

JOURNAL OF THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

UNION BUDGET 2022-23

ICAI - SET UP BY AN ACT OF PARLIAMENT



"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.
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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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Union Budget: Steering Economic Growth

The Union budget presented in early February 2022 heralded the beginning of the 'Amrit Kaal' with a focus on growth for all, promoting technology enabled development, energy transition and climate action, a virtuous cycle starting from private investment, funded by public capital investment and inclusive welfare through initiatives like Gati Shakti Productivity Enhancement and Investment, Energy Transition and Climate Action, Financing of Investments. The Budget kept in mind, the current scenario after the pandemic aiming at a nimble and sustained recovery of the economy which is reflective of the country's resilience. For the holistic growth of the economy various measures have been proposed for various constituents of the economy such as MSMEs, Start-ups, National Health Mission and Education Mission generate National to employment as well as build an aspiring India.

The Specific tax regime for virtual digital assets introduced is a good indication towards bringing the digital currencies and ecosystem under the ambit of regulatory mechanism. The GST revenues are buoyant despite the pandemic which is a healthy indication of the burgeoning progress and taxpayers deserve applause for this growth. The Faceless regime has been fully established during Covid-19 pandemic.

ICAI has given its comments on the Pre-Budget Memorandum on the budget to the government. The ICAI vide its representation(s) suggested the CBDT to provide suitable relief to scrupulous taxpayers who missed the deadline for filing ITRs u/s 139(1) by waiving off of penal provisions under the Income-tax Act, 1961 for late filing (e.g., section 234F late fees). The Finance Bill, 2022 favourably considered the aforesaid suggestion and proposed to amend section 119 of the Act so as to insert section 234F and include it in the list of sections mentioned in section 119(2)(a) to enable the CBDT to issue such orders or instructions, as deemed fit. This proposal was made considering the genuine hardships faced by certain classes of persons in filing return of income and not to impose a fee for a default which is beyond their control.

Further a representation was made to the CBDT

requesting to issue clarification regarding taxability of assistance provided by the employers to the legal hire/nominee of their deceased employees (mainly due to Covid pandemic). Accordingly, it was suggested that the Government may amend section 56(2)(x) and clarify the non-taxability of amount received by way of assistance to family member of work force of deceased employee or so as to exclude the above amount from the purview of section 56(2)(x). The Finance Bill, 2022 duly accepted the ICAI suggestion and proposed appropriate/suitable amendments in section 17(2) and section 56(2)(x).

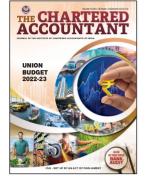
GST proposals in Budget 2022 are in tandem with the Government's endeavour of overcoming the challenges in GST compliance processes and bolstering the ease of doing business. As a step forward in rationalization of the return filing process, budget proposals focus on doing away with two-way communication process in return filing. In line with the GST Council's recommendation, the proposal to charge interest on input tax credit which is wrongly utilized and not merely wrongly availed is a welcome move. Further, the proposal to extend the time-limits for availment of input tax credit, issuance of credit notes, rectification of errors in return/TCS statements furnished will also facilitate taxpayers. The proposal to transfer the amount available in electronic cash ledger of a registered person to the electronic cash ledger of its distinct person would foster the ease of doing business and relax the working capital requirement of the businesses. The customs duty rate changes in Budget 2022 are aimed at protecting domestic industries which will boost 'Make in India' and 'Atmanirbhar Bharat'.

With this backdrop, the new measures announced in the Budget 2022 are aimed to further the growth of the economy to rise with resilience after the pandemic slump with a simpler and predictable tax regime which will simplify the tax system, promote voluntary compliance by taxpayers, and reduce litigation thereby enabling a stronger economy and a stronger nation.

-Editorial Board ICAI: Partner in Nation Building

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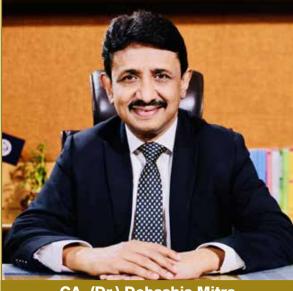
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Profile

Our New President



CA. (Dr.) Debashis Mitra President, ICAI 2022-23

A visionary with strong academic leaning and having deep professional insight, CA. (Dr.) Debashis Mitra, has been elected as the President of The Institute of Chartered Accountants of India (ICAI) for the year 2022-23. Serving his third term in the Council of ICAI, he has been serving the accounting profession for last more than thirty-four years. Dr. Mitra, a senior practising member, is also a Cost Accountant, Company Secretary, holds a Master's degree in Commerce, Law graduate and a qualified Information Systems Auditor. With keen interest in academic research, he is a Ph.D. on the topic "A Critical Study of Select Indian GAAP, US GAAP & IAS / IFRS".

As President ICAI, CA.(Dr.) Debashis Mitra is now the Chairman of all Standing Committees i.e. Executive, Finance and Examination Committees, besides being the ex-officio member of all Non-Standing Committees and Editor of ICAI Journal, *The Chartered Accountant*. CA. Debashis Mitra is the Director of ICAI Registered Valuers Organisation (RVO) and also the representative from ICAI RVO on the "Committee to advise on Valuation matters" of MCA. He is also Chairman of the ICAI Research wing, ICAI – Accounting Research Foundation and Extensible Business Reporting Language (XBRL) India. He is also on the Board of Indian Institute of Insolvency Professionals of ICAI.

CA. (Dr.) Debashis Mitra is a member on the Board of Chartered Accountants Worldwide (CAW) as

well as the South Asian Federation of Accountants (SAFA) and also Technical Advisor to the IFAC Board member. He, in his capacity as President ICAI is a representative on International Integrated Reporting Council (IIRC) and representing ICAI in the Board meetings of PAFA and AFA.

CA.(Dr.) Debashis Mitra will now be representing ICAI in some very important Committees constituted by the Indian government and Regulators that include Government Accounting Standards Advisory Board (GASAB) and Audit Advisory Board- both constituted by the C&AG of India. He is also Board Member of Insurance Regulatory & Development Authority (IRDA), Insurance Advisory Committee and Member of SEBI's Primary Market Advisory Committee.

A persuasive and intense trainer, he is renowned for his interactive deliberations in International Financial Reporting Standards (IFRS) and Corporate Laws. He has trained many officials of several corporate and non-corporate entities as well as Central and State governmental organizations. An avid speaker, he passionately shares his deep and incisive knowledge in India & abroad at various events organised by the ICAI, trade organisations and other reputed Institutes.

As an accomplished professional having immense knowledge of trade and industry, he has served as an active member of several prestigious boards, forums and institutions in India, viz., Quality Review Board established by Govt. of India, Board of Extensible Business Reporting Language (XBRL) India and The Board of Governors of Assam Downtown University. He also represented ICAI in Uday Kotak Committee on Corporate Governance set up by SEBI as well as the Committee set up by Ministry of Corporate Affairs for revision in CARO.

On international front, he was the Chairman of Committee on Education, Training and CPD of South Asian Federation of Accountants (SAFA) and member of Audit Group of Confederation of Asian and Pacific Accountants (CAPA). He has also served as member of SAFA Committee on Auditing Standards and Quality Control.

Earlier, Dr. Mitra has also served the profession as Chairman of the Eastern Indian Regional Council of ICAI as well as Guwahati Branch of EIRC of ICAI. A seasoned strategist and leader to the core, he is the former President of Rotary Club of Calcutta, the oldest running Rotary Club in Asia, as well as former National President of The Institute of Internal Auditors (India).

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Our New Vice President



CA. Aniket Sunil Talati Vice-President, ICAI (2022-23)

man of refined thought-process, quick understanding and sharp vision, CA. Aniket Sunil Talati has been elected as the Vice-President of the Institute of Chartered Accountants of India for the term 2022-23. Respected for his strong organizational skills and deep insight in the affairs of profession, CA. Aniket Sunil Talati has contributed to the cause of profession from various professional perspectives.

Being Bachelor of Commerce from Mumbai University and a Rank holder from Gujarat University, CA. Aniket Sunil Talati further pursued Master of Commerce. He has led the cause of profession through various committees of the Branch & Regional Councils of ICAI. He has served as the Chairman of Ahmedabad Branch of ICAI for the year 2014-15 and as Secretary, WIRC for the year 2017-18.

He was the Chairman of Financial Reporting Review Board (FRRB), Vice Chairman of CSR Committee and Convenor of Digital Re-Engineering & Learning Directorate of ICAI. He was also the Director of ICAI Accounting Research Foundation (ICAI ARF) and the member of various other Committees, Boards and Directorates of ICAI. CA. Aniket Sunil Talati is at the forefront of Digital Transformation within ICAI, and numerous digital initiatives launched under him stand testimony to this fact.

CA. Aniket Sunil Talati has been appointed as the Technical Advisor to the ICAI's Nominee on the PAIB Advisory Group of IFAC. Previously, he has also served as Technical Advisor to the IFAC Board Member. IFAC is the global organization for the accountancy profession. Founded in 1977, IFAC has more than 175 members and associates in more than 130 countries and jurisdictions, representing more than 3 million accountants employed in public practice, education, government service, industry and commerce. He has also been recently appointed as the Technical Advisor to the Board member of SAFA (South Asian Federation of Accountants). He has served as Executive Committee Member of Gujarat Chamber of Commerce & Industry (GCCI) and is currently Direct member of the Tax Committee of GCCI.

A man of grass-root understanding of the matters and respected for his down-to-earth approach to the issues at hand among his professional colleagues, CA. Aniket Sunil Talati has a surpassing ability to deal with a variety of difficult situations.

Having an exceptional ability to bring out a range of alternative solutions on the table in any given situation, he has to his credit successful closures of many a taskforce and time-bound non-standing groups and teams. Being thoroughly conversant with the professional concerns and demands of his times, CA. Aniket Sunil Talati has authored relevant books, including 'Treatise on RERA' published by CA Association, Ahmedabad.

An academician by temperament, CA. Aniket Sunil Talati has published numerous articles in news papers, magazines and professional newsletters and delivered lectures in about 250 seminars and conferences.

From the President





CA. (Dr.) Debashis Mitra President, ICAI

My Dear Professional Colleagues,

Today while communicating with you for the first time through these pages, I consider it an absolute honour and pride to serve my beloved institute as the 70th President of The Institute of Chartered Accountants of India (ICAI), joining the league of leaders and working towards the development of our nation and profession. The mantle of the presidency is a prestigious opportunity accorded to me to serve the highest office of my alma mater and to work with all humility, compassion and sincerity in illuminating the path of growth & development. As said by Swami Vivekananda -"Be the servant while leading. Be unselfish. Have infinite patience, and success is yours." During my journey of service to profession, I will indeed be guided by these words of wisdom.

As I embark on my tenure as President, I wish

to thank each one of you and my Council colleagues for giving me an opportunity to serve this esteemed office. I look forward to active support and cooperation of all in promoting the role of our profession as a partner in nation building while at the same time promoting *Excellence*, *Independence and Integrity*.

I express my deep appreciation and gratitude to our outgoing President, CA. Nihar N. Jambusaria for leading the Institute through the turbulent pandemic with serenity and clarity. During his tenure, the ICAI launched many pioneering initiatives that have harmoniously aligned with the digital era. Taking forward initiatives like Financial and Tax Literacy drive, Sustainability, Supporting MSMEs and Start-Ups, we will steer nation's

development and ensure betterment of stakeholders. I acknowledge the legacy of my distinguished predecessors for their insightful actions that have resulted in recognition of our beloved institution. Their brilliant and selfless contributions over the years have built the profession and helped it attain greater heights.

Friends, our profession has always considered our nation's development as its utmost priority. As India is celebrating its 75 years of glorious independence, the growth story of our nation stands out, so is the stellar contribution of our profession. As we look ahead we need to plan our future and envision India@100. The next level of growth for our great country would come from innovative and creative spirit of our human capital. Our profession is poised to play a significant role in this transition as the knowledge economy based on digital insights evolves.

FROM THE PRESIDENT

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FROM THE PRESIDENT

From the President

ICAI Vice President and New Council 2022-25

My compliments to all the members of the 25th Council of the Institute, and look forward to working with them as one team with a shared vision and mission to enhance the respect of our beloved institution and profession.

I congratulate CA. Aniket Sunil Talati on his election as the Vice-President of ICAI for the year 2022-23. I am confident that his professional knowledge, acumen and progressive mindset will greatly benefit the profession.

Action Plan 2022-23

"Reach high, for stars lie hidden in you. Dream deep, for every dream precedes the goal."

- Rabindranath Tagore

As our country celebrates the Amrit Mahotsav of its independence, it is particularly apt to recapitulate and envision the path to be followed ahead. It is important to identify the broad forces and levers of growth for the profession and align them with the vision of a self-reliant India. ICAI has been partnering with the Government in various initiatives for the nation's development and inclusive growth. We aim to achieve the objectives envisioned in our Vision 2030 and match the aspirations and expectations of the stakeholders and the regulators. With this thought in mind Action Plan 2022-23 has been developed which enumerates the primary focus areas for current year.

I sincerely believe that this Action Plan would guide us in the journey towards achieving our vision and the agenda of growth. The Action Plan 2022-23 has been divided in three segments. In the First segment, we take forward the legacy of the core virtues, and principles of the profession. In the second segment, we list the existing endeavours of the Institute which need to be carried forward with renewed vigour for successful completion. The Third segment describes the vision for 2022-23 and enlists the endeavours which I believe need to be worked upon in the coming year with acute focus and dedication. These initiatives like multidisciplinary partnerships, fostering research, and advancing as well as reorienting the Accountancy Education through CRET will act as a catalyst to future growth of the profession.

This year, ICAI would be hosting the World Congress of Accountants 2022- The Olympics of Accountancy Profession which will not only be catapulting Indian CAs to global focus, but will be an apt platform to showcase rich Indian culture, heritage and diversity to global community.

72nd Annual Day of ICAI

Celebrating the achievements and recognising excellence, the Institute celebrated its 72nd Annual Function on 4th February 2022 with dignified grandeur befitting the occasion. The event was graced by our Chief Guest Dr. Bhagwat Kishanrao Karad, Hon'ble Minister of State for Finance. On the occasion meritorious students. outstanding Regional Councils, Branches and Overseas Chapters were awarded and recognized for their accomplishments. Many of ICAI publications & initiatives were also released during the event. A detailed report of the event is published separately in the journal.

Bank Audits – Expectations from the Profession

By the time you would be reading this issue, Bank Audit, an important professional assignment would be around the corner. Auditors play an extremely important role in preserving a resilient banking industry by

From the President

lending credence to the financial statements and reporting processes of the banks. Members are advised to work with utmost sincerity and adhere to the RBI's guidelines and other related pronouncements. To support you in this important activity, the revised **Guidance Note on Audit of Banks** has already been released. ICAI is also planning a series of CPE programs to update the membership on Bank Audit. I would urge my professional colleagues to work with full dedication to ensure that we live upto the expectations of the stakeholders.

Improving Quality of Assurance services - ICAI mandates Peer Review for certain categories of Firms

The Institute continuously work towards improving the quality of assurance services rendered by its members. Peer Review is one such initiative, on which the ICAI has been working diligently to improve the quality of assurance services provided by its members.

Recently, the Council has mandated the Peer Review mechanism for certain categories of firms rendering assurance services to specific class of entities which will go a long way in enhancing the audit quality. A detailed roadmap has been laid down which classifies Practice Units into four categories and prescribes the implementation of peer review process.

The implementation will begin, in a phased manner, from April 1, 2022 and will first apply to practice units (Firms) that have undertaken Statutory Audit of enterprises whose equity or debt securities are listed in India or abroad. Over the next three years, the roll out would steadily cover firms providing assurance services to companies other than those listed on stock exchanges also including the ones conducting audits of branches of PSBs.

Extension of Fee Waiver in Registration Course Fee

Taking forward its mission of always contributing as true partner in nation building and empowering students, the Council of ICAI has extended its earlier decision of waiving off 75% fee of registration course fee for all level of CA course for the students of Union Territories of Jammu & Kashmir and Ladakh and for the North-Eastern States till 31st March, 2025.

Moving a step further it is also decided to extend the above fee concession to the students registering from Andaman and Nicobar Islands as well w.e.f. 4th February, 2022.

This decision would be a step forward towards encouraging the young aspirants from these places who wish to pursue their dream of becoming a Chartered Accountant and serve the nation with their capabilities and knowledge.

