bank account of Mr. Y and Ms. Z can be attached? In the opinion of the author, the action of the commissioner in provisionally attaching the bank account of Mr. Y and Ms. Y is illegal and in contraventions of statutory provisions.

Circumstances where the officers are compelled to invoke Section 83

It is a trite law that no provision of a statute can be rendered otiose. Abuse of law should be prevented but it does not mean that the rights conferred by a statute should not be exercised. The author advocates that the power under Section 83 should not be used to harass the assessee but at the same time the powers must be exercised in appropriate cases. Few such cases could be where the non attachment of the property would lead to permanent loss of revenue to the government, where there is a probability that the assessee will not co-operate in the adjudication proceedings and will encash all his assets with intent to flee away from justice, or where he is likely to get abscond. Recent examples are the cases of bogus billing and availing bogus input tax credit. In all these cases it is absolutely justify to invoke section 83 to put a check on wrongdoers.

Conclusion

Section 83 of the CGST Act is in juxtaposition to Article 19(1)(g) and Article 301 of the Constitution of India. The provisions being drastic in nature should not be used as a matter of course and while exercising the powers under section 83 the commissioner must strike the balance between the interest of the government revenue and the right of the assessee to carry on the business. ■■■



The LLP Act, 2008: Statutory Compliances

Limited Liability Partnership is a hybrid form of structure where features of partnership and the companies are combined together, and members can avail the benefit of limited liability while at the same time having the flexibility of organizing their internal management on the basis of a mutually-arrived agreement, as is the case in a partnership firm. This form of structure before it was introduced in India was prevalent in other countries such as United States (US), United Kingdom etc. Texas (one of the states of US) was the first amongst all to introduce the concept of LLP. Read on to know more...

The Parliament of India enacted the Limited Liability Partnership (LLP) Act, 2008 to introduce a special corporate business vehicle to be known as LLP that allows its members to have the flexibility of organising their internal structure as a partnership and also provides the benefits of limited liability as availed by Companies.

With changing times, this form of structure is seen as more advantageous to begin their organization due to the smooth and cost-effective compliances. Consequently, many existing private limited companies and partnership firms started taking initiatives to get them converted into LLPs.

However, once incorporated or converted as LLP, it has to adhere to the provisions of the LLP Act and Rules framed

thereunder and comply with the filings with the Registrar of Companies (ROC). Though the compliances under LLP Act, 2008 is much simpler as compared to compliances under Companies Act, 2013. However, failure in compliances with the provisions of the LLP Act and Rules would result in huge penalties or prosecution for the LLP or its partner or designated partner. Therefore, one should take special care to ensure that each and every compliance is adhered to.

There are various types of compliances which need to be followed; the compliances in respect of filing forms are divided into various situations such as:

1. Incorporation Based Compliances

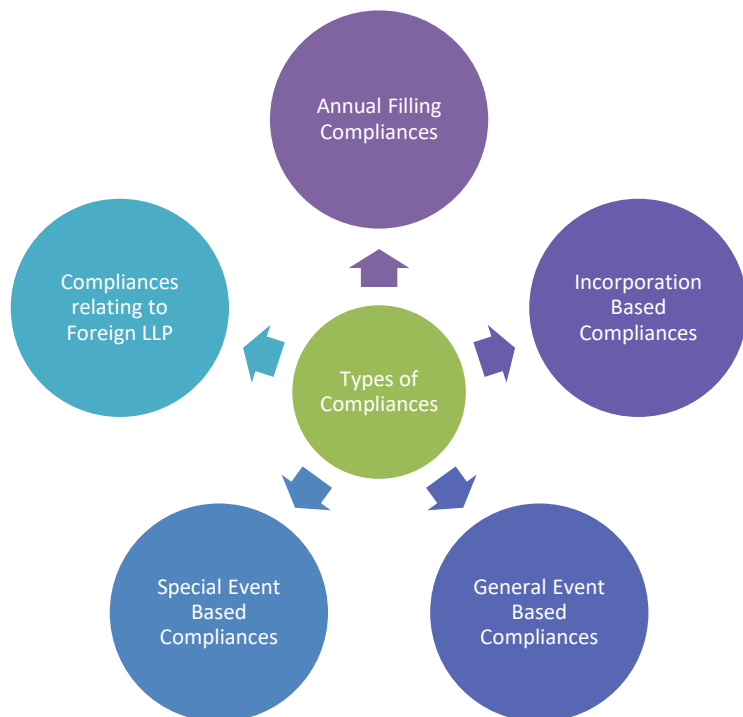


2. Annual Filing Compliances
3. General Event Based Compliances
4. Special Event Based Compliances
5. Compliances related to Foreign LLP

in India can form Limited Liability Partnership, the foreign entity established outside India can also incorporate a LLP in India with their existing name by which it is registered in the country of incorporation or regulation. For this purpose, they have to additionally, file



Not only an entity incorporated in India can form Limited Liability Partnership, the foreign entity established outside India can also incorporate a LLP in India with their existing name by which it is registered in the country of incorporation or regulation.



To begin with, an entity has to be incorporated as LLP by complying with the Incorporation Procedure which requires three simple procedures viz reservation of name by filing e-form RUN-LLP, thereafter filing Incorporation Form in e-form FiLLiP and lastly filing the information with regard to LLP agreement in eform-3. Alternatively, an existing firm, private company and unlisted company may be converted into LLP by filing Form-17/18 as the case may be. Not only an entity incorporated

eform-25 for reserving its existing name.

Once LLP comes into existence, it has to annually file Statement of Accounts and Solvency in eform-8 and Annual Return in eform-11. This is not the end of compliances which needs to be abide by, there may be general events during day-to-day affairs also, such as change of name of LLP or change of place of registered office, appointment, cessation, change in name/ address/designation of a designated partner or partner and intimation of other address

for service of documents, which requires e-filing.

Moreover, there can be special occasional circumstances also which requires filing to Registrar of Companies (ROC) such as in case of strike off name or in case of compounding of offences, notice of intimation of order of court/tribunal/CLB/ Central Government etc.

The compliances in respect of foreign LLP are bit different from Indian LLP and some additional forms are required to be filed in such a case.

The list of compliances in respect of forms can be summarized in a gist way as follows:

1. Forms required to be filed Annually

- a. Form-8 for filing Statement of Accounts and Solvency
- b. Form-11 for filing Annual Return of LLP



To ensure whether the LLP is required to get its accounts being audited or not, it shall refer rule 24 of the LLP Rules, 2009; proviso of which states that any LLP, whose turnover does not exceed, in any financial year, 40 lakh rupees, or whose contribution does not exceed 25 lakh rupees, is not required to get its accounts audited.

2. Forms for Incorporation of LLP

- a. Form-RUN-LLP for reservation of name for new LLP and for change of name of already incorporated LLP
- b. Form-FiLLiP for Incorporation of LLP
- c. Form-3 for filing information with regard to limited liability partnership agreement and changes, if any, made therein

3. General Event Based Forms

- a. Form-4 for intimating ROC about notice of appointment, cessation, change in name/ address/designation of a designated partner or partner and filing consent to become a

partner/designated partner

- b. Form-5 for intimating change of name of LLP to ROC
- c. Form-12 for intimating other address for service of documents
- d. Form-15 for request to change of place of registered office
- e. Form DIR-3 for making an application for allotment of Director Identification Number (DIN)
- f. Form DIR-6 for intimating change in particulars of Director to be given to the Central Government

4. Special Event Based Forms

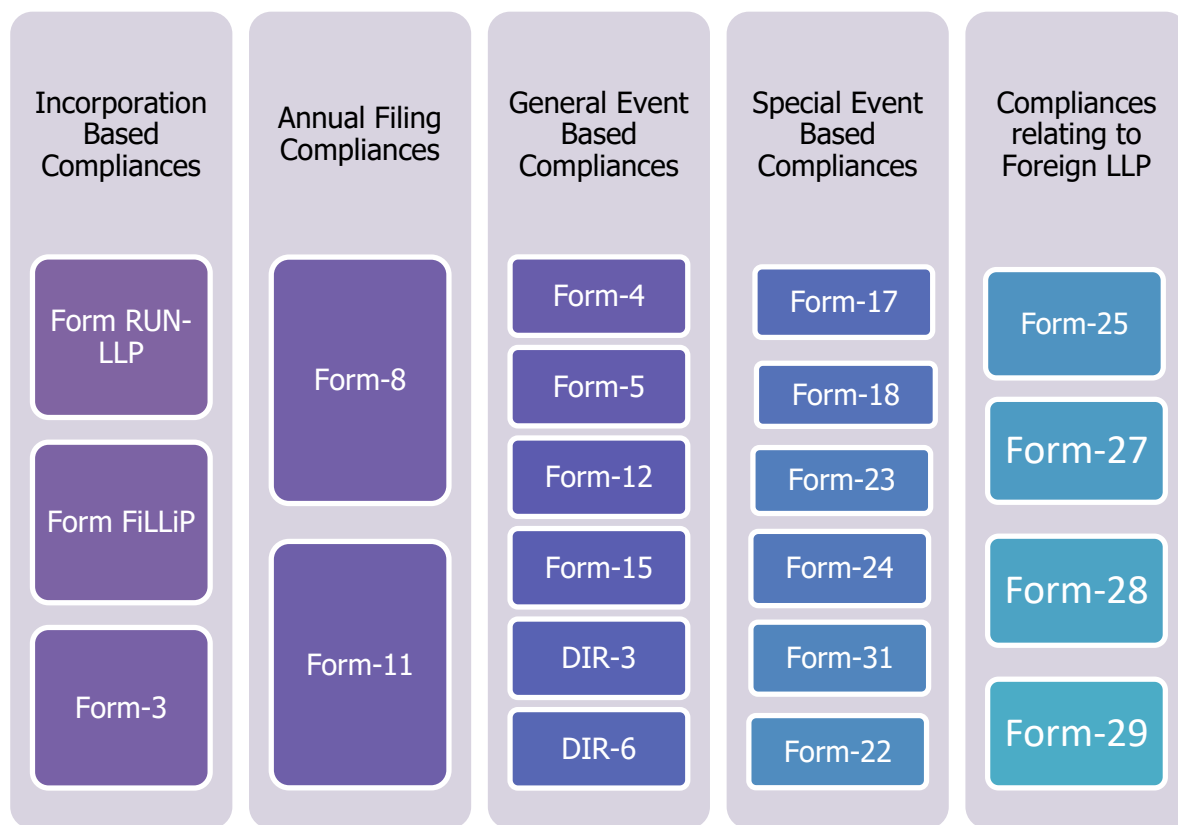
- a. Form-17 for conversion of a firm into Limited Liability Partnership (LLP)
- b. Form-18 for conversion of a private company/ unlisted public company into limited liability partnership (LLP)
- c. Form-23 in case of receipt of direction to Limited Liability Partnership (LLP) to change its name.
- d. Form-24 for making an application to the Registrar for striking off name
- e. Form-31 for making an application for compounding of an offence under the Act

- f. Form-22 for intimating to the Registrar about receipt of Order of Court/Tribunal/CLB/ Central Government.

5. Forms to be filed by Foreign LLP

- a. Form-25 for making an application for reservation/ renewal of name by a Foreign Limited Liability Partnership (FLLP) or Foreign Company
- b. Form-27 for filing registration of particulars by Foreign Limited Liability Partnership (FLLP)
- c. Form-28 for filing return of alteration in the incorporation document or other instrument constituting or defining the constitution; or the registered or principal office; or the partner or designated partner of limited liability partnership incorporated or registered
- d. Form-29 is a multi-purpose form required to be filed in the following scenarios:
 - i. alteration in the certificate of incorporation or registration;
 - ii. alteration in names and addresses of any of the persons authorised to accept service on behalf of a foreign limited

Corporate and Allied Laws



liability partnership (FLLP)

- iii. alteration in the principal place of business in India of FLLP
- iv. cessation to have a place of business in India

Apart from the compliances in respect of forms, another crucial compliance to be kept in mind is to ensure whether the LLP is required to get its accounts being audited or not. And for this purpose, it shall refer rule 24 of the LLP Rules, 2009, proviso of which states that any LLP, whose turnover does not exceed, in any financial year, 40 lakh rupees, or whose contribution does not exceed 25 lakh rupees, is not required

to get its accounts audited. However, where the partners of such LLP decide to get the accounts of such LLP audited, it shall be audited in accordance with such rule.

As we all have witnessed the pandemic experience and its impact which has hit hard the whole nation, the Ministry of Corporate Affairs (the regulatory body of LLPs) also considered the difficulties faced by the stakeholders and thus relaxed various timelines to file documents and e-form from time to time. It also introduced a one-time opportunity to the LLPs to make good their default by filing pending documents and to serve as a compliant LLP in future by introducing LLP Settlement Scheme, 2020.

All the compliances as mentioned above are monitored by the MCA through its robust e-filing system and failure to comply with them will result in huge penalties and prosecution. Therefore, the individuals forming LLPs should be cognizant of the provisions under the LLP Act, 2008 and the Rules framed thereunder.