ICAI Awards - Recognizing Performance

I wish to inform that the ICAI Leadership Summit, 2022 & 15th ICAI Awards ceremony were held on February 2, 2022 at New Delhi to recognise the stellar performances of Chartered Accountants across sectors. The Awards were given through the august hands of Hon'ble Minister of State for Communications Shri Devusinh Chauhan under 9 categories.

The ICAI also conducted the prestigious Annual Competition for the 'ICAI Awards for Excellence in Financial Reporting' at Ghaziabad. This year for the first time ICAI organized awards for Sustainability Reporting both at national and international level to recognize best practices and inspire entities to adopt the sustainability framework. Under the aegis of the Research Committee and Sustainability Reporting Standards Board (SRSB) of ICAI, the prestigious event was held wherein Chief Guest was

From the President

From the President

Dr. Jitendra Singh, Hon'ble Union Minister. He stated that Chartered Accountants are the conscious keepers of nation's accounts and, therefore, their integrity is vital for the financial health of the nation. He further said that the role of ICAI will be very crucial in the years to come.

Union Budget and Post Budget Memorandum

The Union Budget 2022 seeks to provide a blueprint to steer the economy over the next 25 years termed as '*Amrit Kaal'* – envisioning India@2047 i.e. India in 100th year of independence. The Budget through the PM GatiShakti National Master plan lays stress on the 7 engines i.e. Roads, Railways, Airports, Ports, Mass Transport, Waterways and Logistics Infrastructure which will help in inclusive growth of the country by raising productivity, accelerated economic growth and infrastructure development. We should try to align the profession accordingly.

ICAI had earlier submitted Pre-Budget Memorandum to assist the government in formulating various provisions of the budget that is suitable to address the economy's requirements and would shortly be submitting the post-budget memorandum as well also based on the suggestions collated from the members.

Concluding

The activities of the Institute will continue to grow in significance especially in the light of the rise of the digital economy. The Digital Learning Hub, UDIN, Digital Competency Maturity Model, Self Service Portal and the Financial Literacy drive are some of our initiatives in this direction. I am sure that we can usher in a new phase of growth for our profession as well as the Nation. I urge all of you to give the best of your professional capacity in each of your respective fields so that we bear the responsibility and privilege to lead our economy towards great success.

As we commemorate International Women's Day on 8th March, I am proud to acknowledge that as on 31st December, 21, total 3,08,025 (42.3%) girls are pursuing the CA course and 97,436 (27.8%) of the membership are females proving the growing strength of our women members. As aptly said by *Amartya Sen - Empowering women is key to building a future we want.*

It pains me to inform the sudden, untimely and unexpected demise of our colleague in the 25th Council CA. Sunil Kumar Patodia. He has provided his sincere services to the profession during his tenure of 9 years as Regional Council member and also as the Chairman of WIRC of ICAI (2015 -2016). I recall him as an affable and philanthropic man always available for the profession. I on behalf of the entire profession express our heartfelt condolences to the family.

The Profession has time and again raised its bar to reach new horizons and achieve newer milestones. I assure you that we will leave no stone unturned to uphold the public interest and trust of all stakeholders. Let us work together as a team to bring more laurels to the profession and our beloved institute.

With all good wishes,

Debashis tuta

CA. (Dr.) Debashis Mitra President, ICAI New Delhi, 25th February, 2022

Council Photo

The Institute of Chartered Accountants of India

Members of Twenty-Fifth Council and ICAI Secretary [as on 12th February 2022]



- Shri Rakesh Jain (Govt. Nominee), Shri Manoj Kumar Pandey, Joint Secretary (Govt. Nominee), CA. Aniket Sunil Talati Vice-President), CA. (Dr.) Debashis Mitra (President), Adv. Vijay Kumar Jhalani (Govt. Nominee), CA. (Dr.) Rajkumar CA. Prakash Sharma, CA. Chandrashekhar Vasant Chitale, CA. Hans Raj Chugh, CA. Mangesh Pandurang Kinare, Satyanarayan Adukia, Dr. P. C. Jain (Govt. Nominee), CA. (Dr.) Jai Kumar Batra (Secretary, ICAI) •• 2nd Row [L to R] 1st Row [L to R]
 - CA. Pramod Jain, CA. Sanjay Kumar Agarwal, CA. Kemisha Soni, CA. Dheeraj Kumar Khandelwal
 - CA. (Dr.) Sanjeev Kumar Singhal, CA. Rajendra Kumar P, CA. Ranjeet Kumar Agarwal, CA. Raj Chawla, CA. Srinivas Cotha S, CA. Abhay Kumar Chhajed, CA. Vishal Doshi, CA. Umesh Ramnarayan Sharma 3rd Row [L to R]
- CA. Sushil Kumar Goyal, CA. Purushottamlal Hukamichand Khandelwal, CA. Rohit Ruwatia Agarwal, CA. Priti Paras Savla, CA. Prasanna Kumar D., CA. Dayaniwas Sharma, CA. Gyan Chandra Misra, CA. Anuj Goyal 4th Row [L to R]
- CA. Sunil Kumar Patodia*, CA. K Sripriya, CA. Charanjot Singh Nanda, CA. Muppala Sridhar, CA. Durgesh Kumar Kabra 5th Row [L to R]

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ICAI President CA.(Dr.) Debashis Mitra and the then ICAI President CA. Nihar N. Jambusaria alongwith Chief Guest Dr. Jitendra Singh, Hon'ble Union Minister of State (IC) at the ICAI Awards. Also seen on the occasion are Past Presidents ICAI CA. Prafulla P Chhajed and CA. Atul Kumar Gupta, Central Council Members CA. Anuj Goyal, CA. Durgesh Kabra, CA. Aniket Sunil



Talati (now Vice-President), CA. Dheeraj Khandelwal, CA. Hansraj Chugh, CA. Chandrashekhar V Chitale, CA. (Dr.) Sanjeev Singhal, CA. Rajendra Kumar P, CA. Kemisha Soni, CA. Dayaniwas Sharma, CA. Prakash Sharma, CA. Pramod Jain, CA. Sanjay Kumar Agarwal, CA. Gyan Chandra Misra, CA. Raj Chawla and the then Central Council Member CA. Manu Agrawal.

ICAI President CA. (Dr.) Debashis Mitra alongwith CA. Nihar. N. Jambusaria, the then ICAI President at the Bhoomi Pujan of Center of Excellence, Chennai. Also seen on the occasion are Members of 24th and 25th Council CA. Chandrashekhar V Chitale, CA. Prasanna Kumar D, CA. Rajendra Kumar P, CA. Charanjot Singh Nanda, CA. Hans Raj Chugh, CA. Cotha Srinivas S, CA. Raj Chawla, CA. Babu Abraham Kallivayalil, CA. G Sekar, CA. M P Vijay Kumar, and then Chairman, SIRC CA. K Jalapathi.





ICAI President CA. (Dr.) Debashis Mitra, CA. Nihar. N. Jambusaria, the then ICAI President unveiling of plaque during the Bhoomi Pujan ceremony of Center of Excellence, Chennai.



The then ICAI President CA. Nihar N. Jambusaria, in a meeting at Nashik Branch of WIRC of ICAI. Also seen are CA. Prafulla P Chhajed, Past President, ICAI, CA. Manish Gadia the then Chairman, WIRC of ICAI and members of the Nashik Branch.



ICAI President CA.(Dr.) Debashis Mitra alongwith CA. Nihar N. Jambusaria the then President ICAI at the Bhoomi Pujan of Chengalpattu Branch of SIRC of ICAI. Also seen in the picture are Central Council Members CA. Rajendra Kumar P, CA. G. Sekar, then Central Council Member and CA. K. Jalapathi, the then Chairman, SIRC.



The then ICAI President CA. Nihar N. Jambusaria, alongwith Chief Guest Shri P S Sreedharan Pillai, Hon'ble Governor of Goa inaugurating the Goa Branch Building of WIRC of ICAI. Also seen in the picture are Central Council Members CA. Chandrashekhar V Chitale, CA. Durgesh Kumar Kabra, CA. Mangesh P Kinare, CA. Rajesh Sharma, the then Central Council Member and CA. Manish Gadia, then Chairman WIRC of ICAI.



ICAI President CA.(Dr.) Debashis Mitra and the then ICAI President CA. Nihar N Jambusaria alongwith the Chief Guest Shri Devusinh Chauhan, Hon'ble Minister of State for Communications inaugurating the 15th CA Awards by lighting of lamp. Also seen in the picture are Central Council Members CA. Chandrashekhar V Chitale, CA. Durgesh Kumar Kabra, CA. (Dr.) Sanjeev Kumar Singhal, CA. G Sekar (the then Council member), CA. Sanjay Kumar Agarwal.



ICAI President CA. (Dr.) Debashis Mitra and the then ICAI President CA. Nihar N. Jambusaria presenting a memento to Shri Gopal Shetty, Hon'ble Member of Parliament during his visit to ICAI. Also seen are CA. Atul Kumar Gupta, Past President ICAI and Adv. Vijay Kumar Jhalani, Govt. Nominee on Council of the ICAI.

The then ICAI President CA. Nihar N. Jambusaria, at the Regional Awards Distribution Ceremony of WIRC at Mumbai. Also seen are CA. Manish Gadia the then Chairman, WIRC and other members of the WIRC and awardees.





ICAI President CA.(Dr.) Debashis Mitra and the then ICAI President CA. Nihar N Jambusaria seen with Chief Guest CA. Thomas Chazhikadan, Hon'ble Member of Parliament at the Statutory Central Auditors' Meet organized by PDC of ICAI. Also seen in the picture Members of 24th & 25th Central Council of the ICAI CA. Babu Abraham Kallivayalil, CA. Satish Kumar Gupta, CA.(Dr.) Sanjeev Kumar Singhal and CA. Hans Raj Chugh.



The then ICAI President CA. Nihar N Jambusaria alongwith the Chief Guest CA. Mahendra Singhi Chairman, MD & CEO, Dalmia Cement (Bharat) at the ICAI Leadership Summit. Also seen in the picture are Central Council Members CA. Hans Raj Chugh and CA. Durgesh Kumar Kabra.



ICAI President CA. (Dr.) Debashis Mitra and ICAI Vice President CA. Aniket Sunil Talati meeting with Shri Rajesh Verma, Secretary, Ministry of Corporate Affairs (MCA).



ICAI President CA. (Dr.) Debashis Mitra and ICAI Vice President CA. Aniket Sunil Talati meeting with Shri Manoj Kumar Pandey, Joint Secretary, Ministry of Corporate Affairs and Govt. Nominee on the Council of the ICAI.



ICAI President CA. (Dr.) Debashis Mitra and ICAI Vice President CA. Aniket Sunil Talati meeting with Shri K V R Murty, Jt. Secretary, MCA.



ICAI President CA. (Dr.) Debashis Mitra and ICAI Vice President CA. Aniket Sunil Talati at the felicitation programme organized by Eastern India Regional Council of ICAI. Also seen in the picture are CA. Ranjeet Kumar Agarwal, Central Council Member, ICAI, CA. Ravi Kumar Patwa, Chairman, EIRC and CA. Sunil Kumar Sahoo, the then Chairman, EIRC.

ICAI President CA. (Dr.) Debashis Mitra at the felicitation program by Guwahati Branch of EIRC of ICAI. Also seen in the picture are CA. Ravi Kumar Patwa, Chairman of EIRC of ICAI, CA. Kamal Mor the then Chairman Guwahati branch of EIRC of ICAI and members of the branch.





The then ICAI President CA. Nihar N. Jambusaria alongwith CA. Prafulla P Chhajed, Past President ICAI at a Meet at Dhule Branch of WIRC of ICAI. Also seen in the picture are Central Council Members CA. Mangesh P Kinare and Late CA. Sunil Kumar Patodia, CA. Manish Gadia, the then Chairman, WIRC of ICAI, and other members of Dhule Branch.



ICAI President CA.(Dr.) Debashis Mitra alongwith Central Council members CA. Ranjeet Kumar Agarwal and CA. Sushil Kumar Goyal at Bhoomi Pujan ceremony at Siliguri Branch. Also seen in the picture are CA. Sunil Kumar Sahoo, the then Chairman EIRC of ICAI and members of the EIRC and Siliguri.



ICAI President CA.(Dr.) Debashis Mitra at Bhoomi Pujan, Siliguri Branch. Also seen in the picture are other members of the EIRC of ICAI and Siliguri. (21.02.2022)



ICAI President CA.(Dr.) Debashis Mitra alongwith the Central Council members CA. Ranjeet Kumar Agarwal and CA. Sushil Kumar Goyal at the Group photograph taken during felicitation programme organized by Siliguri Branch of EIRC of ICAI.



ICAI President CA.(Dr.) Debashis Mitra alongwith Central Council members CA. Ranjeet Kumar Agarwal and CA. Sushil Kumar Goyal at Bhoomi pujan, Siliguri Branch. Also seen in the picture are CA. Sunil Kumar Sahoo, the then Chairman EIRC of ICAI and other members of EIRC and Siliguri branch.

Heartfelt Condolences

CA. Sunil Kumar Patodia Central Council Member, ICAI



01.05.1968 - 18.02.2022

ICAI deeply mourns the unexpected & untimely demise of our beloved CA. Sunil Kumar Patodia, Central Council Member. We express our heartfelt condolences to the bereaved family.

May his Soul Rest in Peace

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA (Set up by an Act of Parilament)



Empowering the Profession: Building Excellence and Strengthening Stakeholder's Confidence



Adopting the Legacy bestowed upon by leaders & Visionaries of the Profession: Achieving the Vision 2030

A.1: Mission 2030: Upholding the Independence, Integrity and Excellence of the Profession

A.2: Building Brand CA: Enhancing the Public Perception about the profession

A.3: Maintaining Efficacy of Regulatory Mechanism: Dedicated focus to increase the strength and hold of Regulatory Mechanism

A.4: Leadership at the International Front: Understanding and meeting the Global Expectations from the Profession

A.5: Partnering in Nation's Development: Contribution of the Profession part B

Taking forward the existing dedicated Initiatives by adding new dimensions

B.1: Mainstreaming Sustainability Agenda: Aiming to strengthen Sustainability Ecosystem

B.2: Supporting MSMEs and Start Ups: Fostering the Entrepreneurial Aptitude

B.3: Financial and Tax Literacy: Exploring and devising the means to spread the financial and tax literacy

B.4: Members and Student Support Services : Towards New Experience Vision 2022-23: Envisioning the Future and Integrating and aligning ICAI and the profession with evolving environment

PART

C.1: Leveraging Technology: Accountancy Profession in a Digital Age

C.2: CRET: The Remodeled Approach towards advancing the Accountancy Education

C.3: World Congress of Accountants 2022: Hosting the Olympics of Accountancy Profession

C.4: Networking: Framework for facilitating Networking and Multi-Disciplinary Partner-ships of Indian CA Firms for Future Growth

C.5: Exploring Unchartered Domains: Newer Avenues and Dimensions

C.6: Dedicated Research & Development Initiatives

C.7: ICAI's Transformational Initiatives



Empowering the Profession: Building Excellence and Strengthening Stakeholder's Confidence

PART A

Adopting the Legacy bestowed upon by leaders & Visionaries of the Profession: Achieving the Vision 2030

Mission 2030 : Upholding the Independence, Integrity and Excellence of the Profession

- To emerge as the world's leading Accounting Body and to play predominant role in setting world class standards in the identified service areas
- To provide holistic education, effective practical training and continuous professional development leveraging technology
- Develop the capacities of its professionals with world class competencies to transform them as global professionals
- To inculcate highest ethical standards and ensure their adherence amongst the members
- To strengthen and create an enabling environment for Research, development and innovation in the fields of accounting, assurance, taxation, finance and business

Building Brand CA: Enhancing the Public Perception about the Profession

- Positioning Chartered Accountants as Globally Competent Accounting Professionals and Business Leaders
- Undertaking a revitalized branding and awareness campaign aiming to enhance the public image of profession and its members
- To organize specialized events showcasing the technical Expertise of Chartered Accountants and facilitating exchange of ideas

Maintaining Efficacy of Regulatory Mechanism: Dedicated focus to increase the strength and hold of Regulatory Mechanism

- Working closely in collaboration with regulators to meet expectations by continuously improving assurance services framework to enhance trust and confidence of stakeholders.
- Augmenting and enhancing the competence and capacity of Peer Review Board and Financial Reporting Review Board
- Programme for Quality Improvement of Firms based on recommendations of Quality Review Board
- To work towards increasing awareness about the Revised Code of Ethics
- Embracing the digital practices to make the Disciplinary Mechanism more robust and responsive
- Augmenting UDIN and enhancing its reach amongst Governmental agencies

Empowering the Profession: Building Excellence and Strengthening Stakeholder's Confidence

Leadership at the International Front: Understanding and meeting the Global Expectations from the Profession

- To play a leadership role at the International Forums and to explore opportunities for agreements with global institutions in accounting and allied areas
- Expanding Global Footprints and Global Outreach of the Profession
- Explore collaborations with the premier global accounting bodies and Institutions and enrich the curriculum to provide requisite competencies for global mobility

Partnering in Nation's Development: Contribution of the Profession

- Establishing an Interactive Channel of communication with Government and Regulators to understand the expectations
- Collaborating with the Government Institutions towards framing and aligning laws and regulations in line with the global economic scenario
- Actively contributing by giving inputs towards the initiatives and schemes aimed for inclusive growth of society

PART B

Leading the existing dedicated Initiatives by adding further dimensions

Mainstreaming Sustainability Agenda: Aiming to strengthen Sustainability Ecosystem

- Strengthening Ecosystem to achieve the Sustainable Development Goals 2030
- Propagating Sustainability Reporting Requirements and Assurance Standards on national and international front
- Spreading awareness on importance and adoption of Sustainability Reporting with Literacy drives
- Consultative mechanism to develop guidelines with stakeholders and regulators
- Developing greener and environment friendly infrastructure and buildings
- Developing suggestion banks and pool of inputs towards reducing carbon emissions





Action Plan

Empowering the Profession: Building Excellence and Strengthening Stakeholder's Confidence





Supporting MSMEs and Start Ups: Fostering the Entrepreneurial Aptitude

- To undertake measures for Capacity Building of Start Ups and MSMEs
- Developing MSME Ecosystem and facilitate exchange of knowledge and guidance
- Increasing awareness and encouraging entrepreneurial Aptitude amongst budding entrepreneurs
- Augmenting the Start Up and MSME Portal with new improved features
- Coming out with State Specific publications catering to state specific schemes, Industrial Schemes and laws
- MoUs with the Universities, IIMs, IITs, State Governments, various departments of Central Government, State Government, organisations of repute, and other entities



Financial and Tax Literacy: Exploring and devising the means to spread the financial and tax literacy

- To actively execute a nationwide drive to propagate and promote financial and tax literacy amongst various strata of society
- Educate the masses on matters of financial prudence through dedicated initiatives
- To organize Dedicated Training Programmes to educate citizens of country
- Creating a repository of knowledge on various subject areas for ready reference and understanding of basic concepts

Members and Student Support Services: Towards New Experience

- To set up a National Level Call centre for providing experiential responsiveness to the members and the students
- Providing best in class support services for the queries and grievances of the members and the students
- Upgradation of the Self Service Portal to enhance connect with the members and students
- Increasing awareness regarding existing member and student benefit programmes which are in place for their benefit
- To introduce the concept of Mentoring for members and students

Empowering the Profession: Building Excellence and Strengthening Stakeholder's Confidence



Vision 2022-23: Envisioning the Future and Integrating and aligning ICAI and the profession with evolving environment

Leveraging Technology: Accountancy Profession in a Digital Age

- Formulating a centralized IT Policy of ICAI
- Continue to upgrade the Digital Learning Hub facilitating participative learning with globally accessible options
- To encourage Online Learning through self-paced courses, e-books and online Certificate and Refresher Courses supported by user friendly Apps
- To contribute towards the capacity building of stakeholders

CRET: Remodelled Approach towards advancing the Accountancy Education

- Way forward towards developing a contemporary and comprehensive Curriculum at par with International Standards leveraging technological advantages
- Review of Scheme of Education and Training to bring the same in tune with international dynamics
- Encouraging the Fraternity to utilize the Academic Equivalence granted to the Chartered Accountancy Qualification by UGC and UK - NARIC

World Congress of Accountants 2022: Hosting the Olympics of Accountancy Profession

- Organising the most prestigious Global event of Professional Accountants under the aegis of IFAC
- Platform for showcasing National and International opportunities
- Conglomeration of international delegates and the global leaders of the profession on a single platform
- To facilitate exchange of views, vision and insights amongst the leaders and visionaries on matters of professional development



Action Plan





Action Plan

Networking: Framework for facilitating Networking and Multi-Disciplinary Partnerships of Indian CA Firms for Future Growth

- To provide a platform for domestic and International Firms for Networking
- To formulate Guidelines for Networking of Firms at the International Level
- To work in collaboration with the Policy Makers and the regulators to facilitate the Growth of Indian Firms
- To encourage Multi-Disciplinary Partnerships amongst the membership and stakeholders and increasing the acceptability amongst the Firms and Regulators
- To build the capacities of domestic Firms in line with the best practices prevalent

Exploring Unchartered Domains: Newer Avenues and Dimensions

- Understanding the expectations of Industry and devising Strategy to remain relevant in tune with the changed requirements
- Discovering and propagating newer avenues and opportunities emerging for the professionals in the changed economic scenario and developing competencies for futuristic domains
- Connecting members and firms with overseas chapters for exploring professional opportunities
- To facilitate conduct of Executive Development Programmes towards building technical proficiency amongst members

Dedicated Research & Development Initiatives

- Encouraging Research and Innovation in collaboration with the international institutions of repute and utilizing the inhouse Centre of Excellence Facilities
- Research towards effective adoption of the newer technologies such as Artificial Intelligence, Block Chain, Cyber Security and Data Analytics
- Conduct of Research Studies and Impact Analysis of the various economic events of significance on various sectors of economy
- To bring out futuristic Guidance Notes in line with the latest developments of relevance to the profession
- To undertake high quality research projects under Accounting Research Foundation to meet the International Standards and expectations of the stakeholders
- Promoting the adoption of XBRL in India through various reporting requirements

ICAI's Transformational Activities

- To introduce Centralised Human Resource Development Policy
- To implement Branch Employees scheme
- Digitization of Disciplinary Records
- Introduction of ERP for overall ICAI Accounts and Finance
- Introducing Online examination for Foundation Course
- Strengthening the Legal Wing
- Working towards reducing the perception gap



The Institute of Chartered Accountants of India (ICAI), established by an Act of Parliament in 1949 has proven its mark as an elite world class institution upholding the values of transparency, accountability and integrity. ICAI celebrated a year of remarkable milestones at its 72nd Annual Function organised on 4th February 2022, at New Delhi. The event was graced by Chief Guest Dr. Bhagwat Kishanrao Karad, Hon'ble Minister of State for Finance in the presence of CA. Nihar N. Jambusaria, the then President, CA. (Dr.) Debashis Mitra, the then Vice-President and now the President, Central and Regional Council Members of ICAI and office bearers of several branches and overseas chapters. The event recognized academic excellence of the meritorious CA students, outstanding Regional Councils, Branches and overseas Chapters who were conferred awards for their outstanding accomplishments during the event. The occassion also witnessed release of various ICAI publications and initiatives. We present herewith a brief report of the Annual Function. Read on...



ver the last seven decades, the ICAI as the world's second largest accounting body has emerged as a premier and prestigious institution, with over 3.40 lakh members and over 7 lakh students having a presence across 73 cities globally and 164 branches nationally, taking forward its agenda of inclusive growth as a partner in Nation Building. The Annual function witnessed a good number of members, students and other stakeholders abiding with the social distancing norms coming together to celebrate the consistent contributions of ICAI and its constituents, making it globally renowned and distinguished. In addition thousands of members and students attended the event virtually and became part of celebrations. The presence of the members was an evidence of their determined commitment to excel and make a mark in all dimensions of the profession.

The event started with lighting of the auspicious lamp and hymn of the ICAI motto.



ICAI Secretary CA.(Dr.) Jai Kumar Batra, welcomed all the dignitaries, esteemed guests and the members in the profession. Dr. Batra said that ICAI's contribution in promoting public interest has been

remarkable. ICAI has been remarkably executing its role as a partner in nation building and building trust in the Chartered Accountancy profession through strong financial framework by reinforcing elements of accountability in execution of our goals. Annual function is the occasion to commemorate the journey of ICAI and its members in making a strong Indian economy, he added.

Rising with Resilience in the Pandemic



In his address, CA. Nihar N. Jambusaria, the then President stated that the annual function is a ceremony to celebrate the past years' success and milestones achieved with our collaborative efforts by providing new ideas

and promoting new thoughts. World over, the pandemic outbreak began in the last quarter of 2019 but its extended impact continued for the next two years. It would be wrong to assume that the accounting profession remained unaffected. But we as a community of Chartered Accountants ensured that our services remain unhindered to empower our clients. Thousands of accounting professionals rose to these challenging times by transitioning to digital technology and engaging with their clients and stretching their flexibility to explore new and innovative ways of working. The profession extended beyond its core activity participating in social and national initiatives that helped in acceleration of vaccination.

During the year, ICAI launched a nation wide mega tree plantation drive and sustainability literacy drive that would make the process of sustainable development more feasible and operational by establishing a common focus of various distinct shareholders. He informed that during the year, we were able to forge new alliances with regional bodies like ASEAN and arrangements with accountancy institutions in Russia, Poland and Qatar in addition to the renewal of ties with CPA Australia and CA Australia and New Zealand. With these recent additions during the year, ICAI now has a total of 23 MoUs/MRAs with global organizations. These progressive global developments together with leadership positions taken by ICAI at CAPA and SAFA would help in establishing mutual cooperation with the respective institutes.

Embracing the power of technology essentially in COVID times, the Institute started using technology to spread knowledge through webinars. Apart from that, even functions like audit are being performed by our CA firms using technology. ICAI took various steps to roll out programs on artificial intelligence, blockchain, data analytics, cyber security and our members are taking full advantage of it.

Harnessing the full potential of our demographic dividend and moving towards a financially inclusive society, ICAI launched the noble initiative to educate the Indian masses about the basics of taxation banking and various other important subject areas through the Financial and Tax literacy drive - this education drive aims to create awareness among the masses in 12 vernacular languages and is indeed an incredible way whereby ICAI can contribute to play a pivotal role in the development of the nation.

The Institute also constituted the Committee for Review of Education and Training (CRET) for realigning the existing course with the digital era to nurture the best professionals. The University Grants Commission has granted academic equivalence to the Chartered Accountancy course with its postgraduate degree.

During the year, several initiatives were taken in the interest of members and students of the Institute. ICAI through the Chartered Accountants Benevolent Fund (CABF) supported members and families affected by COVID-19 by providing financial medical assistance during the pandemic which disbursed around 10 Crores to over 800 members who were in need. The ICAI also waived course fees for students whose parents passed away due to the pandemic.

Concluding his address he thanked his Council Colleagues, Past Presidents, members of the Regional Council, branches and other stakeholders. He thanked the then Vice-president and trusted that the profession will achieve new benchmarks and milestones that everybody will cherish.

Presenting a Memoir of Milestones



CA. (Dr.) Debashis Mitra, the then Vice President and the current President along with **CA. Prafulla P. Chhajed** Past President, ICAI and **CA. Atul Kumar Gupta**, Past President, ICAI presented a coffee book as memoir of milestones to **CA. Nihar N. Jambusaria**, the then President, a collection of prominent milestones of the journey during the year on behalf of the entire Council.

Chartered Accountants have important role in the Development of Economy



Dr. Bhagwat Kishanrao Karad, Hon'ble Minister of State for Finance addressing at the function referred that we are celebrating Azadi ka Amrit Mahotsav as we are completing 75 years of the independence

this year. Our Hon'ble Prime Minister has declared 25 years period from this year up to 2047 as *Amrit Kaal* and this period is very important for the development of India. During this period, we must work towards the development of all the sectors of the country like education, health, defence, agriculture among others. The role of Chartered Accountants is very important for economic development.

The Minister highlighted the importance of a Chartered Accountant, working with all strata of society from individual to businesses across the value chain, because of their financial knowledge, business acumen and trust developed over time.

He elucidated that the Union Budget 2022-23 as presented recently was to give stability to the economy through various schemes for different sections and the welfare of all. He stated that the Chartered Accountant's role is very important in popularising the government schemes among the common man and the ICAI being the second largest accounting body plays a pivotal role in educating the masses about various financial schemes of the government promoting inclusivity. Over the years, ICAI has grown in stature and size to play a significant role in economic development, upholding public confidence and contribution to the nation's economic policies at various levels.

He said, that during interaction with public sector banks and other entities, he has understood the importance of the Chartered Accountancy profession not only in taxation, accountancy, capital management, banking, insurance but also in providing advice for effective management of business. He also said that Chartered Accountants are the doctors of the economic health of our country.

Dr. Karad mentioned that GST collections are increasingly aiding the development of the economy and praised the role of the Chartered Accountancy profession for the successful implementation of the Hon'ble Prime Minister's 'one market, one tax and one nation' vision. He further stated that the Chartered Accountants have an important role to play in improving tax collection of the government.

He concluded with the thought that the Chartered Accountants could play an important role in making India a 5 trillion-dollar economy. He urged professionals to join hands and work together as soldiers of the economy to build our nation.'s.

The Chief Guest also distributed awards under various categories to meritorious students, Branches/ Regional Councils and Overseas Chapters of ICAI. He concluded by conveying thanks to the ICAI and congratulated various awardees.

Vote of thanks



CA. (Dr.) Debashis Mitra, the then Vice-President, ICAI said "Being the backbone of financial discipline in India and conscience keeper of national economy for decades, our profession today is considered as one of the most

vibrant forces of socio-economic growth. Chartered Accountants symbolise fiscal prudence and discipline and with their multi-dimensional capabilities, they can act as catalyst for economic development."

Launches and Releases

Name of Publication/Course/Portal

- 1. Compendium of Accounting Standards
- 2. Background Material on Business Responsibility and Sustainability Reporting (BRSR) - Revised Edition
- 3. Sustainable Development Goals (SDGs) Videos on 17 SDGs
- 4. Awareness video Role of Micro, Small and Medium Enterprises (MSMEs) in Achieving Sustainable Ecosystem
- 5. Awareness video Role of Households in achieving Sustainable Ecosystem
- 6. Booklet on POSH Act and SDG 5-Tools for Women Empowerment
- 7. Digital Branding for Professional Growth
- 8. Contemporary Professional Opportunities for New- age Members
- 9. Beneficial State Policies for Women Welfare
- 10. Frequently Asked Questions on The Insolvency and Bankruptcy Code, 2016 (Revised January 2022 Edition)
- 11. Handbook on Pre-packaged Insolvency Resolution Process under The Insolvency and Bankruptcy Code, 2016
- 12. Handbook on Liquidation Process and Voluntary Liquidation Process under The Insolvency and Bankruptcy Code, 2016
- 13. Guidance Note on 'Accounting for Investments' for Local Bodies
- 14. E-book on 'Role of Professional Accountants in Public Financial Management'
- 15. Practical FAQs on Supply and Taxability
- 16. Background Material on GST
- 17. Handbook on Registration under GST

- 18. Handbook on Interest, Late Fee and Penalties under GST
- Guidance Note on Division I Non Ind AS Schedule III to the Companies Act 2013
- 20. Guidance Note on Division II Ind AS Schedule III to the Companies Act 2013
- 21. Guidance Note on Division III to Schedule III to the Companies Act 2013 for NBFC that is required to comply with Ind AS
- 22. Judicial Pronouncements in Valuation

1066

- 23. LIBOR Transition Valuation Guide
- 24. Concept Paper on Estimating Discount Rates in Valuation
- 25. Concept Paper on Inventory Valuation
- 26. Arrangement of Discount Schemes for Members of ICAI (Promoting Capacity Building and Ease of Doing Practice)
- 27. Booklets on Case Study Digest of selected papers of Final Course
- 28. Booklets on Case Scenarios including MCQs of Specific Subjects of Intermediate and Final Course
- 29. Frequently Asked Questions on Ethical Issues
- 30. CSR Committee Activities at a Glance 2021-22
- 31. Compendium on Disciplinary Case Studies
- 32. Second edition of Technical Guide on accounting on NPOs
- 33. Second edition on Frequently Asked Questions (FAQs) for NPOs on FCRA Laws
- 34. Third edition on FAQs on Unique Document Identification Number (UDIN)
- 35. UDIN Report 2021-22