The Corporate Laws & Corporate Governance Committee has brought out a publication: Statutory Compliance Calendar of Limited Liability Partnership as per LLP Act, 2008 and rules thereunder. The publication is available at the link: <https://resource.cdn.icai.org/62753clcg50746-scllp.pdf>



Efficient Arbitration for Dispute Resolution

Alternative Dispute Resolution (ADR) Mechanisms were introduced to rescue the condition of litigants from the overburdened courts. Arbitration, being alike to court litigation, gained tremendous popularity and academically acclaimed to be most cost-effective, speedy and flexible method. However, in reality, despite having lot of potential, arbitration is mostly denounced due to high cost, delays and also due to the fact that it has also becoming home to exaggerated claims. Since, arbitration is party-centric, this article has, while analysing the present situation, made an attempt



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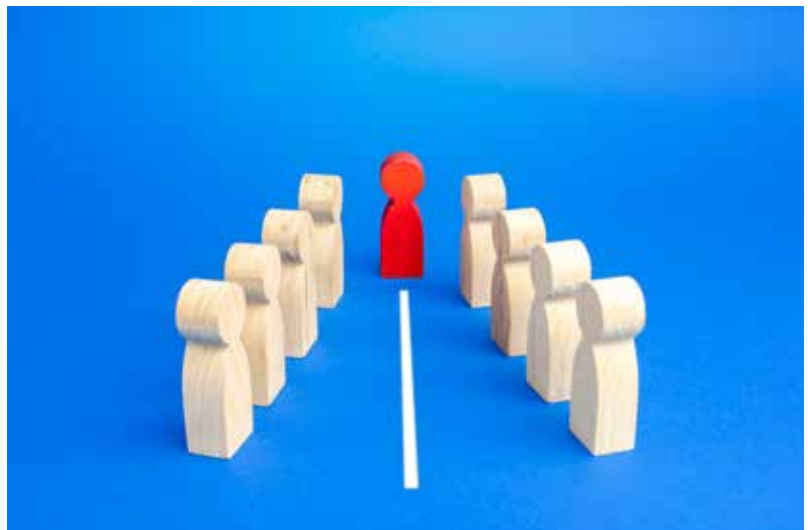
Dr. Inderpreet Kaur**

to suggest certain valuable initiatives that are required to be adopted at the organizational level so as to build a robust pro arbitration environment to reap the inherent benefits of this mechanism. Read on...

1. Introduction

'Arbitration' has been the preferred choice for dispute resolution among the contracting parties for many reasons such as:

- Prescribed timelines to conclude the matter
- Limited grounds to challenge the arbitration award
- Deposit of awarded amount in courts while challenging the award and praying for stay



- Court Fee is not involved
- Award of arbitral cost upon winning the matter
- Flexibility of procedure
- Fixed fee of arbitrators
- Less frightening for companies' officials as compared to the court rooms
- Interim stay with time-bound obligation to initiate arbitration, etc.

The International Arbitration Survey conducted in 2018 by White & Case LLP along with Queen Mary University of London also revealed that 99.08% of the respondents (in the study) are likely to select or endorse international arbitration for resolving cross-border disputes in future¹.

Still, different courts, including the Apex court in India, have on number of occasions expressed its resentment towards the plight of arbitration and the disputing parties. The Hon'ble Supreme Court had once stated that arbitration has become a 'time consuming' and 'expensive' mean of dispute resolution². Even it has been commented by the Apex court that sometime the cost of arbitration exceeds the actual stake involved in the dispute³. In the recent past, the Gujarat High Court showed its displeasure by stating "the affairs of the arbitration have touched the state of nadir at the hands of those who care scant

for ethics in litigating, where fairness to legal forums and faith in them are sine qua non"⁴.

Another major issue, which troubles the disputing parties under arbitration, is the value of claims and counter claims filed by each other. It has become a common tendency of the disputing parties in arbitration to park their inflated claims against each other irrespective of their genuineness.

Thus, such factors are definitely challenging the reputation of arbitration. So, is there any solution to bring things into a right track? Though, Legislature has been trying hard to sort out shortcoming in the arbitration law by introducing required amendments, however, unless some serious measure are *suo motu* adopted by the disputing parties (since it is a party-centric mechanism), the situation is not expected to improve. Accordingly, the present article has analysed how grave the above-mentioned issues have developed in the real life and what could be the possible solutions/ initiatives which can be adopted by the parties.

2. High cost and delays in Arbitration

2.1 Problem

The Law Commission in the 246th report noted

that the major complaint regarding arbitration in our country (especially in the ad-hoc arbitration) is the fact that high fee is involved in the process wherein arbitrators are fixing "*arbitrary, unilateral and disproportionate fee*"⁵.

Ironically, Arbitration mechanism (as a mode of ADR) was introduced as alternate to the court litigation, since the latter was labelled as uneconomical and cost-intensive and it was believed that Arbitration can bring down the cost and time involved in the settlement of disputes and thereby provide an effective way to decongest the courts.

It is also observed that the expenses incurred in the courts are far too economical as compared to the expenses incurred in arbitration considering the number of case for which such expenses are incurred.

Some of the reasons for high cost and delays in the Arbitration mechanism are as under:

1. Venue is required to be arranged by the disputing parties (in Ad-hoc arbitration mainly), which enhances the overall cost.

¹ White & Case. 2018 International Arbitration Survey: The Evolution of International Arbitration. (2018). Retrieved from <http://www.arbitration.qmul.ac.uk/media/arbitration/docs/2018-International-Arbitration-Survey-report.pdf>

² Dolphin Drilling Ltd. v. Oil and Natural Gas Corporation Ltd. (17.02.2010 - SC) : MANU/SC/0120/2010

³ Union of India v. Singh Builders Syndicate, (2009) 4 SCC 523

⁴ Manbhupinder Singh Atwal v. Neeraj Kumarpal Shah, judgement dated 21.06.2019, Misc Civil Application No. 90 of 2019 Gujarat High Court, Retrieved from <http://gujarathc-casestatus.nic.in/gujarathc/#>

⁵ Ibid

2. High Fee being charged by arbitral tribunal, since many arbitrators are still not inclined to follow the model fee structure prescribed under the Arbitration and Conciliation Act, 1996 (the "Act").

3. Advocates, Law Firms and Senior Advocates' fee (most of the Advocates, Law Firms and Senior Advocates, charges relatively high fee for handling arbitration matter).

4. Arbitrators and Senior Advocates normally charges as per two hearings in case hearing continue for longer duration.

5. Administrative expenses of the arbitral institutions (in Institutional arbitration)

6. Miscellaneous expenses (including the expenses related to arrangement of steno, refreshments, etc.).

2.2 Required initiatives to tackle high cost and delays in Arbitration:

There are some practical ways to make Arbitration cost effective and expeditious. By adopting following practices, parties

to the dispute not only can reduce the expenses incurred during the Arbitration but can also actually expedite the dispute settlement process:

i) Proper selection and fee fixation of Advocate and Senior Advocate

There is a dearth of focused arbitration lawyers in India. Justice B. N. Srikrishna Report has even suggested for developing an arbitration bar comprised of well-trained advocates⁶. It is important to engage an advocate who can devote sufficient time and attention in the arbitration matter and has manageable caseload. Further, it is important that the fees of the advocate should be decided and negotiated at the beginning of the matter. Capping of the fee or the manhours till the conclusion of the arbitration matter is essential.

Further, considering the criticality of the matter, where complex legal issues, facts and high stakes are involved, the engagement of senior advocates becomes inevitable. The fees

being charged by the senior advocates are much higher than the dealing advocates, which normally ranges between ₹ 1 Lakh to ₹ 25 Lakhs per appearance.⁷ Therefore fee structure of the senior advocate needs to be discussed and negotiated at the time of their engagement itself.

ii) Careful drafting of Arbitration Clause

Mostly, the commercial departments are more concerned in the development of relation between the parties and negotiating their commercial terms by compromising on the other provisions not relevant for them. Accordingly, arbitration clause is just randomly gets copy-pasted or loosely drafted to hurriedly close the deal and takes the signatures of the parties.

Later, upon initiation of dispute, such recklessly and loosely drafted language of the arbitration clause may create high complications. Thus, the parties may be required to spend considerable time and

⁶ Justice Srikrishna B. N. (2017, July 30). Report of the High Level Committee to Review the Institutionalisation of Arbitration Mechanism in India. Retrieved from <http://legalaffairs.gov.in/sites/default/files/Report-HLC.pdf>

⁷ Shrivastava, P. (2015, September 8). How much do Delhi's top advocates charge?. Retrieved on April 22, 2020 from <https://www.livemint.com/Politics/BvOZE6z7Oyl6LiHZxWV1zL/How-much-do-Delhis-top-advocates-charge.html>

Arbitration

cost litigating before the courts to get the clear interpretation of even the arbitration clause.

Thus, careful drafting of the arbitration clause is vital and therefore, following measure may be adopted:

- Institutional Arbitration: Most of the renowned Arbitral institutions provide model arbitration clauses for the parties to adopt in their contracts⁸. It is always prudent to incorporate the same clause in the contracts to avoid any ambiguity and misinterpretation at the later stage.
- Ad-hoc Arbitration. Dispute Resolution clause should be drafted or vetted by legal experts.
- iii) In-house dispute settlement mechanism

Unlike, where the parties or one of the party to the dispute are habitual litigant, the expenses, fatigue and stress involved in the adversarial mechanism may sometime force the parties to sit across the table and settle the

differences. Therefore, it is advisable to keep an open mind and be prepared to set aside emotions as and when the opportunities for settlement develop. Companies may decide to set up an internal mechanism of conciliation as per Part III of the Act to take up and settle such disputes. In such a way, companies may bring finality to the dispute and can also ensure maintenance of cordial relation with the disputing parties.

- iv) Strict monitoring of cases
It is important for the companies to devise a mechanism to review the arbitration matters on a regular basis by the senior management. The review of these matters can bring forward the details regarding the progress made in each case, payments made to the advocates, senior advocates, arbitrators and also to devise future strategies. Since, arbitration is not bound by the Indian Evidence Act and the Code of Civil Procedure,

decisions can be taken to simplify the procedure (e.g., to rely upon the documents in the matter rather than unnecessarily leading evidence for quick disposal of disputes, etc.). Regular reviews should be undertaken by the committee of senior officers from the concerned departments. There should also be a review on periodic basis by the functional directors of the Company.

v) Litigation Policy

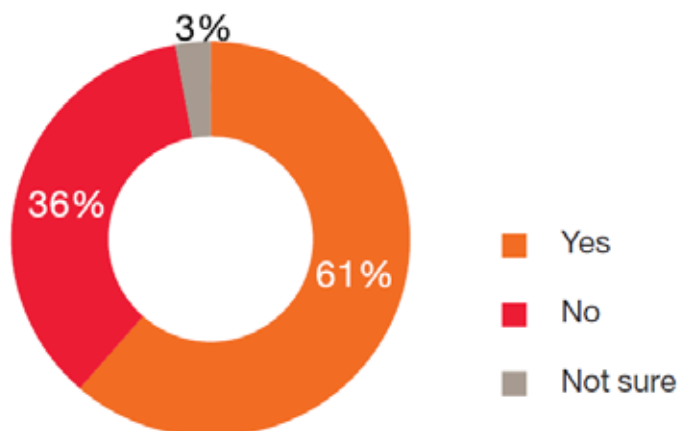
A well-structured litigation policy in the organisation clearly defines the roles and responsibilities of different departments in an organisation for handling litigations. The litigation policy should contain all nitty-gritty involved in handling litigation within the company and distribute responsibilities across different functions.

Around 61% companies in the country have such Dispute Resolution Policy in their organisation which is depicted in the below pie chart⁹.

⁸ ICC Arbitration Clause, Retrieved on April 22, 2020 from <https://iccwbo.org/dispute-resolution-services/arbitration/arbitration-clause/>. LCIA Arbitration Clause, Retrieved on April 22, 2020 from https://www.lcia.org/Dispute_Resolution_Services/LCIA_Recommended_Clauses.aspx. SIAC Arbitration Clause. Retrieved on April 22, 2020 from <http://www.siac.org.sg/model-clauses/siac-model-clause>

⁹ PricewaterhouseCoopers. (2013, May). Corporate Attitudes & Practices towards Arbitration in India. (p 8). Retrieved from <https://www.pwc.in/assets/pdfs/publications/2013/corporate-attributes-and-practices-towards-arbitration-in-india.pdf>

Figure: Percentage of companies in India having Dispute Resolution Policy



vi) Selection of right Arbitrator

The parties could be in a deep trouble with the wrong selection of arbitrator. The proceedings could be delayed, mishandled or biased in favour of the other party. Delayed and prolonged proceedings just adds up to the litigation cost and frustration in the minds of the litigant parties. It is, therefore, imperative that the companies should take time, do proper research and select the right arbitrator to handle the dispute.

While selecting the arbitrator, the advice of the panel lawyers can also be taken, as they deal with the arbitrators on regular basis. The lawyers can

suggest the names of the best arbitrators and also their expertise, temperament and professionalism which can be considered while selecting them. But, it is important to take only unbiased suggestion from the lawyers devoid of any commercial or personal benefits to them.

vii) Thorough study of the Arbitral Award

It has been estimated by a study that around 24 months is being taken to dispose of the petitions pending under Section 34 of the Act at the lower courts level, 12 months at the High Court level and further 48 months in Supreme Court level. Total, around 2508 days are taken on average

to finally settle the dispute post award.¹⁰ Though, post recent amendments in the Act, some courts are cautious of admitting the Section 34 applications,¹¹ however, the situation is not similar everywhere.

Thus, blindly challenging the award is not in the interest of the organisation. A careful examination of the arbitral award is required before the decision relating to challenging the award is taken. If the organisation feels that they have less chances of success, the management should consider pragmatically and take decision to comply the award. This could save lot of expense, time and efforts in fighting on lost matters and the same can be utilised somewhere in the interest of the organisation.

3. Frivolous and exaggerated claims involved in arbitration

3.1 Gravity of the problem

It was reported in the recent past that National Hydro Power Corporation, one of the major CPSE in

¹⁰ Debroy, B., & Jain, S. (n.d.). Strengthening Arbitration and its Enforcement in India – Resolve in India. Retrieved from https://niti.gov.in/writereaddata/files/document_publication/Arbitration.pdf

¹¹ South East Asia Marine Engineering and Constructions Ltd. v. Oil India Limited (11.05.2020 - SC) MANU/SC/0441/2020.



Arbitration has been considered as a popular mode for resolution of disputes, as the caseloads on the international institutions are rising by 9.9% each year.¹⁹

India, is having disputed claims of arounds ₹ 10,000 crores, which are double its revenue¹². Such huge claims dangling above the companies is like a Sword of Damocles.

There is no rocket science involved to identify the reason why arbitrations are becoming home to huge and inflated claims. It is due to the fact that while filing civil suit before the courts, the plaintiff is required to file court fee based on the value of the amount involved. For example, ad valorem court fee schedule determines the value of court fee required to be paid for filing a suit. If a party needs to file a suit for the recovery of ₹ 40 crores, then court fee of ₹ 40 Lakhs approx. needs to be paid. The court fee amount increases with the increase

in the value of suit.¹³ On the other hand, there is no such requirement of upfront filing of said fee in Arbitration.

Further, exaggerated claims are also filed by the parties to factor in delayed decisions and other costs¹⁴, scare the opposite side and induce them for a settlement¹⁵. Also, some counsels remain inclined to file such huge inflated claims in the arbitration proceedings so that they can also raise their fee and prolong the matter to ensure their stable source of income.

3.2 Required initiatives to tackle frivolous and exaggerated claims

The issue relating to exaggerated claims can be tackled up to some extent by adopting following measures:

i) There is a need to introduce similar or even stringent measures to prevent filing of such inflated claims before the arbitral tribunal. One of the measure could be the imposition of exemplary costs on the parties upon dismissal or substantial

reduction of their inflated claims. The deterrence mechanism can be an effective way to keep a check and control over such inflated claims reflecting as contingent liabilities in the books of the parties. Similar deterrence is already part of ICC rules of Arbitration with respect to Expedited Procedure Provisions.¹⁶ Even, the Act also allows the arbitral tribunal to impose cost on the parties for filing frivolous claims to delay the arbitral proceedings.¹⁷ Thus, party under arbitration should ensure to pray and press the arbitral tribunal to award such exemplary cost in case it is determined that the claims filed by the other side are inflated.

ii) The selection of an advocate for handling the arbitration matter should be carefully undertaken. A thorough professional lawyer will never advise their client to inflate their claims, as the same can adversely affect their

¹² Prasad, R. (2013, June 20). NHPC faces ₹ 10,000 crore disputed claims from contractors. Retrieved on April 22, 2020 from <https://economictimes.indiatimes.com/news/economy/infrastructure/nhpc-faces-rs-10000-crore-disputed-claims-from-contractors/articleshow/20674168.cms>

¹³ Punjab & Haryana High Court - Court Fee Table, Retrieved on April 22, 2020 from https://highcourtchd.gov.in/sub_pages/left_menu/Court%20Fees/Court%20Fee%20Table.pdf

¹⁴ Chandran, R. (2009, October 15). NHAI proposes panel to settle arbitration claims - Livemint. Retrieved from <https://www.livemint.com/Politics/V10BmU6Y1H0o6h7JQFuTL/NHAI-proposes-panel-to-settle-arbitration-claims.html>

¹⁵ Draetta, U. (2014). Counsel as Client's First Enemy in Arbitration? (p. 109). Juris Publishing.

¹⁶ Note to Parties and Arbitral Tribunals on the Conduct of the Arbitration under The ICC of Arbitration, Para VII(B)(70), (p11), Retrieved from https://www.iccgermany.de/fileadmin/user_upload/Content/Schiedsgerichtsbarkeit/8.ICC-Note-to-Parties-and-Arbitral-Tribunals-on-the-Conduct-of-Arbitration.pdf

¹⁷ Arbitration and Conciliation Act, 1996. Section 31A(3)(c)

reputation and case. For the reason that once the tribunal gets a hint that the claims filed by the party are inflated, then they loses their reputation for being an honest litigant and there are strong chances that they may even lose their justified claims. Thus, the engagement of an advocate in an arbitration matter is critical.

- iii) While executing the Agreement, the parties may decide to draft the arbitration clause in such a way that such frivolous and inflated claims remain as a non-arbitrable disputes. For example, the arbitration clause may contain a provision stating that the claim of certain extant will only be resolved through arbitration mechanism and whenever the claim amount exceeds that particular threshold, it will be only settled by the court of competent jurisdiction and not through arbitration.

To take a decision regarding inclusion of such clause in the commercial agreements, it is important that the party

should first conduct an internal due diligence ensuring the extant of claims seems feasible to them so as to decide the exact threshold. Further, the kind of agreements where most of the frivolous claims are normally filed also needs to be identified. Blindly executing agreements with such clauses may backfire and affect their own claims in the future.

4. Conclusion

The reasons why Indian companies prefer Arbitration in comparison to other methods of dispute resolution are its speed to resolve the disputes, flexibility, privacy, cost effectiveness etc.¹⁸ Arbitration has been considered as a popular mode for resolution of disputes, as the caseloads on the international institutions are rising by 9.9% each year.¹⁹

This portrays the fact that arbitration is perceived as a mechanism which has the ability to provide cost-effective and expeditious justice to the disputing parties. However, over the period of time, the benefits attached to the Arbitration mechanism has somehow shrunk. If the situation doesn't improve in the near future, there is a strong likelihood that Arbitration, which is once considered to be the most

effective way of adjudication and settlement of disputes, will get misplaced.

To maintain its credibility and the confidence of the parties, the arbitration law in India has been amended in 2015, 2019 and recently in 2020 to strengthen the arbitration mechanism by incorporating stringent time lines, capping of cost, limiting grounds of challenge, promoting institutional arbitration and many more novel measures. However, until the litigants will assume the responsibility to adopt requisite safeguards/initiatives in their organisation level, the amendments in the law itself cannot ensure the parties to reap the inherent benefits of this mechanism.

There is no hesitation to admit that arbitration mechanism has the potential to improve the condition of dispute settlement. Thus, the need of the hour is that the litigants should revisit and identify the shortcomings in their policies and practices and endeavour to build a robust pro arbitration environment by adopting effective measures. Few of them have been identified and discussed here in this article. But, these could be just to begin with and since these is no end to improvement; the parties can consider additional measures best suited to their corporate culture and requirement. ■■■

¹⁸ PricewaterhouseCoopers. *Supra* note 23. (p 10)

¹⁹ Dr. Altenkirch, M. (2018, April 10). *Global Arbitration Cases Still Rise - Arbitral Institutions' Caseload Statistics for 2015 - Global Arbitration News*. Retrieved from https://globalarbitrationnews.com/global-arbitration-cases-still-rise-arbitral-institutions-caseload-statistics-2015/#1066216-v1-GAN_Statistics_in_2015.docx

The Accounting & Bookkeeping in Ancient India

India has a glorious history and rich traditions. From early Vedic age to the advent of coming of Europeans, our country had a prosperous trade and commerce. There were wealthy merchant class, banking system and proper accounting system which evolved over the years in India. India had invented the 'Zero' which is the base for accounting. Accounting and finance have evolved gradually over time in the history of India. Accounting aspects related to bookkeeping, preparation of financial statements, and auditing were available even in before Christ era. Read on....



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Kautilya's *Arthashastra* mentioned the way to maintain the accounting records. During *Sangam* age, merchant class were involved in prosperous trades and demand for accountants were more. During the reign of Guptas, accountants were involved from village level of administration. The South India inscriptions

mentioned the importance of proper accounting and debarred the defaulters, in furnishing account, from contesting for various village committees.

Let us have a look at the various dynasties, their times in the Indian History and their contribution towards accounting system in India in Table 1.



Table 1:

Dynasty/ Period Name	Date	Name of accountant	Features
Vedic Age	Around 1500-600 B.C.	Akshavapa was considered to be the accountant.	Village was the economic unit. Barter system was prevalent. Wealth was measured in terms of cows.
Mauryan Age	Around 200 B.C.	Akshapataladhyaksha was the Accountant-General. Yuktas were accountant at district level. Gopa worked as accountant at parishad level (10-15 villages)	Proper principle was developed for accounting. Budget was made by government annually. Kautilya wrote Arthashastra.
Sangam Age (South India)	Around 300 B.C - 300 A.D.	Ayakanakkar were accountants who assisted tax officials	Trades were well organised. Merchant class were engaged in both inland and foreign trade. Banking system was there. Accountants were in great demand.
Gupta Age	Around 300-500 A.D.	Gopasvamin and Pustapala were considered to be the accountant of that time.	Various gold, silver and copper coins were issued. Sale tax was levied on inter-market trade. High standard of living.
Imperial Chola (South India)	Around 1000 A.D.		Uttaramerur inscriptions provide that those who had failed to submit their accounts were disqualified to become member of village council again.

Now, let us have a focused discussion about the following:

Kautilya and his Arthashastra

Kautilya, also known as Chanakya, was a great Indian teacher during 3rd Century B.C. He had written the famous book, “Arthashastra”. In this book, he had discussed the accounting procedures to be followed by Mauryan state among several other administrative, economic and social aspects.

Here, Kautilya mentioned various accounting concepts and terminologies. He said that the profit should be distributed. It shows us that people of those times were familiar with the appropriation of profit concept.

He discussed that interest on capital outlay should be considered before estimating the cost of the goods. This reflects maturity of ‘interest on capital concept’ along with costing concept where the cost of goods includes the interest portion on deployed fund.

At those times, Gopa was the accountant for a group of villages. He had to keep records of tax collected in cash or kind, fines and tolls. He also had to keep records of gift, sales and charities along with remission of taxes relating to the agriculture land. He was also required to keep accounts of income and expenditure of inhabitants of villages among other records. So, here we see that there was an accountant available at parishad level with definite

duty. The concept of book-keeping was there and so was the maintenance of individual’s income statements.

Kautilya mentioned the term Income and expenditure in his books along with their classification. The income was divided into three types: **Current Income** (Vartamana), **Income of previous period received in current period** (puryushita) and other income (anyajatah) which included interest on deposits, recovery of bad debts, damage recovery (parihinikam), gift and booty. A special income was also mentioned which was in nature of saving in expenditure called as “Vyaya Pratyayah”. It was the amount which remained unexpended out of the specific fund (for example, medical

treatment of sick) or amount remaining after construction of forts or building out of sanctioned amount. Hence, we find that there was knowledge of accrual concept. The revenue is recognised in way similar to today's revenue recognition principle. Accounting of bad debt was not unknown at those times. Moreover, reserve fund is separated from revenue generated. So, we can say that there was familiarity about 'Capital' and 'Revenue' nature of items.

Expenditure was said to be of two types – daily expenditure (of daily nature) and profitable expenditure (once in a month or year or so). Here, Kautilya might have tried to differentiate 'the variable expenses from fixed expenses' or 'revenue expenditure from capital expenditure'. In fact, this classification of expenditures into daily and monthly nature throw us light about cost control aspect which Kautilya must have tried at those times. He might have wanted to know the regular expenses and the developmental expenses of state separately.

He said that a wise collector should look for increase in income and decrease in expenditure. So this makes clear that there was proper understanding of profit and loss concept. Moreover, the scrutiny systems are found to be present at those times.

He said that accountant and other clerks should be spied by honest military officials. This shows the importance that the accounting system had in state administration in ancient India.

He wrote that the

Superintendent of Accounts shall have office with separate seat for clerks and with shelves of accounts-books properly arranged. The department had to maintain the register regularly keeping details of amount of profit, loss, expenditure, delayed earnings for manufacturing units (karmanta). The accounting period was for 354 days. The accounting year ended around June-July (Ashadha month). There was probably separate account for intercalary month (Adhik Maas). Accounts were required to be submitted by time (in the month of Ashadha). There was fine for delay in presentation on accounts. This all shows the glory of the developed accounting department that used to be there in those times. Fines for delay shows the discipline that this organisation was required to maintain.

The accounts so submitted were required to be audited. Kautilya wrote that the receipt should be verified with reference to time and place, person who had paid, officer who received the amount, etc. Similarly, expenditures were verified with reference to time and place, person who remitted the same, person who delivered it and person who finally received it. There was fine for violation of prescribed format of accounts, for unknown entry or double or triple entry. There was double fine for removing the total figure from books and eight times fine for destroying the books.

The Gupta Age

There was local record-keeper called Pustapalas. Generally, to prevent corruption, there was a

committee of three members in Pustapalas. Recommendations of Pustapalas were required for land transactions. They had to confirm that the transfer of land would not lead to loss of revenue to the crown rather there would be some gain from it in the shape of dharma (generally fallow land were given for charity). So we find that book-keeping was done at village/local level, where record-keepers had recommendatory power. We find the presence of proprietary and efficiency concept. The concept of separation of work was also there. This separation might be of the maker-checker type.