Awards to Best Regions and Branches

- 36. E-Book on Compendium of MSME Policy and Incentive Schemes of Chhattisgarh
- 37. E-Book on Compendium of MSME Policy and Incentive Schemes of Himachal Pradesh
- 38. E-Book on Compendium of MSME Policy and Incentive Schemes of Haryana
- 39. E-Book on MSME Policy and Incentive Schemes of State of Gujarat
- E-Book on State Specific Book on Micro, Small & Medium Enterprises (MSME) State of Tamil Nadu
- 41. E-Book on Compendium of MSME Policy and Incentive Schemes of Punjab
- 42. E-Book on Compendium of MSME Policy and Incentive Schemes of Uttar Pradesh
- 43. E-Book on Compendium of MSME Policy and Incentive Schemes of Karnataka
- 44. Mou Bil-Ryerson Technology Startup Incubator Foundation And The Institute of Chartered Accountants Of India (Icai) For Capacity Building of Startups
- 45. Educational Material on Ind AS 41, Agriculture
- 46. Guidance Note on Audit of Banks (2022 Edition)
- 47. Continuing Professional Learning Mechanism of ICAI
- 48. Implementation Guide for Audit Quality Maturity Model – Version 1.0 (AQMM v1.0)
- 49. Oracle NetSuite (Soft Launch)
- 50. Website of the Committee on Career Counselling - https://ccg.icai.org/

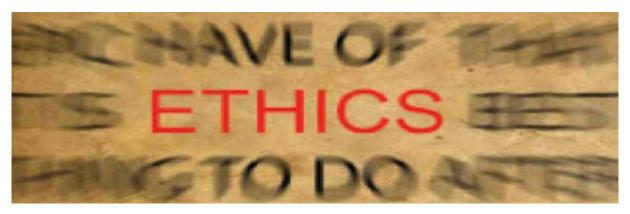
S. No.	Category of Award	First Prize - Gold Shield and Certificate	Second Prize - Silver Shield and Certificate	Third Prize - Bronze Shield and Certificate
1	Best Regional Council	Western India Regional Council (WIRC) of ICAI jointly with Southern India Regional Council (SIRC) of ICAI	Northern India Regional Council (NIRC) of ICAI) jointly with Central India Regional Council (CIRC) of ICAI	
2	Best Branch of Regional Council (Mega Category)	Ahmedabad Branch of WIRC of ICAI	Indore Branch of CIRC of ICAI jointly with Pune Branch of WIRC	
3	Best Branch of Regional Council (Large Category)	Ernakulam Branch of SIRC of ICAI	Vijayawada Branch of SIRC of ICAI	

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4 Best Branch of Regional Council		Amritsar Branch of NIRC of ICAI	Aurangabad Branch of WIRC of ICAI jointly with	
	(Medium Category)	Bhilai Branch of CIRC of		
			ICAI and Siliguri Branch of	
_			EIRC of ICAI	
5	Best Branch of Regional Council	Sonepat Branch of NIRC of ICAL	Salem Branch of SIRC of ICAI	
	(Small Category)			
6	Best Branch of	Sivakasi Branch of SIRC of		
	Regional Council	ICAI		
	(Micro Category)			
7	Best Students'	WICASA of WIRC of		
	Association of Regional Council	ICAI jointly with SICASA of SIRC of ICAI		
8	Best Branch	Ahmedabad Branch of	Pune Branch of WICASA of	
	of Students'	WICASA of ICAI	ICAI	
	Association (Mega			
	Category)			
9	Best Branch	Ernakulam Branch of	Kozhikode Branch of	
	of Students' Association (Large	SICASA of ICAI	SICASA of ICAI	
	Category)			
10	Best Branch	Rajkot Branch of WICASA	Jodhpur Branch of	
	of Students'	of ICAI jointly with	CICASA of ICAI jointly	
	Association	Vadodara Branch of	with Mangalore Branch of	
	(Medium Category)	WICASA of ICAI	SICASA of ICAI	
11	Best Branch	Salem Branch of SICASA of	Amritsar Branch of	
	of Students' Association (Small	ICAI	NICASA of ICAI jointly with Aurangabad Branch of	
	Category)		WICASA of ICAI	
12	Best Branch	Sivakasi Branch of SICASA	Nanded Branch of WICASA	
	of Students'	of ICAI	of ICAI jointly with Pimpri	
	Association (Micro		Chinchwad Branch of	
	Category)		WICASA of ICAI	

Overseas Chapter Awards

S.No	Name of the Chapter	Position			
Category]	Category I (More than 500 Members)				
	UAE (Dubai) Chapter of ICAI				
(1)	UAE (Abu Dhabi) Chapter of ICAI	Joint 1 st			
(2)	Kuwait Chapter of ICAI	2 nd			
Category 1	II (101 to 500 members)				
(1)	Qatar (Doha) Chapter of ICAI	1 st			
(2)	Bahrain Chapter of ICAI	2 nd			
(3)	Oman (Muscat) Chapter of ICAI	3 rd			
Category III (Upto 100 members)					
(1)	The Netherlands (Amsterdam) Chapter of ICAI	1 st			
(2)	Canada (British Columbia, Vancouver) Chapter of ICAI	2 nd			
(3)	Tanzania (Dar Es Salaam) Chapter of ICAI	Joint 3 rd			
	USA (San Francisco) Chapter of ICAI	Joint 5			

Know Your Ethics



- Q. Whether a Statutory Auditor of an entity can certify the provisional balance sheet or Financial Statement/unaudited balance sheet or Financial Statement of the audit client?
- A. The Statutory Auditor of an entity cannot sign provisional balance sheet or Financial Statement/unaudited balance sheet or Financial Statement of the audit client. It is subject to the exception that if there is any statutory requirement to sign/certify the statement by statutory auditor on quarterly/half-yearly basis e.g., limited review or Quarterly review; same shall be permissible.
- Q. Whether Incoming Auditor may accept Audit if undisputed Audit Fees of previous auditor is pending, but the previous Auditor has communicated his no objection inspite of pending Fees?
- A. The incoming auditor should verify with the client that undisputed audit fees of previous auditor is pending. In case of pending undisputed audit fees, incoming auditor should not accept the audit even if previous auditor has given no objection on the same.
- Q. Whether a member being the retainer of a client can also be the auditor of the said client or group entity of said client?
- **A.** No. A member being retainer of a client cannot be the auditor of the said audit client or group entity of client.

- Q. Is there a prohibition on continuing with audit Assignment if fees of the earlier years has not been paid in case of the continuing auditor?
- **A.** There is no bar in signing the financial statements if Fees of the earlier years has not been paid in case of the continuing auditor.

As per paragraph 410.7 A1 of the Volume-I of Code of Ethics, a self-interest threat might be created if a significant part of fees is not paid before the audit report for the following year is issued. It is generally expected that the firm will require payment of such fees before such audit report is issued. The requirements and application material set out in Section 511 with respect to loans and guarantees might also apply to situations where such unpaid fees exist.

As per paragraph 410.7 A2 of the Code, examples of actions that might be safeguards to address such a self-interest threat include:

- Obtaining partial payment of overdue fees.
- Having an appropriate reviewer who did not take part in the audit engagement review the work performed.

As per paragraph R410.8 of the Code, when a significant part of fees due from an audit client remains unpaid for a long time, the firm shall determine:

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Know Your Ethics

- (a) Whether the overdue fees might be equivalent to a loan to the client; and
- (b) Whether it is appropriate for the firm to be re-appointed or continue the audit engagement.
- Q. In what circumstances is there bar on accepting Audit assignment if Fees of earlier Auditor has not been paid in case of change of Auditors?
- A. In view of the Chapter VII (Appointment of an Auditor in case of non-payment of undisputed fees) of Council General Guidelines, 2008 mentioned under Volume-II of Code of Ethics, the Incoming auditor shall not accept the audit in case undisputed audit fees of previous auditor is pending. "Undisputed audit Fees" is reckoned as "provision for audit fee for carrying out the statutory audit under the Companies Act, 2013 or various other statutes, in accounts signed by both the auditee and the auditor along with other expenses, if any, incurred by the auditor in connection with the audit".

In respect of other dues i.e, other than undisputed audit fees, the incoming auditor should in appropriate circumstances use his influence in favour of his predecessor to have the dispute as regards the fees settled.

Q. What are safeguards available to address threats resulting from too low Fees?

- **A.** The following safeguards mentioned in Volume-I of Code of Ethics may be applied to address a self-interest threat resulting from quoting too low fees:
 - Adjusting the level of fees or the scope of the engagement.
 - Having an appropriate reviewer review the work that is performed properly despite of low fee. (Paragraph 330.3 A4)
- Q. Whether the limit on loan from the Audit client mentioned under Chapter X of

Council General Guidelines, 2008 will apply to loans like Car loan, Home loan, etc.?

- A. Yes. Indebtedness mentioned under Chapter X of Council General Guidelines, 2008 appearing in Volume-II of Code of Ethics include eventuality of being indebted to the concern or given any guarantee or provided any security in connection with the indebtedness of any third person to the concern. It shall also include loan taken by a member against Fixed Deposit, and include loans like Car loan, Home loan, etc.
- Q. Whether statutory auditor or internal auditor can accept the assignment of verification of GST reconciliation statement, GST advisory services etc.
- **A.** Yes. Verification of GST reconciliation statement and GST advisory services can be done by both Internal auditor and statutory auditor.
- Q. Whether the internal auditor of a client can accept assignment of Accounting for the same client?
- A. No. It is prohibitive to undertake the assignments of Internal Audit of a client and Tally entry of the Accounts, simultaneously being violative of the relevant provisions of the Code of Ethics.
- Q. Whether a member can accept audit of a company where the partner of the member is an officer or employee of a company?
- A. No. A member is not eligible for appointment as an auditor of a company if partner of such member is an officer or employee of the Company.
- Q. Whether a member, who is the statutory auditor of a company, can let out property owned by his HUF to the said Company?
- **A.** It would be advisable to avoid such transaction from an independence perspective.
- Q. Whether a member in practice will be liable, if he fails to disclose a material fact known to him which is not disclosed in a

financial statement, but disclosure of which is necessary to make the financial statement not misleading?

- A. Yes, as per Clause (5) of Part I of Second Schedule to the Chartered Accountants Act,1949 a member in practice shall be deemed to be guilty of professional misconduct, if he fails to disclose a material fact known to him which is not disclosed in a financial statement, but disclosure of which is necessary to make the financial statement not misleading.
- Q. Whether a member in practice will be liable if he fails to report a material misstatement known to him to appear in a financial statement with which he is concerned in a professional capacity
- A. Yes, as per Clause (6) of Part I of Second Schedule to the Chartered Accountants Act, 1949 a member in practice shall be deemed to be guilty of professional misconduct, if he fails to report a material mis-statement known to him to appear in a financial statement with which he is concerned in a professional capacity.
- Q. Whether a member in practice will be liable if he is grossly negligent in the conduct of his professional duties?
- A. Yes, as per Clause (7) of Part I of Second Schedule to the Chartered Accountants Act,1949 a member in practice shall be deemed to be guilty of professional misconduct, if he does not exercise due diligence or is grossly negligent in the conduct of his professional duties.
- Q. Whether a member in practice will be liable in a case where he was alleged to have signed two balance sheets on two different dates for the same financial year, the first one with a clean report and the second one with a qualified report?
- **A.** Yes, the action of the member in signing two balance sheets on two different dates for the same financial year will constitute

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

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

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Opinion

Presentation of interest earned from deployment of surplus funds with banks

A. Facts of the Case

1. A Company (hereinafter referred to as 'the Company') is a Public Sector Undertaking (PSU), incorporated as a project executing agency under section 617 of the Companies Act, 1956 on 12th July, 1999 by the Ministry of Railways (MoR) and the Government of Maharashtra (GoM) subscribing equity shares in the 51:49 ratio respectively. The main object of the Company is to plan, develop, and execute the ever-growing suburban railway transportation needs of Mumbai Metropolitan Region (MMR) by carrying out surveys, preparing survey/project reports and identifying feasible rail projects/corridors etc. The project to be executed by the Company is called Mumbai Urban Transport Project (MUTP). The other main object of the Company is to carry out the rehabilitation and resettlement of project affected persons. (A copy of Memorandum and Articles of Association have been supplied separately by the querist for the perusal of the Committee.)

2. The MUTP is planned for development over a period of time in various phases. The funds required for MUTP are provided to the Company in a 50:50 ratio by MoR and GoM as budgetary allocation in their respective annual budgets. Some of the projects are funded through a loan from the World Bank/ Asian Infrastructure Investment Bank (AIIB), which are routed through GoI and GoM. The Company prepares feasibility reports and formulates estimates for MUTP which are sanctioned by MoR under MTP Plan Head in the Works, Machinery and Rolling Stock Programme of the Ministry of Railways. After sanction of projects by MoR, the funds are released/ arranged for/by the Company for execution of the MUTP. (A copy of Memorandum of Understanding executed between the Company, MoR and GoM has been supplied separately by the querist for the perusal of the Committee.).

3. The Company has been incorporated as a project executing agency. As per terms of MoU/Agreements, the ownership of all the operating assets created by the Company under MUTP remains with the Indian Railways. These assets are not accounted for as assets in the books of the Company. The unique nature of accounting for funds received and utilisation in

MUTP is explained in brief hereinafter. The funds received for executing the MUTP project from MoR and GoM are accounted for as 'Funds received for MUTP Works' and are presented under 'Other Long Term Liabilities' and funds utilised on the creation of MUTP assets are accounted for as 'Funds utilised on MUTP' and presented as a reduction from 'Funds received for MUTP' under 'Other Long Term Liabilities' in the financial statements. So, effectively the net balance, i.e., excess of funds received for MUTP over funds utilised on MUTP appears as 'Other Long Term Liability' in the financial statements of the Company.

4. Since the Company is formed without any profit motive and with the object of the advancement of the general public utility with the ultimate aim of improving transportation infrastructure for the Citizens of MMR, the Company is registered under section 12A of the Income-tax Act, 1961 with the Commissioner of Income Tax (Exemption) on 29th October, 2001 w.e.f. date of incorporation, i.e., 12th July, 1999. Since its registration under section 12A, the Company has been enjoying the benefit of exemption under section 11 of the Income-tax Act, 1961. To comply with the relevant provision and to continue to enjoy the exemption under section 11 of the Income-tax Act, 1961, the Company has deleted the declaration and distribution of dividend clause from its Article of Association. Thus, the Company does not have any profit motive as its object and cannot declare or distribute any dividend.

5. The querist has stated that for the purpose of execution, depending on the nature, expertise required, and quantum of work, MUTP component works are assigned by the MoR to the Central and Western Railways, and other agencies. However, a major part of MUTP is directly carried out by the Company for which the Company receives Direction and General (D&G) Charges. Direction and General Charges are charges fixed by MoR in % terms of the amount spent on MUTP and this % is based on the nature, type and complexities of the relevant project involved and past experiences of the execution of the project of the same size and nature. While fixing Direction and General Charges of the Company, MoR

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also takes into account the similar projects executed by other zonal railways of Indian Railways and Indian Railway's PSU.

6. The Company incurs an establishment cost to execute the projects allotted under MUTP. The amount of Direction and General Charges fixed by the MoR for carrying out a particular project by the Company is actually nothing but an estimated cost, based on previous experience of execution of projects of similar size and nature, which the Company would be incurring for the execution of the project. So, the Direction and General Charges are nothing but reimbursement of cost, which the Company incurs as an establishment cost to execute a particular project.

7. In addition to revenues received by way of Direction and General Charges, the Company also earns interest on funds temporarily deployed with Scheduled Banks, pending the funds' utilisation in MUTP.

8. Financial statements of the Company are audited every year by Chartered Accountants appointed by the Comptroller and Auditor General of India (CAG). In addition to the statutory audit conducted by Chartered Accountants, annual supplementary audit of the Company is also conducted by the Principal Director of CAG.