The banking function was prevalent during Gupta Age. Bankers (Shrenis or guild of bankers) acted as permanent custodian of gift (as a trust-property) of private philanthropists. They paid interest on these deposit and discharged the interest portion on the objects specified by donors.

As the payment of interest was available on principal deposit, there must be use of those deposits in business activities. So, the concept of rate of interest was there and which should be less than the rate of profit earned on use of such deposits in business. Moreover, the whole deposits and its accounting must had been trustworthy at those times as depositors would have security against loss, fraud, embezzlement or misappropriation. The deposits in general moved from one merchant to another, based on their requirements. Even that system posed no serious threat to the security of money.

So, we can conclude that the banking system along with hundi system, the profit calculation concept and their accounting system were effective and efficient one at those times.

The Jataka Story

The Buddhist Jataka story describes the prevalent condition during 300 B.C to 400 A.D. In several stories there are mentions of Joint stock principles for trade. This form of trade is ancient one.

One of the Jataka story (Chullakasetthi Jataka) mentions 100 merchants from Benares came to purchase the contents of a ship, were required first to pay a thousand each to get share of the merchandise along with initial owner and later paid another thousand each to the owner to get whole merchandise (and initial owner settled).

This story tells us the about the development of concept of partnership at those times, the conversion of sole proprietorship to partnership, the admission and retirement of partner(s) and payment to retiring partner.

Another story of Jataka (Kuta Vaniya Jataka) refers to partnership between two merchants named 'wise' and 'wisest', who got involved in fighting for distribution of joint earnings of the firm on basis of skills.

So this story tells us that recognition of skill as capital in the firm was not truly unknown at that time, which is today considered as modern concept in partnership.

Others

During Chola period (around

900 A.D.), temples became the important unit and several temple cities were developed (for example Tanjore temple by Rajaraja I). The temples were generally granted several villages around as gift. Kings might also grant money to village council to be used for certain temple activities. In either case, the share of revenue earned from village or interest portion on granted money was used to pay temple expenses. Here, the accounts were maintained at temple level by the accountant employed at temple.

So, we find the concept of accounting for Not-for-profit organisation in the above example.

Endnote

We can deduce the following about the accounting knowledge in ancient India from above discussion:

- Various accounting terminologies like **Expenses and Incomes, Interest, Profit and Loss, Debtors and Creditors** are found to be well understood at those times
- The modern basic 'concepts of accounting' are found to be present in those times like the 'concept of **periodicity**', the 'concept of **revenue recognition**' and '**matching concept**'.
- It has been found that there was clarity regarding the 'Cash' and '**Accrual**' basis of accounting.
- The concept of '**Appropriation of profit**' is well found in Arthashastra.
- Moreover, there was proper auditing procedure which

involved the system of '**third party confirmation**' and verification.

- From Gupta Age, we can conclude that there was developed accounting system which had acted as backbone to the prevalent banking system.
- From Jataka story, we can conclude that **accounting for partnership** firm and their admission, retirement and goodwill concepts were not unknown to the merchants of those times.
- From Chola period, we can conclude that accounting as a system of record and source of information was used at the temple level. This supports the assumption that '**Accounting for Not-for-profit organisation**' was developed at those times.

Also, we already found that several moral and disciplinary actions were prevalent at those times which show us the importance of accounting and book-keeping. We can conclude the same as below:

- There was fine for delay in presentation of accounts
- There was fine for unknown, double or triple entry or error in totalling.
- In village council nomination, non-presentation of accounts amounts to disqualification.

So, we can say that accounting as discipline of identifying, measuring, recording, summarising and communicating the information of an organisation or country were found to be flourishing one in ancient India. ■■■

Ind AS Alert

I. Indian Accounting Standards: Update

- **Amendment to Ind AS 117, Insurance Contracts, corresponding to amendments to IFRS 17 issued by the International Accounting Standards Board (IASB) in June 2020** – In order to put in place Indian Accounting Standard corresponding to IFRS 17 in timely manner, the Accounting Standards Board finalised the Exposure Draft of Amendments to Ind AS 117 in line with amendments to IFRS 17 and issued the same seeking comments by January 24, 2021. The Amendments to Ind AS 117 will be finalised following the due process.
- **Amendment to Ind AS corresponding to amendments to IFRS Standards due to IBOR Phase II project of IASB (Amendments to IFRS 4, IFRS 7, IFRS 9, IFRS 16 and IAS 39)** – The Exposure Draft of Amendments to Ind AS 104, Ind AS 107, Ind AS 109 and Ind AS 116 corresponding to respective IFRS Standards was issued by the ASB of ICAI seeking comments from stakeholders. The amendments focus on the effects on financial statements when a company replaces the old interest rate benchmark with an alternative benchmark rate as a result of the reform. The amendments relate to specific requirements of these Ind AS to assist companies to provide investors with useful information about the effects of the reform on the financial statements. The Amendments to Ind AS have been finalised by the ASB and have also been cleared by the Council of the ICAI. Necessary further actions towards notification of Amendments to Ind AS as per due process are being taken.

II. IFRS Foundation & IASB: Stakeholder Consultations

(A) Discussion Paper: Business Combinations—Disclosures, Goodwill and Impairment

The IASB had published the Discussion Paper seeking comments. ASB of ICAI was actively engaged in formulation of comments on the Discussion Paper. Accordingly, and following due process, the comments finalised by the ASB of the ICAI were submitted to IASB on December 30, 2020. The comments submitted can be assessed at ICAI website at <https://resource.cdn.icai.org/62584asb50626.pdf>

(B) IASB reviews package of IFRS Standards for group accounting – As informed to stakeholders in January 2021 edition of Ind AS Alert, the IASB has issued a Request for Information calling feedback on the IFRS Standards for group accounting—IFRS 10 Consolidated Financial Statements, IFRS 11 Joint

Arrangements and IFRS 12 *Disclosure of Interests in Other Entities* by **10 May 2021**. For seeking comments from the Indian stakeholders, the IASB's Request for Information has been hosted on the ICAI website and comments can be submitted by **April 2, 2021**.

(C) IASB consults on possible new accounting requirements for mergers and acquisitions within a group - As informed to stakeholders in December 2021 edition of Ind AS Alert, the IASB has issued a Discussion Paper, Business Combinations under Common Control, on possible new accounting requirements for mergers and acquisitions involving companies within the same group—business combinations under common control and comments on the same can be submitted by **1 September 2021**. For seeking comments from the Indian stakeholders, the IASB's Discussion Paper has been hosted on the ICAI website and comments can be submitted by **July 15, 2021**.

(D) IFRS Interpretation Committee (IFRS IC) Agenda Decision: The IFRS IC from time to time issues Tentative Agenda Decisions for public comments across the globe on various issues considered by it. In this regard, following Tentative Agenda Decisions are issued with last date of comments being February 15, 2021:

- Hedging Variability in Cash Flows Due to Real Interest Rate (IFRS 9)
- Classification of Debt with Covenants as Current or Non-current (IAS 1)
- Attributing Benefit to Periods of Service (IAS 19)
- Configuration or Customisation Costs in a Cloud Computing Arrangement (IAS 38)

(E) IFRS Foundation publishes educational material to support companies in applying going concern requirements – The Companies preparing financial statements using IFRS Standards are required to assess their ability to continue as a going concern. In the current stressed economic environment arising from the COVID-19 pandemic, deciding whether the financial statements should be prepared on a going concern basis may involve a greater degree of judgement than usual. To support companies, the Educational Material has been published by IASB to bring together the requirements in IFRS Standards relevant for going concern assessments and for consistent application of IFRS Standards. This Educational Material does not change, or add to, the existing requirements.

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

MCA amends CSR policy to allow multi-year projects and focus on impact assessment

The corporate affairs ministry recently notified changes to the corporate social responsibility (CSR) rules to allow companies to undertake multiyear projects and to shift the focus on impact assessment from expenditure alone. Under the new rules, companies can set off any surplus CSR expenditure against its CSR obligations for the succeeding three financial years, which was the defined time frame for an “ongoing project”. Companies having a net worth of ₹ 500 crore or more, or turnover of ₹ 1,000 crore or more or a net profit of ₹ 5 crore or more during the last three fiscals, have to spend at least 2% of the average net profits made during those years on CSR. Regarding the impact assessment, companies with an average CSR obligation exceeding ₹ 10 crore in the three preceding fiscals will have to employ an independent agency to assess the CSR impact.

Such firms will be allowed to count as CSR spends up to 5% of their CSR expenditure in a year or ₹ 50 lakh, whichever is lower, the cost of hiring such an agency. To enhance transparency, the ministry has mandated that firms hired as implementing agencies of CSR projects, such as trusts or societies, should get registered with the ministry’s MCA-21 portal which will generate a CSR registration number, the deadline for which was April 1, 2021. Further, while international organisations cannot act as implementing agencies, they can be hired to design, monitor and evaluate CSR projects, which the official said would bring in international best practices into the sector.

Source: <https://economictimes.indiatimes.com>

Lower fees structure for investment advisors to kick in from April 1: Sebi

Markets regulator Sebi recently said the lower fees structure for filing application and registration for individuals and corporates seeking a registered investment advisor status will come into force from April 1. The regulator has issued a corrigendum to its earlier notification issued on January 11, wherein it was mentioned that the new norms on fees would come into force on the date of their publication in the official gazette. In a fresh notification, Sebi said the new fee norms for investment advisers would become effective from April 1, 2021.

Under the new norms, individuals and firms (partnership) will have to pay ₹ 2,000 while applying for an investment advisor certificate. Earlier, they had to cough up ₹ 5,000 as application fee. The

application fee for corporates, including Limited Liability Partnerships (LLPs), has been brought down to ₹ 10,000 from ₹ 25,000. At the time of grant of a certificate, individuals and firms will have to shell out a fee of ₹ 3,000 and ₹ 15,000 by bodies corporate. Earlier, registration fee was ₹ 10,000 and ₹ 5 lakh for individuals as well as firms and body corporates, respectively. The reduction in fees is expected to help those seeking registration as investment advisors. The move comes after a series of tightening of norms by the Securities and Exchange Board of India (Sebi) for registered investment advisors.

In September, Sebi came out with detailed guidelines for investment advisers asking them to ensure segregation of advisory and distribution activities at the client level. Besides, Sebi had fixed a cap on fee that investment advisers can charge from clients. It had also put in place a procedural framework pertaining to audit and record-keeping.

Source: <https://www.business-standard.com>

RBI moots scale-based tighter regulatory framework for NBFCs

The Reserve Bank of India (RBI) has suggested a tougher regulatory framework for the non-banking finance companies’ (NBFC) sector to prevent recurrence of any systemic risk to the country’s financial system. The banking regulator recently released a discussion paper on the revised regulatory framework which is formulated on a scale-based approach, and sought comments within a month. The regulatory and supervisory framework of NBFCs will be based on a four-layered structure — the base layer (NBFC-BL), middle layer (NBFC-ML), upper layer (NBFC-UL) and the top layer. If the framework is visualised as a pyramid, the bottom of the pyramid, where least regulatory intervention is warranted, can consist of NBFCs currently classified as non-systemically important NBFCs (NBFC-ND), NBFCP2P lending platforms, NBFCAA, NOFHC and Type I NBFCs. Moving up, the next layer may comprise NBFCs currently classified as systemically important NBFCs (NBFC-ND-SI), deposit-taking NBFCs (NBFC-D), HFCs, IFCs, IDFs, SPDs and CICs. The revisions applicable to lower layers of NBFCs will automatically be applicable to NBFCs in the higher layers, unless there is a conflict or otherwise stated, the paper added. The current threshold for systemic importance, which is ₹ 500 crore now, is proposed to be revised to ₹ 1,000 crore. As per the proposals, the extant NPA classification norm of 180 days will be reduced to 90 days.

Source: <https://www.thehindu.com/>

International Update

IFRS Foundation publishes educational material to support companies in applying going concern requirements

The educational material is published to support consistent application of IFRS Standards and does not change, or add to, existing requirements. Companies preparing financial statements using IFRS Standards are required to assess their ability to continue as a going concern. In the current stressed economic environment arising from the covid-19 pandemic, deciding whether the financial statements should be prepared on a going concern basis may involve a greater degree of judgement than usual. To support companies, the educational material brings together the requirements in IFRS Standards relevant for going concern assessments. The Foundation has committed to supporting stakeholders during the pandemic; further educational materials published by the IFRS Foundation in relation to the covid-19 pandemic can also be accessed under the 'Supporting application' section of this page. Access the IFRS website to refer educational material: Going concern—a focus on disclosure.

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

EFrag launches survey on the post-implementation review of IFRS 10, 11 and 12

In the context of the post-implementation review of IFRS 10, IFRS 11, and IFRS 12 launched by the IASB in December 2020, the European Financial Reporting Advisory Group (EFRAG) is inviting stakeholders to participate in a survey that addresses a number of areas of the standards that have been identified as potentially unclear. Separate questions have been developed for preparers and users of financial statements. Auditors, standard setters and regulators are also invited to participate in the survey. The survey is open until 16 April 2021. Please click for more information and access to the survey on the EFRAG website.

Source: <https://www.iasplus.com/>

Academics and the post-implementation reviews of IFRS 9, IFRS 15, and IFRS 16 FSB responds to the Trustees' sustainability consultation

The Financial Stability Board (FSB) submitted a comment letter on the IFRS Foundation Trustees' consultation paper on sustainability reporting published in September 2020. The FSB supports

the recommended approach by the Trustees of the IFRS Foundation to initially focus on standards for climate-related financial disclosures, as an important initiative to promote globally consistent disclosures and avoiding fragmentation. The FSB strongly encourages the IFRS Foundation to build on the work of the TCFD, by using the TCFD's recommendations as the basis for standards for climate-related financial disclosures. The FSB notes that the TCFD recommendations set out a comprehensive framework that has been developed by, and is directly responsive to the needs of, users and preparers of financial filings across a range of financial and non-financial sectors around the world. They have attracted widespread support from users and preparers.

In its comment letter, the FSB also strongly encourages other national or regional authorities that are developing requirements or guidance for climate-related disclosures to consider using the TCFD recommendations as the basis. Such consistency in approach would help to avoid the risk of market fragmentation, both across jurisdictions, and between requirements and guidance being developed today and international standards that may be introduced in the future. Please visit FSB website to access full comment letter.

Source: <https://www.iasplus.com/en/news/2020/12/fsb-ifrsf>

IPSASB consultation documents on leases

The International Public Sector Accounting Standards Board (IPSASB) has released an exposure draft on leases and a request for information on concessionary leases and other arrangements similar to leases.

Exposure Draft 75 *Leases* proposes a model that is aligned with IFRS 16 *Leases* for lease accounting in the public sector. For *lessees*, ED 75 proposes a right-of-use model that will replace the risks and rewards incidental to ownership model in IPSAS 13 *Leases*. For *lessors*, ED 75 proposes to substantially carry forward the risks and rewards incidental to ownership model in IPSAS 13. The request for information published alongside ED 75 will provide the IPSASB with further information on the issues that need to be considered in accounting for concessionary leases and other arrangements similar to leases that are quite common in the public sector. Comments on both documents are requested by 17 May 2021.

Source: <https://www.iasplus.com/en/news/2021/01/ipsasb-eds>

ACCOUNTANT'S BROWSER

PROFESSIONAL NEWS & VIEWS PUBLISHED ELSEWHERE

Index of some useful articles taken from Periodicals received during December 2020-January 2021 for the reference of Faculty/Students & Members of the Institute.

1. Accountancy

Discussion of commercial lender judgment and fair-value recognition: An investigation into the impact of future accounting standards by Nen-Chen (Richard Hwang). *Asian Review of Accounting*, Vol. 28/4, 2020, pp. 481-486.

Integrated Reporting- A paradigm shift in reporting by Himanshu Kishnadwala. *Bombay Chartered Accountant Journal*, Vol. 52-B/ 3, December 2020, pp.11-15.

2. Auditing

Audit committee returnees and auditor choice: Evidence from china by Zeijang Zhou and Haoran Wang. *Asian Review of Accounting*, Vol. 28/4, 2020, pp. 635-663.

Value addition in internal audit by Deepjee Singhal and Manish Pipalia. *Bombay Chartered Accountant Journal*, Vol. 52-B/ 3, December 2020, pp. 27-30.

3. Economics

Effects of financial distress and financing constraints on trade credit provisions by Igbekele Sunday Osinubi. *Asian Review of Accounting*, Vol. 28/4, 2020, pp. 545-566.

Effect of managerial ownership on bank value: Insights of an emerging economy by Syed Moudud-Huq and Tanmay Biswas and Shukla Proshad Dola. *Asian Journal of Accounting Research*, Vol. 5/2, 2020, pp. 241-256.

Observations of deglobalization against globalization and impacts on global business by Hag-Min Kim and Ping Li. *International trade, politics and Development*, Vol. 1/2, 2020, pp. 83-103.

4. Investment

Observance of the ethical practice in valuation by Vinay K Goel. *Indian Valuer*, Vol. 52/7, December 20-January 21, pp. 55-57.

5. Law

Contouring the role of directors in the banking companies: Need for an ethical approach by Susmitha P. Mallaya. *Company Law Journal*, Vol. 4/3, December 2020, pp. 161-169.

Corporate Law in India- Promoting ease of doing business without diluting stakeholder interests by Shankar Jaganathan. *Bombay Chartered Accountant Journal*, Vol. 52-B/ 3, December 2020, pp. 17-22.

6. Management

Technological innovations in the work environment and the career of the millennium generation by Elza Velso and Rodrigo Cunha da Silva. *Innovation & Management Review*, Vol. 17/1, 2020, pp. 379-391.

7. Taxation and Finance

Transfer pricing- Benchmarking of capital investments and debtors by Mayur B. Nayak and Tarunkumar G. Singhal. *Bombay Chartered Accountant Journal*, Vol. 52-B/ 3, December 2020, pp. 67-72.

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.

Legal Decisions



Income Tax

**LD/69/94, [ITAT Chennai: ITA. No. 1930/2017],
M. S. Amaresan Vs. The Asst. Commissioner of
Income Tax, 23/12/2020**

Assessee purchased two residential properties at different locations by utilising the proceeds from sale of an immovable property and claimed deduction under section 54F. ITAT rejected assessee's argument that claiming deduction in such a manner was permitted before amendment to Section 54F w.e.f. 01.04.2015. ITAT distinguished reliance placed on various judgements by the assessee and stated that an assessee is not entitled for exemption under section 54F of the Act for purchase of two residential houses at two different locations on two different dates and such position remains same even after amendment to Section 54F by the Finance Act, 2014 w.e.f. 01.04.2015.

**LD/69/95, [Madras High Court: Tax Case Appeal
388/2019], Mr. Anandkumar Vs. The Asst.
Commissioner of Income Tax, 23/12/2020**

Assessee had applied presumptive rate @ 8% under section 44AD on interest and remuneration received from various partnership firms, and the Revenue had denied the claim on the ground that assessee was not doing any business independently but was only a partner in the firms. High Court ruled in Revenue's favour and noted that remuneration and interest cannot be treated as 'gross receipt' or 'turnover'. Assessee has not done any sales nor rendered any services but has been receiving remuneration and interest from the firm already been debited in its profit and loss account. High Court noted that Section 44AD(2) states that any deduction allowable under section 30 to 36 is deemed to be given full effect and Section 28(v) has not been included therein, which deals with any interest, salary, bonus, commission or remuneration by whatever name called, due to or received by, a partner of a firm.

**LD/69/96, [Madras High Court: WP. No. 1632/2019],
Seshasayee Paper & Boards Limited Vs. The Union of
India, 21/12/2020**

Madras High Court quashed notice under section 148 due to absence of fresh and tangible material. High Court noted that assessee's transactions had been examined in the block assessment and also under section 263 both of which were quashed and that the Tribunal in appeal against block assessment had "recorded a finding that the transactions were not fraudulent". High held unless there is a fresh tangible material available with the Department, the question of reopening the assessments based on the material already available on record is impermissible. High Court stated that what the Department seeks to do is not to reopen the assessment but to review the earlier orders which had attained finality. High Court thus ruled in favour of assessee.

**LD/69/97, [ITAT Delhi: ITA No. 5512/Del/2011], Mr. J.S.
Gujral Vs. Dy. Commissioner of Income Tax, 21/12/2020**

Shares of subsidiary company transferred by employer-company to assessee directors at face value, not perquisite under section 17(2)(iii) for AY 2005-06 as no 'benefit' is derived when shares are sold by employer to employee at the cost at which it was acquired by employer. Revenue had alleged that all the four directors have obtained from the company benefit in buying shares at substantially less than FMV. Section 17(2)(iii) is applicable only when 'value of benefit' is directly linked to cost incurred by employer in providing the benefit 'free of cost' or at 'concessional rate'. ITAT held that there is no legal basis for valuing the amount of 'benefit' derived by looking at the FMV of shares, and that the AO did not apply its mind as to existence of a 'benefit' that was taxable and its valuation.

**LD/69/98, [Delhi High Court: W.P. 5865/2020],
Manpower Services India Pvt. Ltd. Vs. The
Commissioner of Income Tax (TDS), 21/12/2020**

The AO passed order under section 197 refusing to grant a 'Nil' rate TDS certificate to assessee which was quashed by the Delhi High Court. High

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

Court rejected Revenue's stand that Writ was not maintainable since assessee could have exhausted alternative remedy of revision available under section 264. High Court stated that since impugned order was passed after an approval from CIT on the TRACES portal (in accordance with CBDT's amended online Rules for Form 13 application), it cannot be challenged by way of a revision petition before CIT under section 264. High Court remanded matter to AO for fresh determination in accordance with law as expeditiously as possible.

LD/69/99, [ITAT Mumbai: ITA No. 3489/Mumbai/2019], Prolific Consultancy Services (Mumbai) Pvt. Ltd. Vs. Income Tax Officer, 16/12/ 2020

Assessee is engaged in the business of taking property on lease and subleasing the same and deriving rental income thereon. ITAT held that routine and mandatory expenses incurred by assessee for maintaining its corporate identity would be eligible as regular business loss and is allowed to be set-off against house property income arising from subletting business. Assessee had offered income from sub-lease of property under the head 'income from house property' and ITAT held that such rental income may get taxed under the head 'income from house property' as per certain provisions of the Act but it cannot be denied that the assessee had indeed carried on its business of sub-leasing the property from set-off perspective.

LD/69/100, [ITAT Mumbai: ITA 2343/Mum/2009], The Dy. Commissioner of Income Tax Vs. Morarjee Realities Limited, 15/12/2020

ITAT held that share application money transferred by the assessee along with the equity and preference shares within the group companies in a corporate restructuring constitutes capital asset under section 2(14) and capital loss on transfer of such and right to apply for shares is eligible for set-off. ITAT noted that share application money is nothing but advances till the time the shares are allotted and share application money is converted into share capital. This is further fortified by the fact that the provisions of The Companies Act provide for refund of share application money with interest under certain circumstances. The

word 'property' would be of widest import and signifies every possible interest which a person can hold or enjoy.

LD/69/101, [Karnataka High Court: ITA No. 501/2016], The Principal Commissioner of Income Tax Vs. Dr. Ranjan Pai, 15/12/2020

High Court held that provisions of Section 56(2)(vii)(c) are not attracted to bonus shares received by assessee-individual. The Revenue considered FMV of bonus shares received by assessee and made addition under section 56 by applying Rule 11 UA(B). High Court noted that issue of bonus shares by capitalization of reserves is merely a reallocation of the company's funds and there is no inflow of fresh funds or increase in the capital employed further. In substance, when a shareholder gets a bonus shares, the value of the original share held by him goes down. High Court held that when there is an issue of bonus shares, the money remains with the company and nothing comes to the shareholders as there is no transfer of the property and the provisions of Section 56(2)(vii)(c) are not attracted.

LD/69/102, [ITAT Delhi: ITA No. 8239/Del/2019], Meera Goyal Vs. The Income Tax Officer, 14/12/2020

Advance forfeited by assessee on un-materialised property deal was taxed by the Revenue under section 56(2)(ix); ITAT held that till the assessment year 2015-16, i.e., before amendment to Section 51 and insertion of 56(2)(ix) w.e.f. 01.04.2015, the amount of forfeiture was not liable to be taxed but only went in reducing the value of the asset while computing the taxability of the assessee under the head "capital gains". ITAT also observed that in assessee's similar issue with regard to same property during AY 2007-08, an advance forfeited was not taxed by the High Court on the same principles.

LD/69/103, [ITAT Mumbai: ITA No. 1889/Mum/2020], Shelf Drilling Ron Tappmeyer Limited Vs. The Deputy Commissioner of Income Tax, (International Taxation), 05/01/ 2021

Assessee had returned a business loss of ₹80 crore in AY 14-15, which was disallowed in assessment

by the Revenue and was remanded by the ITAT for de-novo assessment which is pending. Despite such pendency, ITAT allowed set-off of this loss in AY 16-17 and 17-18. During pendency of assessment on remand, assumption that loss for AY 14-15 was incorrectly claimed, was premature. On Revenue's apprehension that allowing the set-off of losses would result in refund in subject AY 16-17 and 17-18. ITAT opined that refund of taxes for these subject AYs, could await finalisation of assessment for AY 2014-15.

Service Tax

LD/69/104, [2021-TIOL-28-CESTAT-KOL], M/s Semtech Advanced Systems India Pvt. Ltd. Vs. Commissioner of Central Excise and Service Tax 05/01/2021

A refund claim cannot be denied on the ground that the vendor has classified the services on which service tax is paid by him under the wrong classification if the said services are otherwise eligible for CENVAT Credit. The entitlement of credit should not be denied when the assessee is pursuing a refund of the credit claimed.

LD/69/105, [2020-TIOL-1711-CESTAT-DEL], M/s South Eastern Coalfields Ltd Vs. CCE&ST, 22/12/2020

The penalty amount, forfeiture of an earnest money deposit, and liquidated damages cannot be said to be received towards "consideration" for "tolerating an act" leviable to service tax under section 66E(e) of the Finance Act as the contracts entered into between the parties is for the supply of coal and that intention of the parties certainly was not for flouting the terms of the agreement so that the penal clauses get attracted.