9. As stated in earlier paragraphs, in addition to the Direction and General Charges, the Company earns interest from deployment of surplus funds with the banks as stated at paragraph 7 above. The details of Direction and General Charges, establishment cost and interest earned over a period of last 9 financial years are as under:

Financial Year	D & G Charges	Esta- blishment Cost	Deficit	Interest Income	Surplus/ deficiency
2019-2020	39.98	50.03	-10.05	29.65	19.60
2018-2019	40.39	46.88	-6.49	42.36	35.87
2017-2018	22.98	44.32	-21.34	22.96	1.62
2016-2017	31.51	36.95	-5.44	34.42	23.38
2015-2016	28.42	25.72	2.70	37.51	40.21
2014-2015	26.63	27.74	-0.61	37.18	36.57
2013-2014	17.37	25.02	-7.65	30.66	23.01
2012-2013	11.66	22.66	-11.00	23.24	12.24
2011-2012	11.79	20.22	-8.43	31.14	22.71

10. The querist has stated that from the above details, it may be observed that every year except for financial year (F.Y.) 2017-18 and F.Y. 2019-20,

the quantum of interest earned is higher than the Direction and General Charges. As explained in paragraphs 5 and 6 above that Direction and General Charges are nothing but reimbursement of cost which the Company incurs on executing the project; it is very important to note here that while deciding such % of Direction and General Charges payable to the Company, the MoR also considers the approximate amount of interest, which the Company may earn on the deployment of surplus funds during the execution of the concerned project. Thus, Direction and General Charges and interest, both, form part of the total estimated revenue required by the Company to incur the estimated establishment cost to execute a particular MUTP Project. Hence, interest, just like Direction and General Charges invariably becomes part of the revenue from operating activities of the Company. Considering the above facts and unique circumstances, the Company is of the view that such interest earned shall be classified as 'other operating revenue, if not 'operating revenue' of the Company. The querist has also referred to the minutes of meeting held in November 2000 at the juncture of foundation of the Company (a copy of the minutes has been supplied separately by the querist for the perusal of the Committee), wherein interest is considered along with Direction and General Charges as part of the total estimated cost required by the Company for executing a project and not just as an income from incidental or ancillary investment activity. According to the querist, this is an important document, tantamounting to an MoU between the Ministry of Railways and the Company at the time of the Company's inception.

11. To support the above stated contention, the querist has referred to paragraphs 9.1.7, 9.1.8 and 9.1.9 of the Guidance Note on Division I – Non Ind AS Schedule III to the Companies Act, 2013, (Revised July, 2019 Edition), issued by the Institute of Chartered Accountants of India, which read as under:

"9.1.7 For non-finance companies, revenue from operations needs to be disclosed separately as revenue from

- (a) sale of products,
- (b) sale of services and
- (c) other operating revenues.

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It is important to understand what is meant by the term "other operating revenues" and which items should be classified under this head visà-vis under the head "Other Income".

9.1.8 The term "other operating revenue" is not defined. This would include Revenue arising from a company's operating activities, i.e., either its principal or ancillary revenuegenerating activities, but which is not revenue arising from the sale of products or rendering of services. Whether a particular income constitutes "other operating revenue" or "other income" is to be decided based on the facts of each case and detailed understanding of the company's activities. The classification of income would also depend on the purpose for which the particular asset is acquired or held. For instance, a group engaged in manufacture and sale of industrial and consumer products also has one real estate arm. If the real estate arm is continuously engaged in leasing of real estate properties, the rent arising from leasing of real estate is likely to be "other operating revenue". On the other hand, consider a consumer products company which owns a 10 storied building. The company currently does not need one floor for its own use and has given the same temporarily on rent. In that case, lease rent is not an "other operating revenue": rather, it should be treated as "other income".

9.1.9 To take other examples, sale of Property, Plant and Equipment is not an operating activity of a company, and hence, profit on sale of Property, Plant and Equipment should be classified as other income and not as 'other operating revenue'. On the other hand, sale of manufacturing scrap arising from operations for a manufacturing company should be treated as other operating revenue since the same arises on account of the company's main operating activity."

(Emphasis supplied by the querist.)

The querist has stated that from the close observations of the above stated paragraphs of the Guidance Note, it is established that the deciding criteria for a particular item of income to be classified either as 'other operating revenue' or 'other income' are as under:

- i. whether it's a principle or ancillary revenuegenerating activity and not the activity of the sale of products or rendering of services;
- ii. the purpose for which the particular asset is acquired or held;
- iii. the frequency or continuity of the revenuegenerating activity; and
- iv. on the facts of each case and detailed understanding of the Company's activities.

12. The querist has stated that the Company fulfils all of the above-stated tests in the following manner:

i. The Company deposits the funds received for executing MUTP with the banks pending the funds' utilisation in the MUTP. This activity of deposit of funds with banks is carried out on a regular basis throughout the period of execution of MUTP. The interest earned on the deployment of funds with banks, pending the funds' utilisation in MUTP, is inextricably connected to the core activity of the execution of MUTP as the size and nature of the Company and project are such that it requires funds in advance for project planning and execution. Activities of deposit of funds with the banks are made in a well thought-out, planned and prudent manner wherein the expected amount and date of receipt of funds, physical progress of the MUTP and expected amount and time of requirement/utilisation of funds in MUTP are projected, considered, reviewed and monitored in a systematic manner so as to keep uninterrupted funds' flow towards discharging project liabilities and at the same time, interest, being part of total planned revenue of the Company, on such deposits can be maximized.

Further, how crucial and important is the activity of deposit of funds for the survival of the Company can be observed from the table given in paragraph 9 above that in the last 9 years, except for in the F.Y. 2015-16, Direction and General Charges were not able to meet the

establishment cost of the Company and in the absence of interest income, the Company would have incurred losses in every such year. So, as per the querist, the above establishes the fact beyond any doubt that along with Direction and General Charges, interest is considered as part of the total operating revenue required by the Company for meeting its establishment cost.

It may also be noted that except in the F.Y. 2019-20 and 2017-18, the quantum of interest earned is more than Direction and General Charges and on close observation, it can be seen that in a couple of years, the interest income is even more than double of the Direction and General Charges.

From the above facts, it can be derived that the activity of deposit of funds with banks, in 7 out of last 9 years, generates more income than from the activity of Direction and General Charges. It is also because of the interest income that, in 8 out of 9 years, the Company was able to generate the surplus of income over expenditure otherwise it would have made losses. So, based on the above facts, the Company is of the view that revenue generated from the activity of deposit of funds with banks is crucial, integral and inextricable part of the core revenue generating activities of the Company.

- ii. The purpose for which such assets (in the case of the Company its 'Funds received for MUTP'), are held or acquired is their utilisation in the development of MUTP, the main objective of the Company. The funds given by the MoR and GoM to the Company are deployed in banks pending their utilisation in the core operational activity of the Company, i.e., development of MUTP.
- iii. The activity of deposit of funds is carried out on a regular basis, reviewed and monitored at least on a weekly basis. While deploying the funds in banks some of the important points which are kept in mind are as under:
 - a. The amount of funds estimated for a particular project of MUTP;
 - b. The expected period of the execution of the project and its important milestones;

- c. The dates, schedule and amount of funds expected to be required for a project;
- d. The actual progress of the project;
- e. Actual funds available with the Company for the project; and
- f. Special terms and conditions related to the payment for the project.

Thus, the foundation of activity of deployment of funds is inextricably connected to the execution of MUTP and it is carried out, reviewed and monitored regularly on the same basis, frequency and manner in which the physical progress of the particular project of MUTP is carried out, reviewed and monitored.

Based on above stated unique facts and iv. circumstances of the Company, the activity of planning and executing of deposit of funds, the inextricable nature of activity with the funding and execution of MUTP, the frequency of the activity itself, and the quantum of the interest earned year after year over the Direction and General Charges give sufficient strength and reason to treat and consider the activity of deposit of funds as an integral and inextricable part of the revenue generating activities of the Company. Hence, interest earned in the case of the Company, because of its unique facts and circumstances, is considered as 'other operating revenue'.

13. However, there is another view in respect to the classification and presentation of such interest. Note No. 4 of General Instructions for Preparation of the Statement of Profit and Loss in Part II of the Schedule III of the Companies Act, 2013 reads as under:

"4. Other income

Other income shall be classified as:

- (a) Interest Income (in case of a company other than a finance company);
- (b) Dividend Income;
- (c) Net gain/loss on sale of investments;
- (d) Other non-operating income (net of expenses directly attributable to such income)."

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The other view is based on Note No. 4, as reproduced above. It is claimed that since the Company is also a company other than a finance company, interest shall be classified and presented as part of "Other Income".

The querist further wishes to bring to the notice of the Expert Advisory Committee (EAC) of Query No.11 of Volume XXXVII of Compendium of Opinions, wherein it was opined that interest should be classified as 'Other Income' and not as 'Other Operating Revenue'.

14. However, on the basis of reasons and grounds as enumerated in paragraphs 9 to 12 above and unique facts and circumstances of the Company being different from the facts and ratio of the Opinion of EAC to Query No.11, as mentioned in paragraph 13 above, the Company is of the view that the present treatment of accounting, classification and presentation of interest earned on funds deployed with banks as 'Other Operating Income' is reasonable and correct.

15. The querist has separately informed that the word 'establishment cost' in Railway parlance means the cost incurred to run an establishment. It includes all the costs of an establishment. In the case of the Company, 'establishment cost' means all the expenses incurred/debited in the Income and Expenditure Account by the Company to run its operations. The following items of expenses are establishment costs of the Company:

- i. Salary and Wages/Employee Cost
- ii. Administrative Expenses
- iii. Depreciation/Amortisation Expenses
- iv. Any other Expenses.

B. Query

16. On the basis of above, considering the unique facts and circumstances of the Company as submitted above, the Company has sought the opinion of the Expert Advisory Committee as to whether the present practice of accounting and presentation of interest earned from the activity

of deployment of funds with banks, pending their utilisation in MUTP, as 'other operating revenue' in the financial statements is correct. If not, then what should be the correct treatment and presentation of interest earned on deployment of funds with banks in the financial statements of the Company?

C. Points considered by the Committee

17. The Committee notes that the basic issue raised by the querist relates to the presentation of interest earned on the surplus/idle funds deployed with banks, viz., whether the same should be presented as 'other operating revenue' or 'other income' in the Income and Expenditure Account of the Company. The Committee has, therefore, considered only this issue and has not examined any other issues that may arise from the Facts of the Case, such as, accounting for receipt of funds provided by the MoR and GoM as budgetary allocation and utilisation thereof for MUTP, accounting for loan from the World Bank/AIIB routed through the GoI and GoM, accounting for MUTP component works assigned to other agencies, accounting for Direction and General Charges and establishment cost, application of the provisions of Accounting Standard (AS) 5, 'Profit or Losses for the Period, Prior Period Items and Changes in Accounting Policies' (if any), etc. The Committee notes from the annual report for the financial year 2019-20 that the Company is following Accounting Standards, notified under the Companies (Accounting Standards) Rules, 2006¹; therefore, the Committee has examined the issue considering these standards only. Further, the Committee has examined the issue only from accounting perspective and has not looked into the regulatory or legal aspects and implications, including those arising under Income-tax Act.

18. The Committee notes the following paragraphs of the Guidance Note on Division I – Non Ind AS Schedule III to the Companies Act, 2013 (revised July, 2019 Edition), issued by the Institute of Chartered Accountants of India (hereinafter referred to as the 'Guidance Note'):

¹ In respect of accounting period(s) commencing on or after April 1, 2021, Companies (Accounting Standards) Rules, 2006 (as amended from time to time) have been superseded by Companies (Accounting Standards) Rules, 2021.

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"9.1.7 For non-finance companies, revenue from operations needs to be disclosed separately as revenue from

- (a) sale of products,
- (b) sale of services and
- (c) other operating revenues.

It is important to understand what is meant by the term "other operating revenues" and which items should be classified under this head visà-vis under the head "Other Income".

9.1.8 The term "other operating revenue" is not defined. This would include Revenue arising from a company's operating activities, i.e., either its principal or ancillary revenuegenerating activities, but which is not revenue arising from the sale of products or rendering of services. Whether a particular income constitutes "other operating revenue" or "other income" is to be decided based on the facts of each case and detailed understanding of the company's activities. The classification of income would also depend on the purpose for which the particular asset is acquired or held. For instance, a group engaged in manufacture and sale of industrial and consumer products also has one real estate arm. If the real estate arm is continuously engaged in leasing of real estate properties, the rent arising from leasing of real estate is likely to be "other operating revenue". On the other hand, consider a consumer products company which owns a 10 storied building. The company currently does not need one floor for its own use and has given the same temporarily on rent. In that case, lease rent is not an "other operating revenue"; rather, it should be treated as "other income".

9.1.9 To take other examples, sale of Property, Plant and Equipment is not an operating activity of a company, and hence, profit on sale of Property, Plant and Equipment should be classified as other income and not as 'other operating revenue'. On the other hand, sale of manufacturing scrap arising from operations for a manufacturing company should be treated as other operating revenue since the same arises on account of the company's main operating activity."

"9.2 Other income:

•••

9.2.2 All kinds of interest income for a company other than a finance company should be disclosed under this head such as interest on fixed deposits, interest from customers on amounts overdue, etc."

From the above-reproduced requirements of the Guidance Note, the Committee notes that the 'other operating revenue' includes revenue arising from a company's operating activities, i.e., either its principal or ancillary revenue-generating activities, but which is not revenue arising from sale of products or rendering of services. Thus, whether a particular income constitutes 'other operating revenue' or 'other income' is a matter of judgement considering the specific facts and circumstances of each case, and considering the nature of activity the Company is engaged into, etc. The Committee also notes that the Guidance Note requires all types of interest income in case of a Company other than finance company to be disclosed under the head 'other income'.

Accordingly, the Committee is of the view that as per the requirements of the Guidance Note, interest income in case of a company other than finance company needs to be disclosed under the head 'other income' unless it is arising from the company's operating activities (as in case of a finance company).

In this context, the Committee notes that in the extant case, the main object of the Company is to plan, develop, and execute the ever-growing suburban railway transportation needs of Mumbai Metropolitan Region (MMR) by carrying out surveys, preparing survey/project reports and identifying feasible rail projects/corridors etc. The project to be executed by the Company is called Mumbai Urban Transport Project (MUTP) and the Company is an executing/implementing agency of the GoM and MoR for carrying out MUTP. Thus, essentially the Company's operating activities comprise activities relating to execution of MUTP.

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The Committee further notes that during project execution, excess funds are deployed with banks leading to earning of interest income.

19. The Committee now examines whether the interest earned in the extant case can be considered to be arising from the Company's operating activities and in this regard, the Committee notes that the querist has stated that while deciding the percentage of Direction and General charges payable to the Company, the MoR also considers the approximate amount of interest which the Company may earn on the deployment of surplus funds during execution of the concerned project. In this regard, the querist has also referred to the following clause from Railway Board decision (minutes) taken on 11.11.2000 which states as follows:

"Staffing Pattern

3.1 The organisation should be kept lean but this shall be left to the Board of Directors of the Company. It should, however, be ensured that the size remains small enough for *the establishment costs to be contained within the D&G charges/Interest available to the Company.*" (Emphasis supplied by the querist.)

Without getting into the interpretation of the Board decision, the Committee is of the view that the above paragraph or any other paragraph in the Railway Board decision does not clearly indicate that the percentage of Direction and General charges payable to the Company has been decided after considering the approximate amount of interest which the Company may earn. Further, the above also does not indicate that interest is the compensation/consideration of operating activities of the Company, which is execution of MUTP, as discussed above. Further, the various communications between the Company and the Railway Board (MoR) while making a request to the Board to allow the Company to retain the interest (separately provided by the querist for the perusal of the Committee), also do not clearly demonstrate that the MoR allowed the Company to temporarily retain such interest as a compensation/ consideration of the operating activities of the Company.

Accordingly, the Committee is of the view that in the extant case, considering the requirements of the Guidance Note and the information and facts available with the Committee, interest income in the case of the Company (being an 'other than finance company') should be disclosed under the head 'other income'.

With regard to various contentions provided by the querist, the Committee also wishes to point out that accounting treatment depends on the nature of income and mere allowing to retain or use interest income for meeting the expenditure does not change the nature of income. The Committee is also of the view that regularity or quantum of an item of income may not necessarily determine the nature of an income as operating or non-operating.

D. Opinion

20. On the basis of the above, the Committee is of the view that in the extant case, interest income should be disclosed under the head 'other income', as discussed in paragraph 19 above.

1.	The Opinion is only that of the Expert Advisory Committee and does not necessarily represent the Opinion of the Council of the Institute.
2.	The Opinion is based on the facts supplied and in the specific circumstances of the querist. The Committee finalised the Opinion on September 01, 2021. The Opinion must, therefore, be read in the light of any amendments and/or other developments subsequent to the issuance of Opinion by the Committee.
3.	The Compendium of Opinions containing the Opinions of Expert Advisory Committee has been published in forty volumes. This is available for sale at the Institute's office at New Delhi and its regional council offices at Mumbai, Chennai, Kolkata and Kanpur.
4.	Recent opinions of the Committee are available on the website of the Institute under the head 'Resources'.
5.	Opinions can be obtained from EAC as per its Advisory Service Rules which are available on the website of the ICAI, under the head 'Resources'. For further information, write to eac@icai.in.