LD/69/106, Kronos Solutions India Pvt. Ltd. Vs. Commissioner of CGST (APPEALS) NOIDA-2, [2021-TIOL-23-CESTAT-ALL], 14/12/2020

Inasmuch as the books of accounts stand already debited by the appellant before the filing of the refund claim, there is no justifiable reason to deny the refund claim of accumulated CENVAT Credit under Rule 5 of the CENVAT Credit Rules on the ground that such reversal is not reflected in ST-3 returns filed during the relevant period, but in the subsequent ST-3 returns filed after a lapse of more than one year.

Disciplinary Case



Issuance of net worth certificate by Chartered Accountant without properly verifying the title of the assets — Held, Respondent is guilty of not applying due diligence under Clause (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

Held:

In the instant case, the charge against the Respondent is that he had issued certificate of net worth without properly verifying the title of the assets of Company. The Committee noted that Respondent considered value of the land in the calculation of net worth of the company, not owned by the Company and issued net worth certificate without giving any specific disclosures which may draw the attention of the users of the said certificate. In view of above noted facts, the Committee was of the opinion that the Respondent is grossly negligent in performing his duty and failed to exercise due diligence, he is guilty of professional misconduct falling within the meaning Clause (7) of Part I of the 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 time limits for income tax returns etc. - Notification No. 93/2020, dated 31-12-2020

The due date for furnishing of ITRs for AY 2020-21 for the taxpayers (including their partners) who are required to get their accounts audited and companies has been extended to 15.02.2021. Further, the date for passing of order or issuance of notice by the authorities under the Direct Taxes Acts which are required to be passed/ issued/ made by 30.03.2021 has been extended to 31.03.2021.

Refer: https://www.incometaxindia.gov.in/communications/notification/notification_no_93_2020.pdf

2. Central Government notifies 'the Faceless Penalty Scheme, 2021' - Notification No. 02/2021, dated 12-01-2021

In exercise of the powers conferred by section 274(2A), the Central Government vide this notification has notified 'the Faceless Penalty Scheme, 2021'. It provides about the Scope, Faceless Penalty Centres, Procedure in penalty, Rectification/Appellate Proceedings, Electronic Exchange of communication only, Authentication and delivery of electronic record, No personal appearance in the Centres etc.

Refer: https://www.incometaxindia.gov.in/communications/notification/notification_no_2_2021.pdf

3. Central Government issues necessary directions for the purposes of giving effect to the 'the Faceless Penalty Scheme, 2021' - Notification No. 03/2021, dated 12-01-2021

In exercise of the powers conferred by section 274(2B), the Central Government vide this notification has issued directions for the purpose of giving effect to 'the Faceless Penalty Scheme, 2021'. It, inter alia, provides that the provisions of section 2, section 120, section 127, section 129,

section 131, section 133, section 133C, section 136 and Chapter XXI shall apply to the procedure for imposing penalty in accordance with the said Scheme subject to the specified exceptions, modifications and adaptations.

Refer: https://www.incometaxindia.gov.in/communications/notification/notification_no_3_2021.pdf

II. CIRCULARS

1. Amount of remuneration prescribed under section 9A(3)(m) of the Income-tax Act, 1961 - Circular No. 01/2021, dated 15-01-2020

In order to avoid genuine hardship, the CBDT, in exercise of powers conferred u/s 119, has decided to provide that for the financial years 2019-20 and 2020-21 in cases where the remuneration paid to the fund manager is lower than the amount of remuneration prescribed under Rule 10V(12), but is at arm's length, it shall be sufficient compliance to section 9A(3)(m).

Refer: https://www.incometaxindia.gov.in/news/circular_1_2021.pdf

III. PRESS RELEASES/INSTRUCTIONS/OFFICE MEMORANDUM/ORDER

1. CBDT launches e-portal for filing complaints regarding tax evasion/Benami Properties/ Foreign Undisclosed Assets - Press Release, dated 12-01-2021

Taking another step towards e-governance and encouraging participation of citizen as stakeholders in curbing tax evasion, the CBDT has launched an automated dedicated e-portal on the e-filing website of the Department to receive and process complaints of tax evasion, foreign undisclosed assets as well as complaints regarding benami properties.

Refer: <https://www.incometaxindia.gov.in/Lists/Press%20Releases/Attachments/892/Press-Release-CBDT-launches-e-portal-for-filing-complaints-regarding-dated-12-01-2021.pdf>

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

INDIRECT TAXES

GST

I. NOTIFICATIONS

1. Select sections of the Finance Act, 2020 to be effective from 1st January 2021

The Central Government vide *Notification No. 92/2020- Central Tax dated 22nd December 2020* has appointed **1st day of January, 2021**, as the date on which the provisions of sections 119, 120, 121, 122, 123, 124, 126, 127 and 131 of the Finance Act, 2020 shall come into force.

2. Waiver of late fee for FORM GSTR-4 filing in UT of Ladakh for Financial year 2019-20

The Central Government vide *Notification No. 93/2020- Central Tax dated 22nd December 2020* has amended *Notification No. 73/2017-Central Tax, dated 29th December, 2017* to **waive the late fee** payable for delay in furnishing of FORM GSTR-4 for the Financial Year 2019-20, from the 1st day of November, 2020 till the 31st day of December, 2020 for the registered person whose principal place of business is in the Union Territory of Ladakh.

3. Amendments in CGST Rules, 2017

The Central Government vide *Notification No. 94/2020- Central Tax dated 22nd December 2020* & *Notification No. 01/2021- Central Tax dated 1st January 2021* has amended CGST Rules, 2017. The significant amendments are given as under:-

- a) **Rule 8 (Application for registration):** Biometric based Aadhaar authentication/ verification process introduced for GST registration.
- b) **Rule 9 (Verification of the application and approval):** Time limit for grant of GST registration on successful authentication of Aadhaar increased from 3 to 7 working days. On not opting for Authentication of Aadhaar or failure to get Aadhaar Authenticated or where the proper officer deems fit to carry out physical verification of the places of business, the time limit for grant of registration extended from 7 days to 30 days.

- c) **Rule 21 (Registration to be cancelled in certain cases):** Registration can be cancelled if (i) ITC is availed in violation of section 16, or (ii) Outward tax supplies declared in return under section 39 are less than the outward tax supplies declared in GSTR-1 for one or more tax periods, or (iii) the provisions of new rule 86B are violated.

- d) **Rule 21A (Suspension of registration):** The registration of a taxpayer can be suspended without giving a reasonable opportunity of being heard if the proper officer has reasons to believe that the registration is liable to be cancelled. New sub-rule (2A) inserted to provide for suspension of registration if variations or anomalies are found between GSTR-3B and GSTR 1 or GSTR 2A of a taxpayer, or any other analysis as carried out by the department. During the period, the registration is suspended, the taxpayer will not be able to claim any refund under section 54. Suspension of registration under this rule may be revoked by the proper officer, anytime during the pendency of the proceedings for cancellation, if he deems fit.

- e) **Rule 22 (Cancellation of registration):** Provisions of cancellation of registration under rule 22 synced with newly inserted sub-rule (2A) of rule 21A.

- f) **Rule 36(4) (Restriction on availment of ITC):** ITC entitlement for invoices not furnished by supplier reduced from 10% to 5%.

- g) **Rule 59 (Form and manner of furnishing details of outward supplies):** A new sub-rule (6) has been inserted so as to block filing of GSTR-1 by a monthly return filer who has not furnished GSTR-3B for preceding two months. Where the registered person is a quarterly return filer, he will not be able to file GSTR-1 or use invoice furnishing facility if he does not file GSTR-3B for the preceding tax period. Registered person who comes under the purview of newly inserted rule 86B will not be able to file GSTR-

1 or use invoice furnishing facility if he does not file GSTR-3B for the preceding tax period.

- h) Rule 86B (Restrictions on use of amount available in electronic credit ledger):** New Rule 86B has been inserted to provide for restrictions on utilisation of ITC for payment of output tax liability in excess of 99% of such tax liability if value of taxable supply other than exempt supply and export, in a month exceeds Rs 50 lakh limit. Certain exceptions have also been provided in the rule.
- i) Rule 138 (Information to be furnished prior to commencement of movement of goods and generation of e-way bill):** E-way bill to be valid for 200 km per day.
- j) Rule 138E (Restriction on furnishing of information in PART A of FORM GST EWB-01):** Person whose registration has been suspended not allowed to furnish PART A of E-way Bill.
- k) Form GST REG-31:** A new form GST REG-31 has been inserted in the said rules for 'Intimation for suspension and notice for cancellation of registration'.

4. Due date for filing of Annual Return & Annual Reconciliation Statement for the FY 2019-20 extended to 28th February 2021

The CBIC vide *Notification No. 95/2020-Central Tax dated 30th December 2020* has extended the due date for furnishing of Annual Return in Form GSTR-9 and Annual Reconciliation Statement in Form GSTR-9C for the financial year 2019-2020 from 31st December 2020 to 28th February, 2021.



Extension of applicability CARO, 2020

The applicability date of Companies (Auditor's Report) Order, 2020 has been extended for one more year by amendment in Companies (Auditor's Report) Order, 2020. Accordingly, CARO 2020 will be applicable from FY 2021-22 and onwards i.e. financial years commencing on or after 1st April, 2021.

Refer: <https://www.icai.org/post/extension-applicability-date-caro-2020-for-one-year>

➤ Companies (Compromises, Arrangement and Amalgamations) Second Amendment Rules, 2020

The Ministry of Corporate Affairs vide notification dated 17th December, 2020 has amended the Companies (Compromises, Arrangement and Amalgamations) Rules, 2016 wherein new definition of "Corporate Action" has been inserted in rule 2, in sub-rule (1), after clause (d).

Furthermore, in said rules, after rule 26, Rule 26A relating to "Purchase of minority shareholding held in demat form" has also been introduced.

Refer: http://www.mca.gov.in/Ministry/pdf/SecondAmdtRules_18122020.pdf

➤ Relaxations by the MCA till December 1, 2021 for inclusion of the name of Independent Directors in the Independent Directors Data Bank

The Ministry of Corporate Affairs has notified Companies (Appointment and Qualification of Directors) Fifth Amendment Rules, 2020 on 18th December, 2020 which has provided further relaxation in passing the online proficiency self-assessment test conducted by the Institute by one more year i.e. from one year to two year from the date of inclusion of his name in the data bank and has also relaxed the criteria for registration and the period of ten years directorship has been reduced to three years and passing marks criteria has been reduced from 60% to 50%.

Refer: http://www.mca.gov.in/Ministry/pdf/FifthAmdtRules_18122020.pdf

➤ Commencement notification for the provisions of Companies (Amendment) Act, 2020

The Central Government has appointed the **21st day of December, 2020** as the day on which the following provisions of the Companies (Amendment) Act, 2020 shall come into force; namely Section 1, 3, 6, 7, 8, 9, 10, 12, 13, 14, 15, 16, 17, Clause (a) and (b) of section 18, 19, 20, 21, Clause (i) of section 22, 24, 26, 28, 29, 30, 31, 33, 34, 35, 36, 37, 38, 39, 41, 42, 43, 44, 46, 47, 48, 49, 51, 54, 57, 61, 63.

The said section of Companies Act, 2013 are as follows; Sec 8(11), 26(9), 40(5), 48(5), 56(6), 59(5), 64(2), 66(11), 68(11), 71(11), 86(1), 88(5), 89(5), 89(7), 90(10) and 90(11), 92(5), 92(6), 105(5), 117(2), 128(6), 134(8), 137(3), 140(3), 143(15), 147(1), 165(6), 167(2), 172, 178(8), 184(4), 188(7), 204(4), 232(8), 242(8), 243(2), 284(2), 302(3), 342(6), 347(4), 348(6), 348(7), 356(2), 392, 405(4), 441(5), 450.

As on date amendments to section 135 (Corporate Social Responsibility) and provisions relating to Producer companies have not been notified.

Refer: http://www.mca.gov.in/Ministry/pdf/Commencement_Notification_24122020.pdf

➤ **Companies (Incorporation) Third Amendment Rules, 2020**

The Ministry of Corporate Affairs has inserted Rule 9A w.e.f 26th January, 2021, vide its notification dated 24.12.2020, after Rule 9 of the Companies (Incorporation) Rules, 2014 to further extend the time period of the name reserved through SPICE+ under Rule 9 upon payment of certain fees ranging from Rs 1000 to Rs 3000 depending upon the number of days of extension availed.

Moreover, the new format for Part-A shall be substituted in the e-form SPICE+ which asks for 'Summary of the objects to be pursued by the company on its incorporation' in addition to the previous requirements of the form (Part A) and this shall come into force from the date of publication in official gazette i.e. 24th December, 2020.

Refer: <https://resource.cdn.icai.org/62578clcg50615.pdf>

➤ **Companies (Share Capital and Debentures) Second Amendment Rules, 2020**

The Ministry of Corporate Affairs vide notification dated 24th December 2020 has notified Companies (Share Capital and Debentures) Second Amendment Rules, 2020 which has amended some of the particulars of e-form SH-7.

Refer: <http://egazette.nic.in/WriteReadData/2020/223948.pdf>

➤ **Extension of date for conducting Board Meeting through VC/OAVM**

The Ministry of Corporate Affairs has further extended the time period for conducting Board

Meeting through Video Conference /Other Audio-Visual Means for approving financial statements, Board's report, Prospectus and other restricted agenda items as referred in sub rule 1, from 31st December 2020 to 30th June 2021, vide its notification dated 31st December 2020.