Union Budget 2022-23: A Roadmap for Growth and Sustainable Development

The global economy has been sailing through an agonising, uncertain and turbulent phase in the last two years since the **COVID-19** pandemic broke out. India has witnessed three waves of the COVID-19 pandemic so far which had a disruptive impact on the economy, businesses, employment. Normal lives of people remained shattered. Recently, global economy, including India, in its recovery phase from the pandemic is reeling under the tremendous pressure of rising inflation. Supply side disruptions, *expansionary* monetary policy and rising crude and other input prices have contributed to cost push and demandpull inflation. Read *on...*



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During the three quarters of the F.Y. 2021-22, headline CPI inflation shot up to 5.6 per cent year on year; fuel inflation is still in double digits; Core inflation, which excludes food and fuel from CPI inflation, remained high. The fast V-shaped recovery witnessed in India in India was halted due to the emergence of third COVID wave of highly transmissible **Omicron variant.** Anticipations of the people and businesses from the budget were very high. In such a scenario, economic reinvigoration, revival of growth and macroeconomic stability are anticipated from broader fiscal and monetary policies in the post pandemic scenario.

The Union budget for the ensuing Financial Year, 2022-23 has been prepared to give a big boost to the economy. It targets fast, inclusive and sustainable growth. A closer look at the budget reveals that faster recovery, high rate of economic growth and a vision for inclusive and sustainable development with controlled inflation and prudent fiscal consolidation are the main tenets of the budget this year. According to the first advanced estimates, the Indian economy is estimated to grow by 9.2 percent in real terms in 2021-22 subsequent to a contraction of 7.3 percent in 2020-21 (Economic Survey, 2021). For the F.Y. 2022-23, the



budget sets an ambitious target of 11.2 percent per annum growth of nominal GDP.

The article presents an analysis of the budget, 2022-23 from the perspective of the focus of budget on growth and sustainable development. It attempts to bring out the key aspects of the budget to examine the fiscal policy stance and the future growth prospects for the economy.

Amrit Kaal

As stated by the Honourable Prime Minister of India on the 75th Independence Day, India has entered into the Amrit Kaal, a period of 25 years from 2022 to 2047 when India completes 100 years of independence. For the Amrit Kaal of 25 years, the budget sets out an ambitious agenda focused on speeding up macroeconomic growth, inclusive and welfare-oriented development at the micro economic level, a sustainable development through climate action and promotion of digital economy. The budget prepares a futuristic and inclusive blueprint for the *Amrit Kaal* by setting priorities and targets. By the completion of one hundred years of independence, the budget sets four major priorities under the PM Gati Shakti.

Impetus for Growth through Enhanced Capex

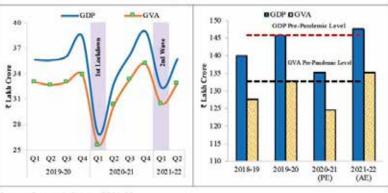
Capital expenditure (Capex) is the key to economic growth. Capital expenditure incurred in a variety of forms gives dual benefits to a growing economy like India. It enhances demand by creating opportunities for employment and earning and boosts up productivity and production and thus increases supply. On this premise, Capex has been increased in this budget to 7.5 lakh crores for the year 2022-23 which is Rs. 6 lakh crores for F.Y. 2021-22. This budget not only envisages faster economic growth but also creation of employment and income opportunities. Hence, budget provides for an enhanced public spending to speed up the economic growth through its effect on the aggregate demand via fiscal and investment multipliers effects. This is an unconventional approach to address the ongoing recession sparked by the pandemic.

The figure below presents the trends in the Gross Domestic Product and Gross Value Added for the four consecutive years from 2018-19 to 2021-22. The V-shaped recovery, after the onslaught of the pandemic and lock down, got a setback after the 2nd and 3rd waves in the year 2021-22. The budget of 2022-23 effectively targets the slow recovery from the second wave and dampening of the recovery by the Omicron variant.

The Union budget for the ensuing Financial Year, 2022-23 has been prepared to give a big boost to the economy. It targets fast, inclusive and sustainable growth.

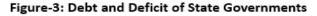
A massive expenditure of Rs. 20,000 crores on infrastructure development have been proposed in the budget. As a proportion of total budgeted expenditure, the effective capital expenditure has been increased by 4.85 percentage which comes at the cost of revenue expenditure net of grants in aid for capital assets creation. As a percentage of total budgeted expenditure, revenue expenditure (net of grants in aid for capital assets creation) has been projected to be 5.5 percent lesser than in the previous year, 2021-22 (as per the revised estimates for 2021-22). As a percentage of total budgeted receipts, borrowings and other liabilities (which includes

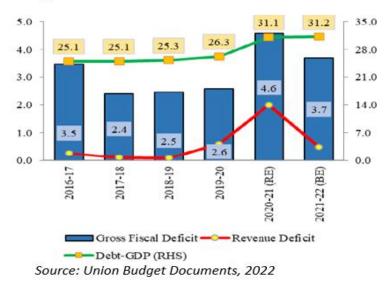




Source: Economic Survey, 2021-22

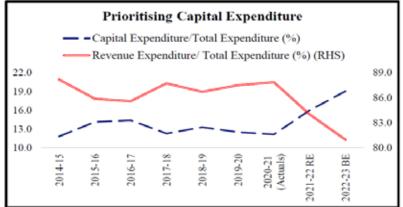
drawing down of cash balances) of the Union Government have been projected to fall slightly by 0.1 percent. As a percentage of GDP, effective capital expenditure will be 4.1 percent in the year 2022-23 which is revised to be 3.6 percent of GDP for the year 2021-22. Thus, we see that the budget projects a massive hike in the capital expenditure in the year 2022-23. This comes with a projected reduction in fiscal deficit to 6.4 percent of GDP. Which means a reduction in the net addition to the public debt. Figure-2 presents the emerging trends in the revenue and capital expenditures of the Central Government. The trend is being sharply reversed after the year 2020-21.





employment. The interest free long-term loans under this scheme have been increased from proposed Rs. 10,000 crores in the Budget Estimates of year 2021-





Source: Union Budget Documents, 2022

Financial Assistance to States for Capital Investment

The thrust on capital spending is also visible in the budget of 2022-23 from the enhanced financial assistance to states under the Scheme for Financial Assistance to States for Capital Investment for creating productive assets and generating remunerative 22 to Rs. 15,000 crores in the Revised Estimates for that year and for 2022-23, these loans will be a massively hiked to Rs. 1 lakh crore.

These 50 years interest free loans are over and above normal borrowings of the states. Financial assistance of this magnitude for capital investment will improve overall investment climate in the economy which in turn will augment growth and development in the country. Apart from spending on infrastructural and productive investment, these loans will supplement the spending of states on digitisation of the economy. However, there is a caveat to such predictions. The state governments are already highly indebted and under pressure to meet FRBM targets (Figure-3). Therefore, either they will be reluctant to borrow much (even if it is interest free) or may actually borrow under this scheme to cut back their debt financed spending on capital expenditure. This leakage has a potential to cast a shadow on the success of this scheme.

Infrastructure Development under PM Gati Shakti

Transformation of the transport system under the PM Gati Shakti is central to the budget of this year. Gati Shakti, an ambitious National Master Plan for Multi-modal Connectivity, is a transformative approach for fast and sustainable economic growth and development.

This envisages to take the transportation infrastructure to the world class standards. Mass transport, railways, roads, airports, ports, waterways, and logistics infrastructure are the seven engines of the Gati Shakti. Information and communication technology, transmission of clean energy, water supply and sewerage, and social infrastructure lend support to the Gati Shakti. An improved connectivity and modern transportation will give a big boost to the business activities. This will also increase productivity, economic growth and development. The approach involves the government as well as private sector.

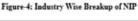
India needs to spend about \$1.4 trillion on infrastructure to achieve the GDP target of \$5 trillion by 2024-25. The fact reveals that during 2008-17, India spent about US\$1.1 trillion on infrastructure. The National Infrastructure Pipeline (NIP) was launched with a projected investment of US\$ 1.5 trillion on infrastructure during FY 2020-2025 to provide world-class infrastructure across the country and improve the quality of life for all citizens. Sector wise breakup of NIP is given in Figure-4.

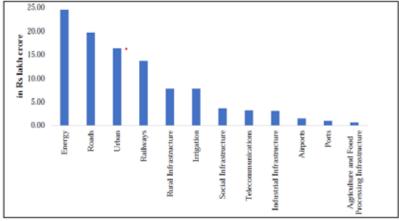
Under the PM Gati Shakti Master Plan for Expressways, the network of national highways will be expanded by 25,000 km in 2022-23 to facilitate faster movement of people and goods. Expenditure on road transport has been projected to be enhanced to Rs. 66,494 crores. Apart from that, a multimodal transportation system will be developed for efficient movement of goods through different modes which will reduce logistics cost and time and requirement of documentation. Expenditure on railways has been increased to Rs. 30,000 crores with an exclusive emphasis on making the parcel system more efficient. The Budget has a proposal of 400 newgeneration Vande Bharat trains to be manufactured and developed, and 100 Gati Shakti Cargo Terminals for multimodal logistics facilities to be developed during the next three years. The budget also proposes construction of eight ropeways during 2022-23 under the National Ropeways

Development Programme on a public private partnership (PPP) basis. This will have a positive impact on the tourism sector.

Urban Development

The budget highlights the significance of urban development in realising the economic potential of urban areas by converting cities into centres of sustainable living with livelihood opportunities for all, including women and youth. Through a committee, the budget proposes to develop urban sector policies, capacity building, planning, implementation and to provide such support to states for urban development. A shift is proposed towards greater use of public transport in urban areas which will be complemented by clean technology and governance solutions, special mobility zones with zero fossilfuel policy, and EV vehicles. A battery swapping policy will be evolved to improve efficiency in the EV ecosystem. It will give a boost to electric vehicle industry.





Source: Economic Survey, 2021-22

Budget has a proposal of 400 new-generation Vande Bharat trains to be manufactured and developed and 100 Gati Shakti Cargo Terminals for multimodal logistics facilities to be developed during the next

three years.

Productivity Enhancement and Investment

Improvement in the productivity of labour and capital is crucial for ramping up economic growth. In this direction, the budget proposes to launch the second phase of Ease of Doing Business 2.0 through a system of trustbased governance. This will catalyse the digitisation of manual processes, integration of central and state level systems through IT bridges, single-point access for all citizen-centric services and standardisation and removal of overlapping compliance requirements. A number of proposals have been given to provide better urban planning and housing to people towards Ease of Living initiative. Support to 5G will be provided under the Production Linked Incentive Scheme to improve network connectivity.

Digital Banking, Digital payment and Digital Rupee

Digital banking and digital payment system are growing at a fast pace in India. The

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A shift is proposed towards greater use of public transport in urban areas which will be complemented by clean technology and governance solutions, special mobility zones with zero fossil-fuel policy, and EV vehicles. government has lent support to the digital banking ecosystem to ensure its outreach to each and every part of the nation in a customer-friendly manner. Fintech innovations are also being encouraged. Budget of 2022-23 has proposed to continue with the financial support for the digital ecosystem and announced that 75 Digital Banking Units (DBUs) will be set up by Scheduled Commercial Banks in 75 districts of the country. Another important announcement is the introduction of Central Bank Digital Currency (CBDC). The introduction of digital currency will take the digital economy to greater heights. It will reduce the cost of currency management significantly. Strengthening of digital banking and payment system and introduction of digital currency will also be beneficial for the overall business environment in the country. However, adequate cyber safeguards are required to be in place for the digital currency to prevent cyberattacks and digital frauds.

Sustainable Development: Energy Transition and Climate Action

Another important aspect of the budget is its emphasis on the sustainable development. The budget envisions a transition to carbon neutral economy and thus talks about energy transition and climate action. Sustainable development has emerged as an unavoidable form of development. India needs to adopt best environmental practices in production, transportation and consumption

Improvement in the productivity of labour and capital is crucial for ramping up economic growth. In this direction, the budget proposes to launch the second phase of Ease of Doing Business 2.0 through a system of trust-based governance.

spheres. Pollution in all forms has been rising and pausing grave threats for the near future. Global warming and climate change are dominant global concerns along with other environmental issues today. We need to tackle negative environmental externalities appropriately and effectively. Government of India is strongly committed towards low carbon and sustainable development of the nation. In this direction, the budget highlights several short-term and long-term actions oriented towards, cleaner energy, low carbon emissions and sustainable development and allocates Rs. 19,500 crores for Production Linked Incentive Scheme for manufacturers of the high efficiency solar modules. An ambitious goal of attaining 280 GW installed solar energy capacity by the end of this decade has been reaffirmed.

Transition to Carbon Neutral Economy

The commitment of the government towards carbon neutral economy has been shown in the budget announcements. Thermal

power is the largest source of electricity generation in India and coal is the most polluting fossil fuel. About fifty one percent electricity is generated in the coal-based power plants. Burning of coal in these plants emits noxious fumes which contains sulphur dioxide, nitrogen oxides, carbon dioxide, and mercury which cause harmful effects on environment, human and other species.

The budget targets carbon dioxide emissions from coal fired power plants and pollution from burning of crop residue by proposing that biomass pellets of 5-7 percent of the fuel in the thermal power plants will be co-fired. It is estimated that it will reduce about 38 MMT of annual carbon dioxide emissions. On the other hand, farmers and villagers will get income and job opportunities in making bio-mass pellets from agriculture residue and farm waste. It will also reduce the smoke problem from stubble burning by farmers.

The introduction of digital

currency will take the digital economy to greater heights. It will reduce the cost of currency management significantly. Strengthening of digital banking and payment system and introduction of digital currency will also be beneficial for the overall business environment in the country.

Energy Conservation, Agroforestry and Circular Economy

Towards attaining sustainable development, the budget highlights on Energy Conservation, Agroforestry and Circular Economy. The budget envisages energy saving through the promotion of energy management. In large commercial complexes, Energy Service Company business model will be used for efficient utilization of energy.

The budget wishes to take forward agroforestry and private forestry through policies, legislative changes and financial support to the farmers who want to take up agroforestry.

Emphasis has also been placed on the circular economy. A circular economy is based upon recycling and reuse rather than on take-make-waste. We need to abstain from unsustainable practice of taking resources from environment to make products and dump the waste. Circular economy requires a behavioural change among producers and consumers. The promotion of circular economy, as proposed in the budget, will definitely take the economy farther in the direction of sustainable and greener development in the future.

Financing of Investment

Capex in the budget of year 2022-23 has been proposed to be enhanced to more than double of the corresponding figure for 2019-20 along with a projected downtrend in Circular economy requires a behavioural change among producers and consumers. The promotion of circular

producers and consumers. The promotion of circular economy, as proposed in the budget, will definitely take the economy farther in the direction of sustainable and greener development in the future. 1083

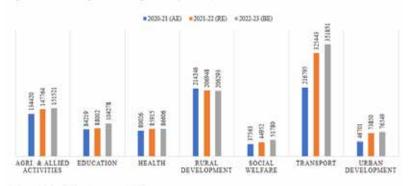
the fiscal deficit. A pertinent question arises that how this is going to be financed given the conservative estimate of a 6 percent increase in the revenue receipts as the economic activities resume in the financial year 2022-23. So, will there be a cut in the revenue expenditure to meet enhanced capex? Yes, it is clearly visible from the projected figures of revenue expenditure and capital expenditure (See Figure-2). As percentage of total expenditure, capital expenditure has sharply gone up while revenue expenditure has decreased sharply from the year 2021-22 and that sharp trend continues in the projected figures for the year 2022-23. This is a healthy improvement in the expenditure profile of the central government. A compression in revenue expenditure is highly desirable to enhance capital expenditure and the best part of this revenue expenditure compression strategy is that it is not done at the cost of the developmental expenditure in the budget. In fact, according to

a rough estimate, developmental expenditure of the Central government has gone up as a percentage of total expenditure from 39 percent in the revised estimates of 2021-22 to more than 41 percent in the year 2022-23. On the other hand, non-developmental expenditure has gone down from 61 percent to 58.5 percent over the same years. Compression in revenue expenditure is being done primarily through massive reduction in the subsidy bill of the government on food, fertiliser and petroleum (See Figure-5). A massive cut of Rs. 1,15, 242 crore is visible in the proposed subsidy expenditure relative to the revised estimates of the year 2021-22. As a percentage of total expenditure this is 3.4 percent reduction.



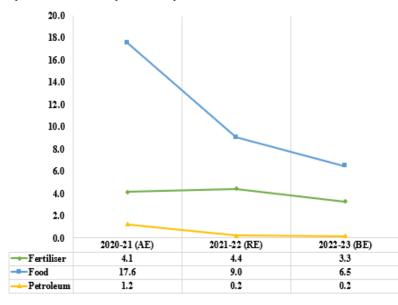
The swapping of expenditure is that social sector expenditure on health, education and social welfare has been rising and expenditure on rural development and health is being reduced (See Figure-6).

Figure-6: Trends in Major Items of Expenditure (Rs. Crore)



Source: Union Budget Documents, 2022

Figure-5:Trend in Three Major Subsidies of the Centre (% of Revenue Expenditure)



Source: Union Budget Documents, 2022

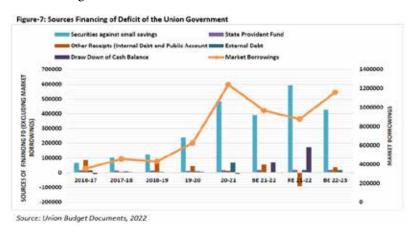
Massive borrowing to meet the financial challenges of the pandemic has resulted into huge build- up of government debt and a sharp increase in the interest payment liability of the central government. As a percentage of total budgeted

Apart from market borrowing and through other means, funds will also be raised through sovereign green bonds to finance public sector projects. As a double dividend, it will also help in reducing the carbon intensity of the economy.

expenditure, it is estimated to go up from 21.6 percent in 2021-22 (A.E.) to 23.8 percent in 2022-23 (B.E.). Figure-7 shows the trends in the various sources of borrowings for the Centre.

Continued Thrust on Inclusive Development

The budget extends the agenda of the inclusive development with a focus on the welfare



We know that public and private sector compete for the investible funds and if the public sector borrows more from whether from financial market or from RBI than interest rate increases and thus raises the cost of borrowing for the private sector which in turn may cause the crowding out of private investment. Budgeted hike in capex might have taken this view into consideration and to ensure that private investment crowd in rather than crowding out government borrowings have been reduced by about 0.5 percent than in the year 2021-22. Further, the enhanced capex is targeted to woo private investment. Apart from market borrowing and through other means, funds will also be raised through sovereign green bonds to finance public sector projects. As a double dividend, it will also help in reducing the carbon intensity of the economy.

of women and poor and marginalised people. Budget 2022 also recognises the importance of Nari Shakti as the harbinger of our bright future and for women-led development during the Amrit Kaal and extends support to the various schemes under the ministry of Women and Child Development particularly Mission Vatsalya, Mission Shakti, Saksham Anganwadi and Poshan 2.0. The budget proposed to upgrade two lakh anganwadis during 2022-23.

The budget allocated Rs 60,000 crore to provide tap water facility to 3.8 crore households and Rs. 48,000 crore rupees to provide 80 lakh houses in rural and urban areas under the PM Awas Yojna.

Prime Minister's Development Initiative for North-East, PM-DevINE scheme, will be implemented for funding of infrastructure and social development projects according to the needs of the North-East. Vibrant Village Programme and Aspiration Blocks Programme will cover the backward districts and border villages of the country to improve quality of life of people and align them with the development process through a number of infrastructure, connectivity and communication initiatives.

Fiscal Sustainability

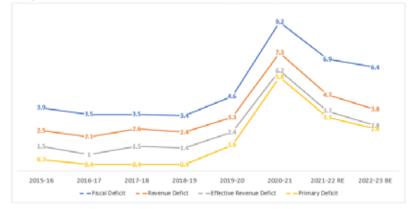
The budget has adopted a cautious approach towards fiscal sustainability. The expenditure profile has been reshuffled to accommodate financial requirements for economic revival, higher growth and inclusive development. Total expenditure in the year 2022-23 has been estimated to grow by 4.6 percent over the revised figures for the year 2021-22 which is perfectly commensurate with the target reduction in the fiscal deficit with an estimated increase in the revenue receipts of about 6 percent, a deceleration in the non-tax revenue and disinvestment target of Rs. 65000 crores (which is about 1.64 percent of the projected expenditure).

The fiscal performance of the central government had greatly improved in the years prior to the pandemic but during the pandemic years the deficit indicators took a reverse trend due to massive borrowing to meet the financial challenges of catering to the basic needs of the people and rejuvenation of the economy to return to normalcy after the pandemic. We can see the figures for the fiscal deficit, revenue deficit, effective revenue deficit and primary deficit (as a percentage of GDP) went up sharply to peak at 9.2 percent, 7.3 percent, 6.2 percent and 5.8 percent respectively in the year 2021-21 but falling steeply afterwards and for 2022-23 these figures are projected to be 6.4 percent, 3.8 percent, 2.6 percent and 2.8 percent of GDP respectively (See Figure-8).

Centre for the year 2022-23 are estimated to be Rs. 1661196 crore (about 6.4 percent of GDP) which is 6.8 percent of GDP for the year 2021-22.

Though, from the expenditure and deficit targets set in the budget show the prudent fiscal behaviour and shows a renewed commitment towards fiscal consolidation and FRBM stipulations, the requirement of the economy is still to have an expansionary fiscal policy o provide a boost to the supply

Figure-8:Trends in Central Government Deficits (% of GDP)



Source: Union Budget Documents, 2022

The revised targets of the FRBM Act, 2003 set by the **Fifteenth Finance Commission** suggest that the Centre should bring down fiscal deficit to 4 percent of GDP by the year 2025-26. The Commission observed that the recommended fiscal consolidation path for the Centre will result in a reduction of total liabilities of the Centre from 62.9% of GDP in 2020-21 to 56.6% in 2025-26. Unfortunately, due to the pandemic we are far away from this target. Total increase in the liabilities (including the drawing down of cash balances) of the

and demand both. However, a procyclical alignment of the fiscal policy will have a fiscal drag in the coming years.

Concluding Remarks

On conventional parameters like health, education, rural development etc., the budget of this year might have not come up to the short-term expectations of many, but it definitely carries a farsighted approach with a longer-term vision of the economy. In view of the elections in five states,

Enhanced public sector capital expenditure will bolster productivity and production and therefore, it will enhance GDP through multiplier effect and create opportunities for income and employment.

it was anticipated that the budget this year will be full of populist announcements to woo the voters. Against all such odds, the government showed its commitment for economic revival, growth and sustainable development of the nation.

The vision of the budget is to prepare the economy for a sustained long-term expansion with a boost up in demand through substantially enhanced capital expenditure on infrastructure development and a supply boost up through supply side measures. The budget sets in motion a virtuous cycle of crowding in private investment through public capital investment. Enhanced public sector capital expenditure will bolster productivity and production and therefore, it will enhance GDP through multiplier effect and create opportunities for income and employment. Thus, the budget of 2022-23 intends to create powerful levers to pull the economy upward in the future.

Union Budget 2022-23 – Paving the way for a Digital India

The budget 2022-23 is a pro-technology budget. Digital economy and fintech have been mentioned as the vision of the budget. It has embraced digitalisation and the adoption of technology at various levels. This paper elucidates the *important digital* initiatives like the introduction of CBDC digital currency, digital banking units, taxing the digital assets and most importantly, bringing in of 5 G. 5 G shall enable smart manufacturing which is expected to be game changer for India's manufacturing industry. These measures are expected to pay way for a new developed digital India and propel the Indian economy towards economic progress. Read on...



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Introduction

The Finance Minister, Dr Nirmala Sitaraman set the stage for delivering on the promise of strong digital architecture that supports digital governance, e-health and building digital trust. She started a new trend of a paperless budget in 2021 and this continued with the budget of 22-23 being presented digitally. Soft copies of the budget and the Economic Survey were distributed to all the members of Parliament. Digitisation ran as one of the principal themes across many of the planned public spending initiatives.¹ The budget has

given a fresh digital push and reliance on green energy. Rs 19,500 crore of Production Linked Incentive (PLI) for solar manufacturing of high efficiency modules has been announced in the Union Budget for FY 23.

Introduction of the digital

currency: The government remained committed to digitalisation, albeit in a more secure manner. The announcement was made by the FM that the RBI will roll out the Central Bank Digital currency (CBDC) in FY 2023, based on the block chain technology. This CBDC, which has not been given any formal name as yet,



will be easily exchangeable with the physical currency. Users will be able to transfer purchasing power from their deposit accounts into their smart phone wallets in the form of online tokens, and it would result in the direct liability of the Reserve Bank of India, just like cash. This is expected to lessen the burden of printing paper currency and the logistics of and management of handling cash.

A currency is generally backed by some credible agency. This is not the case with the existing cryptos in the market like bitcoin or Ethereum etc. As per the RBI the private virtual currencies are at substantial odds with the historical concept of money since they have no intrinsic value. In fact, the cryptocurrencies can threaten the sovereignty of a country and make it susceptible to strategic manipulation by private corporations or governments that control them, as per the deputy governor of RBI T Rabi Sankar2. A much better option, therefore is for a country to have its own digital currency.

As per IMF, Countries like the Bahamas and Nigeria have introduced CBDCs, the 'Sand dollar' and the e Naira to increase financial inclusion, facilitate remittances and reduce the informal economy.³ The Sand dollar is said to provide greater flexibility and accessibility for its residents who want to participate in financial services via a mobile phone application or using a physical payment card to access a digital wallet.⁴ It is said that digital currencies hold a good potential for the 1.7 billion people globally that the world bank says do not have a bank account. With the cyber Yuan, the People's Republic of China became the first large economy to introduce the CBDC. Widespread use of the digital yuan may give Chinese policy makers greater visibility into how money flows around the economy.⁵

The RBI however, has been examining the usage of the CBDC and working out on the implementation strategy for the models on retail and wholesale use of introduction of the of the CBDC. A lot will have to be done before its introduction. The Crypto law will have to be passed in the parliament and amendment enacted to the RBI Act, the coinage act, the FEMA and the Information Technology Act.

Tax on virtual digital assets (VDA) Sec 115BBH

The government has cautioned time and again that the virtual digital currencies in the market do not have underlying values and the exchanges dealing with them are not regulated. The past few years witnessed heavy speculation in the cryptocurrencies. Since the cryptos had also made their place in the balance sheets of many companies, the government has taken cognisance of their existence and issued guidelines for taxing such and other Non- Fungible Tokens (NFTs) in the current budget with effect from 1st April 2023 as follows:

Income from sale of such assets shall most likely be chargeable under income from other sources (tax experts are not yet clear about whether it will be taxed under capital gain or other sources). Tax @30% will be levied on the amount of gain on the sale of such assets. No deduction in respect of any expenditure (other than cost of acquisition) or allowance or set off of any loss is allowed.

Loss from transfer of such asset shall not be allowed to be set off against income earned under any other provisions of the act and such loss shall not be allowed to be carried forward in the succeeding assessment year.⁷

Provision relating to taxation of gifts shall apply to the Virtual Digital assets. It is proposed to consider Virtual digital asset as property (explanation to section 56(2)(vii).

Further, TDS on purchase of Virtual Digital Asset as per Section 194S shall be applicable with effect from 1st of July, 2022. Person responsible for paying to resident any sum by way of consideration for transfer of such asset shall be liable to TDS@1%. The government thereby ensures that all transactions involving VDA get reported and taxed.

Exemption- In case the payer is an individual or HUF, having turnover from business of less than or equal to Rs 1 crore or having turnover from profession less than or equal to Rs 50 lakhs or not having income from the head profits and gains of

business or profession (PGBP) and the value of consideration of the virtual digital asset is less than Rs 50,000; there is no liability to deduct TDS. In any other case the limit is proposed to be Rs 10,000 during the FY. This move is expected to bring clarity with respect to the taxation and thereby, the costs and benefits to be derived from holding of such inherently risky assets.

It is to be noted that taxing of virtual digital assets is not an easy task and no other country has regulated the Virtual Digital Assets as yet. Hence some teething problems will have to be resolved as and when they arise.

5 G and smart manufacturing

Presenting the budget, Finance Minister made an important announcement that the auction for the 5G spectrum will be held in 2022 and India will make commercial 5G services available in the country by 2023. Major telecom companies have already undertaken initial trials of 5G services in certain areas in India and upgraded their mobile towers in association with the 5G equipment makers.

The point to be noted is that 5G is not just about telecommunications. It is expected to facilitate smart manufacturing in India. Smart manufacturing⁸ (SM) is a technology driven approach that utilizes internet connected machinery to monitor the production process. Smart Manufacturing identifies opportunities for automating operations and uses data analytics to improve manufacturing processes and enhance productivity. SM involves application of Industrial IoT (Internet of things). Sensors are embedded in the manufacturing machines that collect data on the operational status and performance of the machines. In the past such data, stored on individual devices was accessed to determine the cause of machine failures but by then, the damage was already done. The new technology is expected to alert and prevent machine failures.

With 5G, smart manufacturing is expected to get smarter

As per a report, 5G telecommunications technology is going to be game changer for manufacturers. The benefits of 5G to the global manufacturing industry could amount to \$740 billion by 2030. The 5G superfast, super flexible wireless technology promises highly reliable, near instantaneous data connectivity. This is critical for the existence of smart factories, connected

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Automated machines and robots equipped with a wide array of sensors, connected to high powered analytics in the cloud that assess performance, manage production schedules, maintain supplies and orchestrate all the activities on the shop floor.

supply chains and IOT enabled products.⁹ Automated machines and robots equipped with a wide array of sensors, connected to high powered analytics in the cloud that assess performance, manage production schedules, maintain supplies and orchestrate all the activities on the shop floor. With the expected availability of 5G networking, a much more powerful wi-fi and near zero latency, things will see a sea change. By eliminating the need for wired connectivity, 5G will supplement high speed manufacturing environment with far greater scalability and flexibility.10

Table 1 Technology specifications of 5G in comparison to 3G and 4G

Features	3G	4G	5G
Year of Introduction	2001	2009	2018
Based on Technology of	WCDMA	LTE WiMAX	MIMO, Waves
Bandwidth	25 MHz	100 MHz	30 GHz to 300 GHz
Internet service	Broadband	Ultrabroadband	Wireless World wide web

Throughput- Amt of data that can be moved from one place to another in a given period	7Mbps (megabits per second)	per second)	10Gbps
Applications	Video conferencing, mobile TV, GPS	High speed applications, mobile TV, wearable devices	High resolution video streaming, remote control of vehicles, robots, procedures etc
Latency- delay between the sender and receiver of data-lower latency leads to higher real time experience.	100-500ms	30-50 ms	1-10 ms

Table 1 elucidates the various differentiating features that 5 G offers in comparison to 3G and 4G.11 The big advantage of 5G across the entire manufacturing value chain is its ultra-reliability and security. The significantly high data rates of 5G (up to 10Gbps) is substantially higher than any Wi-Fi or cellular wireless mechanism. This connectivity power is very helpful in adopting critical manufacturing applications. By eliminating the need for wired connectivity, a high-speed manufacturing environment is enabled which is flexible and has low latency. It enables devise density and data volume. 5G greatly enhances the IoT capacity by supporting far more sensors and devices. This enables massively connected factories.

Industry 4.0 and 5.0

Industry 4.0 is a term used in modern manufacturing world to denote the 4th Industrial revolution¹². It is characterized by automation wherein machines largely govern themselves. Industry 4.0 brings together technology advances in the Internet of Things (IoT), artificial intelligence (AI), big data, cloud and edge computing to help manufacturers advance towards a higher degree of automation and apply digitalization to physical processes.

Large companies in India have already joined the smart manufacturing club, and having reached the industry 4.0 stage, are experiencing its many benefits. Technology giant Siemens has reported success with production of more variants of its product (circuit breakers) with its production time reduced by half. Mahindra and Mahindra's automotive division has been able to reduce its repair and spare costs in a significant double digit percentage range by investing in IoT (Internet of things) capabilities and connecting majority of its critical machines with sensors. Lloyd has set up a fully robotized and automated unit in Ghiloth, Rajasthan. The plant has its machines and production processes integrated with AI and IoT. Thus if this is

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Connectivity has been the main enabler of Industry 4.0. Cost sensitivity and pressure to improve productive efficiency motivate manufacturers to adopt digital tools to meet these challenges.

Industry 4.0, Indian companies are now gearing up for the 5.0 story. Co-bots (collaborative robots) will be used to boost process efficiency and effectiveness.¹³

Industry 5.0

It is rightly said that while Industry 4.0 uses technology with machinery through the internet; Industry 5.0 is where people and robots will work together. 5 G is going to be the main enabler of this transition.