Refer: <https://www.icai.org/post/extension-date-for-conducting-board-meeting-30th-june-2021>

➤ **Clarification on passing of ordinary and special resolutions by companies under the Co. Act' 2013 read with rules made thereunder on account of COVID-19-Extension of time**

In continuation to the Ministry's Circular No.14/2020, dated 8th April, 2020, No.17/2020, dated 13th April, 2020, No.22/2020, dated 15.06.2020 and No.33/2020, dated 28.09.2020., MCA has issued General Circular No 39/2020 dated 31st December, 2020 which has further extended the time period for Companies to hold EGMs through Video Conferencing (VC) or Other Audio Visual Means (OAVM) or transact business through postal ballots from 31st December, 2020 to 30th June 2021.

Refer: <https://resource.cdn.icai.org/62690clcg040120.pdf>

➤ **Clarification on imposition of additional fees on filing of e-form MGT-7 and AOC-4**

The Ministry of Corporate Affairs hosted an announcement on the homepage of its website on 31st December 2020 clarifying that there is no exemption on imposition of additional fees for filing e-forms MGT-7 and AoC-4/AOC-4 XBRL/AOC-4 CFS/AOC-4 NBFC, if the forms have not been filed till 31/12/2020, since extension was provided to all the companies for conducting AGM and not for filing the form.

Accordingly, after 31st December 2020, additional fee shall be applicable from the actual date of AGM or due date/extended due date of AGM + 30/60 days as the case may be and Rs.100 per day shall be charged starting from such day even if such date falls prior to 31st December 2020.

Refer: <http://www.mca.gov.in/MinistryV2/homepage.html>

➤ **Clarification on last date for filing of e-form DIR-3**

The Ministry of Corporate Affairs has clarified vide its announcement dated 31st December

2020 that the last date for filing DIR-3 KYC for Financial year 2019-20 has expired on 31st December 2020 and the process of deactivating the non-compliant DINs is in progress and will be completed shortly.

It is to be further noted that web service DIR-3 KYC shall not be available for filing during the pendency of deactivation of non-compliant DINs. Filing of DIR-3 KYC can be made after completion of the scheduled activity, as above, when the service is made available on the portal after payment of applicable fees.

Refer: <http://www.mca.gov.in/MinistryV2/homepage.html>

➤ Clarification on revision of e-form MGT-7

The Ministry of Corporate Affairs through its announcement dated 31st December 2020 issued a clarification that e-Form MGT-7 has been revised on MCA21 Company Forms Download page w.e.f 1st January, 2021. This revision is due to the reason that the field 'SRN of the application filed for extension' (GNL-1) in e-form MGT-7 is made optional for FY 2019-20 w.e.f 01 January 2021 as the blanket

extension was provided to all companies for conducting AGM.

Refer: <http://www.mca.gov.in/MinistryV2/homepage.html>

➤ Clarification on spending of CSR funds for Awareness and public outreach on COVID-19 Vaccination Programme

The MCA issued a circular dated 13th January, 2021 which clarified that spending of CSR funds for carrying out awareness campaigns/ programmes or public outreach campaigns on COVID-19 Vaccination programme is considered to be an eligible CSR activity under item no (i) (ii) and (xii) of Schedule VII of the Companies Act, 2013 relating to promotion of health care, including preventive health care and sanitization, promoting education and disaster management respectively.

Refer: http://www.mca.gov.in/Ministry/pdf/CSR2021_13012021.pdf

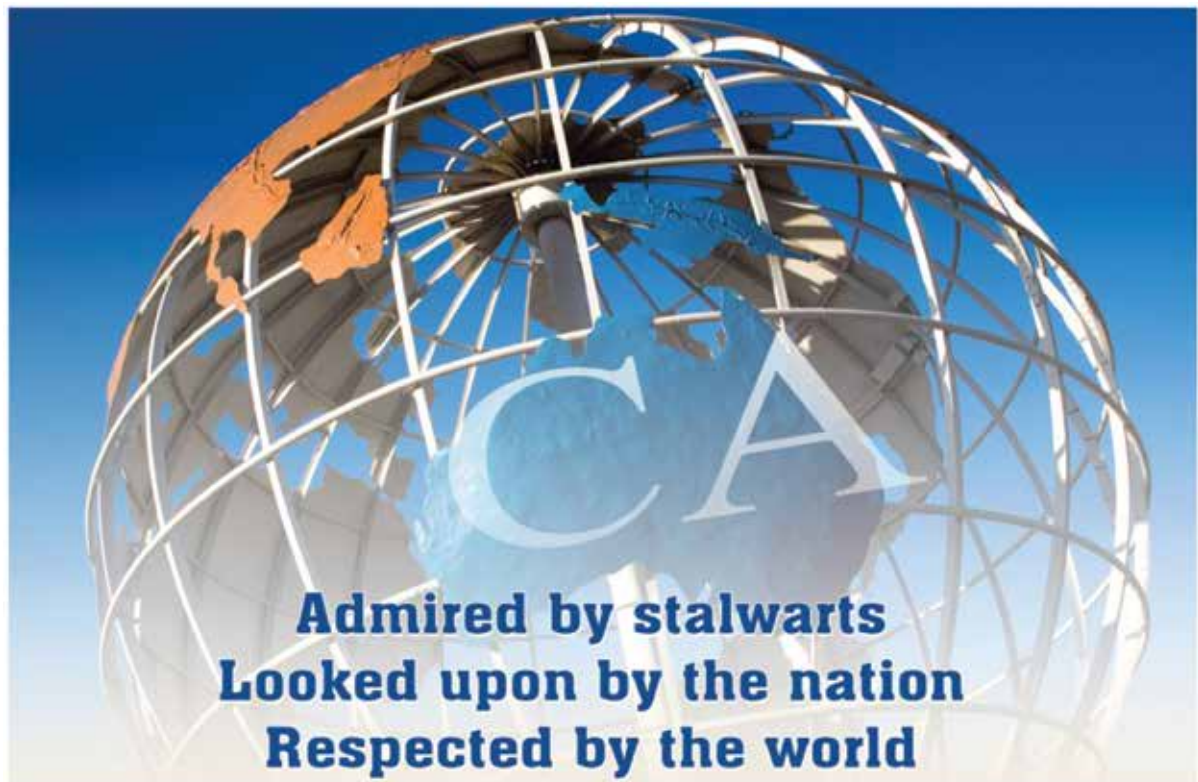


Summary Information on few Compounding Orders issued after 1st March 2020

S. No.	Party Name	Nature of Contravention	Date of Order	Compounding Fees (Rs.)
1.	Telemune Software Solutions Pvt. Ltd.	Regulation 3 of FEMA Notification 10(R) – Restriction on Holding foreign currency account by a person resident in India.	27-11-2020	1,05,050
2.	Mahindra and Mahindra Limited	Regulation 16(1)(iii) of FEMA Notification No. 120 – Disinvestment of overseas investment without obtaining Valuation Certificate	19-08-2020	7,41,350
3.	Rajesh Birjalal Bachani	Regulation 3 read with Regulation 4.B.(v) of Notification No. FEMA 3(R)/ 2018-RB – Borrowing by person resident in India from its NRI close relatives	13-08-2020	1,04,000
4.	Anand Daniel	Para 1 of Schedule III of FEM(Current Account Transactions) Rules, 2000 – Remittance under LRS in excess of USD 2,50,000 without prior approval of RBI	11-08-2020	52,718
5.	Mahindra and Mahindra Limited	Regulation 6(4)(iv) of Notification No. FEMA 120/ 2004- RB – undertaking financial commitment without equity contribution in JV/WOS without obtaining prior approval of RBI	25-07-2020	19,44,451

Legal Update

6.	cKers Finance Private Limited	Regulation 4.B (i) read with Para 10 of Schedule I of Notification No. FEMA 3(R)/2018-RB – Parking of ECB proceeds abroad or in India pending utilisation for permissible end uses.	10-07-2020	5,00,000
7.	Matrimony.com Limited	Regulation 6(2)(ii) of Notification No. FEMA 120/ 2004- RB – Direct Investment in overseas JV/WOS no engaged in <i>bonafide business</i> activity	09-04-2020	51,256
8.	Bimla Devi Beriwal	Regulation 5(1) of Notification No. FEMA 120/ 2004- RB, Section 10(6) of FEMA 1999 – Person resident of India uses foreign exchange for purpose other than the purpose mentioned in declaration or using it for purpose for which purchase or acquisition of foreign exchange is not permitted and Making overseas investment without approval of RBI.	18-03-2020	14,66,760
9.	Micro Labs Limited	Regulation 6(2)(iv) of Notification No. FEMA 120/ 2004- RB – Undertaking financial commitment without making equity contribution in JV/WOS without prior approval of RBI.	13-03-2020	2,72,106



New Publication

Compendium of Opinions - Volume XXXVII (February 12, 2017 – February 11, 2018)



The Expert Advisory Committee of the Institute of Chartered Accountants of India has published Compendium of Opinions, Volume XXXVII. This Volume of Compendium of Opinions contains opinions finalised by the Expert Advisory Committee during the period February 12, 2017 – February 11, 2018.

The subjects of the opinions contained in this volume include:

- Treatment of contribution to Settlement Guarantee Fund under Ind AS;
- Treatment of financial liability under Ind AS 32 and Ind AS 109;
- Amortisation of goodwill in respect of subsidiaries and jointly controlled entities;
- Treatment of investments in units of equity and debt mutual funds under Ind AS 109;
- Treatment of disputed Principal and Interest in respect of cases pending before regulatory authorities;
- Classification of grant related to assets in the statement of cash flows;
- Recognition and valuation of Carbon Emission Reductions (CERs);
- Accounting treatment of temporary income in relation to construction contract;
- Accounting for software income;

- Amortisation of expenses incurred on business requirements at the time of formation;
- Making provision for non-approved cost;
- Accounting treatment of CWIP held on behalf of GoI and funds received from the GoI;
- Accounting treatment of amount invested in LIC's leave encashment plan;
- Consideration of Capital Reserve, Risk Fund & Reserve for calculation of Net Worth;
- Recognition of DTL on Special Reserve created for deduction u/s 36(1)(viii) of the IT Act.

The opinions are based on the facts and circumstances of each case as presented to the Committee, and the accounting/auditing principles and practices and the relevant laws applicable on the dates the Committee finalised the respective opinions. The Committee answers the queries in accordance with the **Advisory Service Rules** which are available on the web-site of the ICAI, at its hyperlink, http://www.icaai.org/new_post.html?post_id=495&c_id=142. For further information, write to Expert Advisory Committee at eac@icai.in

Price : ₹ 250/-

Ordering Information:

This publication can be purchased online at link: <https://icai-cds.org/ICAIShop/>. The publication is also available at the sales counters of the Institute at New Delhi, Chennai, Mumbai, Kolkatta and Kanpur.

Classifieds

5838 Tarun Kandhari & Co LLP, a Chartered Accountant firm headquartered in New Delhi, operating since 1992, presently represented by 14 partners, operating from 12 locations spread over different states in India, with associated team of professionals, support staff and trainees numbering around 70; looking for growth prospects through merger with Chartered Accountant firm having more than 10 years of experience from different states i.e Punjab (*Ludhiana, Amritsar, Jalandhar*), Rajasthan (*Jaipur, Jodhpur, Udaipur, Raipur*), Uttar Pradesh (*Agra (Lucknow)*), Bihar (*Allahabad, Varanasi, Patna*), Madhya Pradesh (*Bhopal*), Arunachal Pradesh (*Itanagar*), Jammu & Kashmir (*Srinagar*) (*Jammu*), Uttarakhand (*Rudrapur, Dehradun*), Nepal (*Kathmandu*),

Chattisgarh (*Raipur*), Himachal Pradesh (*Shimla, Solan*), Tamil Nadu (*Kerala, Trivandapuram, Kochi, (Pondicherry)*), Telangana (*Hyderabad*), Meghalaya (*Shillong*), Sikkim (*Gangtok*), Bhutan (*Thimbu, Paro*) and Dubai.

5839 Delhi-NCR FCA holding CoP having 30 years experience in practice /CFO-level auto industry, premises at Gurgaon, seeks partnership / networking / assignments / opening branch. Contact: +91 9910002769; growthpartner7@gmail.com

5840 Practicing CA and Registered Valuer is looking for networking with firms to develop/provide valuation services and create mutual synergistic opportunities. For further discussion, Call: 9898963506, Email: nitin@npahilwani.com



Campus for Newly Qualified Chartered Accountants (NQCA's) February- March, 2021

Maintaining strong and spontaneous relationship with the industry and other business houses remains the main focus of the Committee for members in Industry & Business (CMI&B) of the Institute of Chartered Accountants of India (ICAI). An initiative to that effect remains the Campus Placement Programme (held twice a year) that provides a platform to both the NQCA's and the organizations looking for to hire the best available talents to fulfil their human resource requirement. ICAI simply acts as a facilitator to bring the recruiter and NQCA's together.

Invitation to Organisations: Any corporation, irrespective of its size, standing in the market and boundary of its business, can take part in this placement programme being held at several centers across the country during February- March, 2021.

Campus Interview Schedule:		
No.	Centre	Dates
1	Mumbai & New Delhi	4 th , 5 th , 6 th , 8 th , 9 th & 10 th March, 2021
2	Bengaluru	5 th , 6 th , 8 th , 9 th & 10 th March, 2021
3	Chennai	6 th , 8 th , 9 th , 10 th & 11 th March, 2021
4	Kolkata	8 th , 9 th , 10 th , 11 th & 12 th March, 2021
5	Ahmedabad, Jaipur, Pune & Hyderabad	9 th , 10 th & 11 th March, 2021
6	Durgapur, Ernakulam & Visakhapatnam	31 st March, 2021
7	Kanpur	31 st March & 1 st April, 2021
8	Bhubaneswar, Chandigarh, Coimbatore, Indore, Noida & Thane	31 st March & 1 st April, 2021

Invitation to Candidates: The above Campus is meant for the candidates, who would be passing the CA Final examination held in Nov- Dec, 20 and also for others who have qualified earlier and are fulfilling the criteria mentioned in the Announcement.

Organizations intending to recruit NQCA's through campus scheme are requested to get in touch with the CMI&B Secretariat, ICAI Bhawan, Indraprastha Marg, New Delhi -110002, and Email: campus@icai.in, Tel No. (011)30110555 and to register log on to <https://cmib.icai.org/>.

Candidates may email at cajob@icai.in, Tel No. (011)30110491/549 and to register log on to <https://cmib.icai.org/>.

Chairman
Committee for Members in Industry & Business
The Institute of Chartered Accountants of India

Organised By:
Committee for Members in Industry & Business (CMI&B)
The Institute of Chartered Accountants of India
(Set up by an Act of Parliament)

'ICAI BHAWAN', Post Box No.: 7100, Indraprastha Marg, New Delhi – 110002
Tel. No.: (011) 30110555 | E-mail: campus@icai.in

ICAI in Media : Glimpses of December 2020-January 2021



CA. Atul Kumar Gupta, President, ICAI elected as IFAC Board Member

New Delhi | Dec.21, 2020

CA. Atul Kumar Gupta, President, The Institute of Chartered Accountants of India (ICAI) has been elected as the Board Member of International Federation of Accountants (IFAC) at the IFAC Council Meeting in November, 2020. CA. Gupta has been elected for a period of three years from November 2020 to November 2023.

IFAC is a global organization for the accountancy profession, dedicated to serving the public interest by strengthening the profession and contributing to the development of strong international economies.

Beginning with 63 founding members from 51 countries in 1977, IFAC now comprises of 175 members and associates in 130 countries and jurisdictions worldwide, representing approximately 3 million accountants in public practice, education, government service, industry, and commerce.

IFAC's mission is to serve the public interest by: contributing to the development of high-quality standards & guidance; facilitating the adoption & implementation of these standards; contributing to the development of strong professional accountancy organizations & accounting firms and promoting the value of professional accountants worldwide and speaking out on public interest issues.

Internationally, CA. Atul Gupta is also serving on the Board of XBRL International and South Asian Federation of Accountants (SAFA). He is also a member of Public Sector Financial Management Committee of Confederation of Asian and Pacific Accountants (CAPA) and representing ICAI in International Integrated Reporting Council (IIRC). He, earlier, has been the Chairman of Committee on Education, Training & CPD of SAFA.

Experience of CA. Gupta spans through education, examination, CPD, research, I&D and system development with strong focus towards IT architecture giving him adequate insight in to the accountancy profession. He has adequate International exposure & hands on experience in dealing with multi-lateral agencies & the capability to deal with multi-cultural teams including understanding of the work program of IFAC & has contributed significantly in building strong relationship between ICAI & IFAC.

On being elected on the Board of IFAC, CA. Atul Kumar Gupta said "Being associated with IFAC reflects the recognition of the pivotal role being played by ICAI for the profession both nationally as well as internationally. We at ICAI are truly excited to work with IFAC, which is a global voice for the accountancy profession. Being associated with IFAC would allow me to work towards re-skilling the skillsets, equip professional with changing technology paradigm, building trust and inspiring confidence amongst various stakeholders, supporting the development and implementation of high-quality international standards, improving public sector financial management and working with member bodies to strengthen the profession globally".

Describing his vision and priorities for the accountancy profession and IFAC activities, CA. Atul Kumar Gupta mentioned that "He would like to see that economic issues and challenges being faced by the developing Countries & SMPs are appropriately taken up at global platform and suitable initiatives for professional accountants to enrich and equip them in new age technology skills, acquire strategic managerial skills besides continuing their prowess in accountancy, finance, taxation and business laws are undertaken."

IFAC is the global organization for the accountancy profession

dedicated to serving the public interest by strengthening the profession and contributing to the development of strong international economies. IFAC's vision is that the global accountancy profession be recognized as a valued leader in the development of strong and sustainable organizations, financial markets, and economies.

IFAC's view is that a fundamental way to protect and serve the public interest is to develop, promote, and enforce high-quality, internationally recognized standards for auditing and assurance, education, ethics, and public sector accounting. These standards and related regulation are essential to ensuring the credibility of information upon which investors and other stakeholders depends and to achieving sustainable global economic development. As a result, IFAC supports the following independent standard-setting boards:

- International Auditing and Assurance Standards Board
- International Accounting Education Standards Board
- International Ethics Standards Board for Accountants
- International Public Sector Accounting Standards Board

It promotes convergence to the standards issued by the boards as well as to the International Financial Reporting Standards (IFRSs) set by the International Accounting Standards Board.

FAC also issues tools, guidance, and resources to support member bodies and their members who are professional accountants in business or employed in small and medium practices-both of these groups play a critical role in the global economy. In addition, it collaborates with member bodies and works with organizations throughout the world to support the growth and development of the accountancy profession in emerging economies.

The Indian EXPRESS

Pune, | Dec 24, 2020

SPPU and ICAI sign MoU to further skill-oriented education for commerce students, faculty

EXPRESSNEWS SERVICE
PUNE, DECEMBER 24

VICE-CHANCELLOR of Savitribai Phule Pune University (SPPU), Nitin Karmalkar, on Thursday said that the university and the Institute of Chartered Accountants of India (ICAI) have signed an educational memorandum of understanding (MoU) to provide practical, employment and skill-oriented education to commerce students and faculty members.

"It will be helpful for extending academic cooperation for various commerce courses of the university, conducting faculty development programs for the staff, facilitating the process of students seeking jobs with CA firms and enhancing their knowledge through webinars and seminars," Karmalkar said. He was addressing mediapersons after exchanging the MoU with CA Nihar Jambusaria at JW Marriott, SB

Road, Pune, on Thursday.

"Changes in the society need to take place in the university as well. Taking exams was a big challenge during the Covid-19 pandemic.. We considered many errors during this period. We are signing MoUs with different institutes; this is a positive step in terms of new education policy implementation," Karmalkar added.

CA Nihar Jambusaria said, "The MoU with the university is a historic moment for the CA fraternity. It will enable students to work in companies while learning and enhance their experiences. It will also help CAs pursue post doctoral education."

"Forty per cent of students in the university are in the commerce stream. This MoU will help in their placements. The gap between theory and practical knowledge will be filled and better activities will be implemented for both faculty and students," said SPPU Pro Vice-Chancellor, NS Umrani.

वीर अर्जुन

New Delhi, January 8, 2021

देश

श्री अर्जुन, नई दिल्ली, 8 जनवरी, 2021

एमएसएमई क्षेत्र की लाखों इकाइयां देश के लिए आर्थिक इंजन की तरह हैं : बिरला

विशेष प्रतिनिधि

नई दिल्ली। लोक सभा अध्यक्ष ओम बिरला ने आज नई दिल्ली में आईसीआईएआई द्वारा एमएसएमई के प्रशासकीय सेवा से आर्थिकवर्धन भारत को ओर' विषय पर आयोजित एमएसएमई नेशनल कॉन्फ्लेक्स को संबोधित किया। इस अवसर पर श्री बिरला ने आई सी ए आई के योगदान का उल्लेख करते हुए कहा कि, आई सी ए आई ने अपनी स्थापना के 71 वर्षों में अपनी प्रभावशालिता और विश्वसनीयता कर्मचारी को है और उन्होंने अपनी गुणवत्ता में सुझाव को है। आईसीआईआई के औद्योगिक एवं आर्थिक योगदान की सराहना करते हुए श्री बिरला ने कहा कि आईसीआईआई के मार्गनिर्देशन में गैरसरकारी और एमएसएमई सहायता केन्द्र छोले जा रहे हैं जो पूरे देश में 100 से अधिक स्थानों पर लोगों का



लोक सभा अध्यक्ष, ओम बिरला आईसीआईआई द्वारा आयोजित एमएसएमई नेशनल कॉन्फ्लेक्स को संबोधित करते हुए।

मार्गनिर्देशन करते हैं। एमएसएमई क्षेत्र हमारे देश की आर्थिकव्यवस्था का सबसे मजबूत सम्पत्ति है। उन्होंने यह भी कहा कि एमएसएमई क्षेत्र की लाखों इकाइयां देश के लिए आर्थिक इंजन की तरह हैं तथा इनका देश की अर्थव्यवस्था में बहुत बड़ा योगदान है। श्री बिरला

ने आगे कहा कि एमएसएमई के माध्यम से किसानों, टिकाऊ, गुणवत्तापूर्ण और उपयोगी वस्तुओं का उत्पादन संभव हो पाएगा जिसका निर्यात भारत पूरी दुनिया को करेगा। राष्ट्र निर्माण में युवाओं को भूमिका की बात करते हुए श्री बिरला ने कहा कि, हमारी सबसे बड़ी ताकत हमारी युवा शक्ति है। हमारी लगभग 65 प्रतिशत आबादी 35 वर्ष से कम

आयु की है। यदि उनकी ऊर्जा राष्ट्र निर्माण के कार्य में लग जाए तो भारत आर्थिक समृद्धि के रास्ते को प्रारंभ कर लेगा। उन्होंने यह भी कहा कि भारत के नौवहन तकनीकी क्षेत्रों में और इनोवेशन के क्षेत्र में अच्छी है। उन्होंने इस बात का उल्लेख भी किया कि आईटी सेक्टर में भारतीय युवा अपने कौशल और नेतृत्व क्षमता के लिए दुनिया भर में जाने जाते हैं और यदि स्पष्ट नीति और उचित माता-पिता हो तो हमारे उद्योगी विश्व में किसी से भी कम नहीं हैं। आत्मनिर्भर भारत इसी ऊर्जा और उद्यमशीलता की भावना पर आधारित है।

Telangana Today

New Delhi, Jan 16, 2021

CAs body ICAI plans to use AI

Chartered accountants' apex body ICAI is planning to use artificial intelligence to identify non-compliances with respect to financial statements as part of efforts to boost its review process. The Institute of Chartered Accountants of India (ICAI) through its Financial Review Reporting Board (FRRB) is gearing up for another technological advancement by way of utilising Artificial Intelligence (AI). PTI

BusinessLine

New Delhi, Jan 09, 2021

Auditors cannot share client info with credit raters

CA Institute says data can be given only at auditee's behest, or at a regulator's request

KR SRIVATS

New Delhi, January 8

Credit rating agencies may hitherto not find it easy to get information about a company or its management from the statutory auditor of the entity concerned. This is because the CA Institute has clarified that its members are not permitted under the Chartered Accountants Act and the Code of Ethics to share client information with credit rating agencies.

The latest ICAI clarification to the queries from its members is expected to put corporates in a spot and force them to tightrope walking as they will have to balance their relationship with the statutory auditor and the credit rating agency, said corporate observers.

However, the statutory auditor can give feedback to

a credit rating agency if explicitly permitted to do so by the client concerned, the Institute of Chartered Accountants of India has said. Any failure to comply with this clarification will be treated as "professional misconduct" and can, therefore, invite disciplinary proceedings, the audit regulator has cautioned.

Code of ethics

Speaking to BusinessLine, ICAI president Atul Kumar Gupta said that chartered accountants under their code of ethics are not allowed to share data of their clients unless the client permits it or when two exceptions come to play. Even where the client does not expressly approve sharing of information, the two exceptions are that the auditors can share if the law



Our members can directly give the data or feedback to the regulator. But not to a third party like a credit rating agency

ATUL KUMAR GUPTA
ICAI President

of the land requires them to do so or any regulator directly asks the auditor for information.

Feedback mechanism

Gupta said that SEBI had recently issued an advisory and asked credit rating agencies to get a feedback from the statutory auditors. "We are

now saying that this feedback mechanism is not falling under the two exceptions that are there in the Code of Ethics. So, either SEBI should say that this is under a law or if SEBI itself asks, our members can directly give the data or feedback to the regulator. But not to a third party like a credit rating agency," Gupta said.

Gupta said the ICAI will in the next few days reach out to SEBI to discuss the issue and see how the matter can be sorted out.

'Not duty bound'

Commenting on the latest ICAI clarification, Amarjit Chopra, former ICAI president, said: "Statutory auditors are not duty bound under law to share information with credit rating agencies. They are duty bound to submit information to regulators like NFRA or courts or the CBI as they (the agencies) have power under law. But

credit raters are private agencies. It should also be allowed only when the client permits."

Sanctity of audit

Ashok Haldia, a former Secretary of CA Institute, said that auditors during the course of an audit have unrestricted access to documents and information of the clients. "Allowing the auditor to share information with other agencies these or their assessment, on one pretext or other, without the consent of the auditee, would put at risk the sanctity of audit. The exceptions are, however, when under any law the auditor is required to share information or his findings. Even otherwise rating agencies have access to clients for information. It is desirable that they undertake an independent exercise and based on that make their own assessment on rating," he said.

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