Connectivity has been the main enabler of Industry 4.0. Cost sensitivity and pressure to improve productive efficiency motivate manufacturers to adopt digital tools to meet these challenges. Though a few options are available but 5G is emerging as a key connectivity **solution**, particularly as many of its technical capabilities have been designed with Industry 4.0 applications in mind like i) Ultra-reliable low latency communication- for real-time communications between machines. ii) Greater bandwidth and support for higher device

density. This helps to generate more data traffic and host a greater number of devices / sensors. Network slicing allows virtual separation of networks, enhancing security and reliability. Mobile edge computing allows critical network functionality to be retained at the edge, further enhancing resilience and operational continuity.

The expected productivity gains are owing to the following advantages that 5 G brings:

Optimization of production:

5G will enable real time data capture on the machines. A more efficient sequencing of the factory activities will be possible because of the better analysis of production patterns which shall result in reduction of waste.

Enable modular factories: The speed, density, low latency and wide bandwidth will enable better use of bots and enable mass customization and also manufacturing on demand.

Better connectivity: better integration of factory infrastructure, with resources and operational technology and the company's ERP systems will result in greater optimization and also enable remote control of the factory processes.

Supply chain integration:

5G networking integrated into factory tools will enable fast, automatic replenishment of parts and supplies, minimize delays and also boost efficiency. Augment Human machine

interface: The 5G technology is expected to free staff from computer terminals, provide better visualization solutions, offer augmented reality gear.

Better maintenance : The status of equipment can be assessed far more closely. This in turn will enable them to conduct scheduled maintenance when needed, predict the need for unscheduled maintenance before problems arise and enhance remote diagnostics performed by suppliers of complex equipment.

Improved safety: 5 G

enables a near instantaneous response time, enables a safer manufacturing environment with reduced requirement of people on the shop floor and a more responsive emergency shut off signals.

The manufacturing industry of India is therefore ready and in anticipation of the introduction of the 5G as envisaged in the current budget.

Other digital initiatives in the budget

The budget has many other digital initiatives, like the announcement of the following-

Digital Banking Units:

75 digital banking Units are to be set up in 75 districts of India by the Schedule Commercial Banks. (This is to commemorate 75th year of India's independence). It has been the endeavor of the government to

5 G enables a near instantaneous response time, enables a safer manufacturing environment with reduced requirement of people on the shop floor and a more responsive emergency shut off signals.

enlarge the customer base for banking. The digital banking push is expected to boost this objective. Studies have revealed that digital lending has resulted in good financial inclusion; however, it was found that the penetration of financial products was restricted to urban areas¹⁴. This digital banking initiative is expected to bring many new rural customers into the banking fold. The Trinity of Jan Dhan, Aadhaar and Mobile has allowed the quick deployment of digital products with ease of access owing to a secure API. Digital lending UPI payments BNPL payments (Buy now pay later) and Aadhar enabled payment systems are all expected to further increase in the coming times. The challenges to financial inclusion of accessibility from all areas, rural or urban, creation of financial products catering to the needs of even the underprivileged and establishment of institutions regulated by the RBI, shall all be addressed with the establishment of such digitized banking units.

E-pass ports with chips-

Indian travellers will henceforth be issued e- passports instead of the current printed passports. An e-passport serves the same purpose as a traditional passport; it contains the same information like the name, date of birth and other details. Ministry of External affairs has informed that the e-passports shall comply with the standards of the International Civil Aviation Organisation (ICAO).¹⁵ These would contain secure biometric data of the passengers ensuring their smooth passage through immigration posts globally. These will be manufactured domestically at the India Security Press, Nashik.

The e-passport will ease and quicken the process of immigration checks as the e-passport can be scanned in seconds as opposed to physical verification at the immigration

counter. These would also be difficult for fraudsters to imitate, since it is hard to meddle with the pre-recorded data in the microchips. India has now joined countries like the US, UK and Germany, who already have biometric e-passport systems.

Digital healthcare

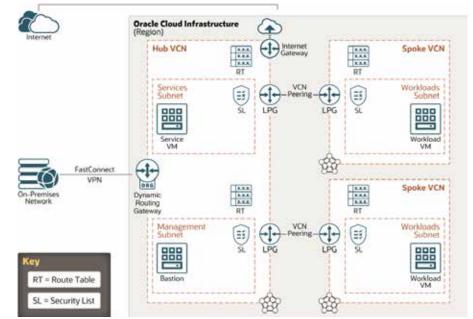
The government had announced the Ayushman Bharat Digital Health System (ABDHS), an open platform for the national digital health ecosystem. Digital registries of health providers and health facilities will be available. The budget 22-23 increased the allocation for the digital health mission by more than 2 and half times to Rs 200 crore. The overall health budget estimates for 2022-23 stand at over Rs 86,600 crore.

Unique health ID for citizens have been started to be created which shall be linked to their mobile and Aadhar numbers. This will provide the health records of the individuals that could be shared with consent. A web portal (http://abdm. gov.in) has been created which shall have separate sections for the registration of professionals and facilities under different categories that the public will be able to access. The digitisation of the health records of patients is being encouraged with the development of hospital

information management system. Technology is being leveraged for the 'Ease of Living' of Indian citizens.

Digital education

The budget enhanced the financial allocation to 1.04 lakh crore. It proposed the setting up of a Digital University which shall provide access to world class quality University education at the doorstep of students with personalised learning experience. The University will be built on networked hub spoke model. Below is a diagram of such a model.¹⁶ Its components are an on-premise network that acts as one of the spokes of the topology. An oracle cloud infrastructure region is a geographical area that which contains or more data centres or availability domains. Regions could be geographically separate over long distances.



Description of the illustration hub-spoke-oci-png.png

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Unique health ID for citizens have been started to be created which shall be linked to their mobile and Aadhar numbers. This will provide the health records of the individuals that could be shared with consent.

The FM also proposed 75 skilling e-labs for a stimulating learning environment promoting critical thinking skills and 200 TV channels to be launched under the e-vidhya

A digital environment shall be provided for skilling and livelihood through the DESH-Stack e portal which shall be launched to skill, up skill or re skill through online training. High quality e-content in most vernacular languages will be developed for delivery through mobiles, internet, TV or radio through digital teachers.

Conclusion

Through the various digital initiatives in the Union Budget 2022-23, the government's intention is clear that India is going to consistently move forward with the adoption of technology wherever it boosts transparency, improves efficiencies and increases effectiveness. The manufacturing industry of India is expected to spear ahead with the introduction of 5G and become more productive and globally competitive. The boosting up of digital banking, introduction of CBDT currency, e health, e passports, e education initiatives etc will strengthen the digital eco system, lead to greater digital governance and a more sustainable development of the nation.

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The boosting up of digital banking, introduction of CBDT currency, e health, e passports, e education initiatives etc will strengthen the digital eco system, lead to greater digital governance and a more sustainable development of the nation.

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TDS, TCS and Finance Bill

The TDS and TCS provisions were introduced with an aim to collect tax from the very source of income. As per the TDS concept, a person (deductor) who is liable to make payment of specified nature to any other person (deductee) shall deduct tax at source and remit the same into the account of the Central Government. While as per the TCS concept, a person (collector) who is liable to receive payment for specified goods and services to any other person (seller) shall collect tax at source and remit it into the account of the Central Government. Read *01...*



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The deductee or the seller, as the case may be, from whose income tax has been deducted or collected at source would be entitled to get credit of such amount so deducted or collected. The amount of credit is determined on the basis of Form 26AS or TDS/TCS certificate issued to him.

The Finance Bill, 2022 has made proposals to amend provisions the Income tax Act, 1961 (the Act) relating to TDS and TCS. The proposals are dealt with in this article.

Immovable Property Purchase

Section 194-IA of the Act provides for TDS from

payment of consideration to a resident, on transfer of certain immovable property, where it is not less than Rs. 50 lakh at the rate of 1%. Transfer of agricultural land is spared from TDS.

For taxation in the hands of transferee, any income from such transaction, Section per 43CA – where property is held as a stock in trade and 50C – where property is held as a capital asset, the stamp duty value is to be considered, if it exceeds the transaction value. Thus, TDS is from the amount of consideration paid by the transferee to the transferor without considering amount the stamp duty value of the



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immovable property. "Stamp duty value" for this purpose means the value adopted or assessed or assessable by any authority of the Central Government or a State Government for the purpose of payment of stamp duty in respect of an immovable property [Section 56(2) – Explanation (f)].

It is proposed to amend section 194-IA of the Act by providing that in case of transfer of an eligible immovable property, TDS should be made of sum paid or credited to the transferor or the stamp duty value of such property, whichever is higher. Where both the values are less than Rs. 50 lakh, then TDS under this section is not required.

This amendment will take effect from 1st April, 2022. Therefore, eligible property transactions entered into on or after April 1, 2021 shall be covered under the changed provision. Moreover, where part consideration has been paid for property purchase and part TDS has been made before April 1, 2022, the new amendment shall apply for the balance of payment and TDS should be made with reference to stamp duty value, if it is higher than transaction value.

Immovable Property Rent

Any person, not being an individual or a Hindu undivided family, paying rent, to a resident is required under Section 194 I to make TDS therefrom, where the amount of rent exceeds Rs. 2,40,000 in a financial year. Rent should be for land; building (including factory building); land appurtenant to a building (including factory building); machinery; plant; equipment; furniture; or fittings.

Whereas, Section 194-IB of the Act requires TDS from payment of rent by an individual or Hindu undivided family, who is not required to make TDS from rent under section 194-I. Section 194-IB provides for TDS payment of any rent exceeding Rs. 50,000 for a month or thereof to a resident. Rate of TDS is 5%. Section 194 IB(4), inter alia, provides that where the TDS is required as per the provisions of section 206AB, such deduction shall not exceed the amount of rent payable for the last month of the previous year or that of the tenancy, as the case may be. Section 206AB calls for TDS at higher of twice of the normal rate of 5% for payment to specified non-filers of income-tax return.

It is proposed to amend the said sub-section (4) to omit the reference of section 206AB.

Business Perquisites

The Finance Minister explained her objective for rationalizing TDS provisions in paragraph 137 of her speech in the following words:

"It has been noticed that as a business promotion strategy, there is a tendency on businesses to pass on benefits to their agents. Such benefits are taxable in the hands of the agents. In order to track such transactions, I propose to provide for tax deduction by the person giving benefits, if the aggregate value of such benefits exceeds Rs. 20,000 during the financial year".

For the purpose of computation of income from 'profits and gains of business or profession', Section 28 of the Act provides that:

The following income shall be chargeable to income-tax under the head "Profits and gains of business or profession"

(i)	
(ii)	

- (iii)
- (iv) the value of any benefit or perquisite, whether convertible into money or not, arising from business or the exercise of a profession;
- (v)
- (vi)

Any person, not being an individual or a Hindu undivided family, paying rent, to a resident is required under Section 194 I to make TDS therefrom, where the amount of rent exceeds Rs. 2,40,000 in a financial year.

Thus, section 28 of the Act requires value of perquisites to be included in taxable income of a person carrying on business or profession in his income from 'profits and gains of business or profession'.

However, in many cases, as noticed by the CBDT, recipient businessmen do not report the receipt of benefits in their return of income, leading to furnishing of incorrect particulars of income. There is no mechanism to receive particulars of perquisites enjoyed or instituted by any businessman or any other person.

In order to track transaction relating to business perquisites and thereby to widen and deepen the tax base, Clause 58 of the Finance Bill, 2022 proposes a new section 194R in the Act. The new provision relating to TDS on benefit or perquisite in respect of a business or profession. The proposal requires a person responsible for providing to a resident, any benefit or perquisite, whether convertible into money or not, arising from business or the exercise of a profession by such resident, shall, before providing such benefit or perquisite, as the case may be, to such resident, ensure that tax has been deducted in respect of such benefit or perquisite. Rate of TDS is 10% of the value or aggregate of value of such benefit or perquisite.

It is further proposed to provide that in a case where the benefit or perquisite, as the case may be, is wholly in kind or partly in cash and partly in kind but such part in cash is not sufficient to meet the liability of deduction of tax in respect of whole of such benefit or perquisite, the person responsible for providing such benefit of perquisite shall, before releasing the benefit or perquisite, ensure that tax has been paid in respect of the benefit or perquisite.

It is also proposed to provide that the provision of the said section shall not apply in case of a resident where the value or aggregate of value of the benefit or perquisite provided or likely to be provided to such resident during the financial year does not exceed Rs. 20,000.

Every person except individual and HUF shall be liable to make TDS. Further, individual or HUF, whose total sales, gross receipts or turnover exceeds Rs. 1,00,00,000 in the case of business or Rs. 50,00,000 in the case of profession, during the financial year immediately preceding the financial year in which such benefit or perquisite, as the case may be, is provided by such person are made liable to make TDS.

"Person responsible for providing" means the person providing such benefit or perquisite, or in case of a company, the company itself including the principal officer thereof.

This amendment will take effect from 1st July, 2022 and accordingly perquisites provided from that date shall attract TDS. In a present-day context, it is worthwhile to know that waiver of loan cannot be brought to tax under section 28(iv). The reason is, for applicability of section 28(iv) of the Act, the income should arise from the business or profession and that the benefit which is received has to be in some other form rather than in the shape of money. [CIT v. Mahindra & Mahindra Ltd. 255 Taxman 305, 404 ITR 1 SC, Essar Shipping Ltd. v. *CIT* [2020] 117 taxmann.com 389 (Bombay)]. Incidentally, it is held that Section 41(1) will not apply to waiver of loan since waiver of loan does not amount to cessation of trading liability, loan amount was never claimed as expenditure [PCIT v. SICOM Ltd 116 taxmann.com 410 (Bombay), PCIT v. Gujarat State Financial Corporation [2020] 122 taxmann.com 101 (Gujarat)]

On similar grounds, Difference between sales tax loan amount and amount paid on Net Present Value basis as per sales tax deferral scheme was not a revenue receipt and was not to be considered as income as per

In order to track transaction relating to business perquisites and thereby to widen and deepen the tax base, Clause 58 of the Finance Bill, 2022 proposes a new section 194R in the Act.

section 28(iv) [CIT v. Wheels India Ltd 123 taxmann.com 36 (Madras)]

Special discount or free quantity i.e., one free for one, etc. are not covered in the realm of expenditure.

The Medical Council of India (MCI) brought in Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002 to bar any member giving or soliciting or receiving or offering to give any such gift. The Delhi High Court in writ petition Nos.1334 of 2013 dated 10.01.2014 in the case of Max Hospital v. MCI has observed that the MCI regulations are meant only for medical practitioners and not for pharmaceutical companies. However, now proposed insertion of Explanation 3 to section 37 will make such expenditure disallowable. In any case, new provisions under section 194R will call for TDS compliance.

Business promotion tours, gifts, benefits for attaining sales targets or otherwise for the dealers and business associates will be covered under the new TDS Section 194R.

A personal gift for personal qualities of assessee and as token of personal esteem and veneration cannot be subjected to tax as perquisite income arising out of business, profession or vocation [Dilip Kumar Roy *v. CIT* 94 ITR 1 (Bombay)].

There may be instances of expenses where part element

resulting into perquisite and the balance is not a perquisite. For example, in a conference to explain salient features of a new product, conference expenses need not constitute business perquisite, however, any excretion tour or gifts offered can take colour of perquisite. One should be sceptical in understanding such a facet and analysing and quantifying amount of perquisite.

Virtual Digital Assets

The Bill has introduced a new system for taxation of virtual digital asset transactions. In this new system, profit from a transaction shall be taxed at the rate of 30% and no benefit for loss arising in virtual digital asset transaction.

In order to capture information, new section 194S is proposed that requires TDS from payment on transfer of virtual digital asset. The proposed provision provides that any person responsible for paying to a resident any sum by way of consideration for transfer of a virtual digital asset shall make TDS at the rate of 1% of such sum. TDS should be at the time of credit of such sum to the account of the resident, by whatever name called including 'suspense account' etc. or at the time of payment of such sum by any mode, whichever is earlier.

It is possible that consideration for transfer of virtual digital asset is --

 (a) wholly in kind or in exchange of another virtual digital asset, where there is no part in cash; or Business promotion tours, gifts, benefits for attaining sales targets or otherwise for the dealers and business associates will be covered under the new TDS Section 194R.

(b) partly in cash and partly in kind but the part in cash is not sufficient to meet the liability of deduction of tax in respect of whole of such transfer.

In such circumstances, the person responsible for paying consideration should ensure that tax has been paid in respect of such consideration before releasing the consideration.

It is proposed that provisions of sections 203A and 206AB shall not apply to a specified person.

There is exemption from making TDS in case of a person, being an individual or a HUF: (a) whose total sales, gross receipts or turnover from the business carried on by him or profession exercised by him does not exceed Rs. 1 crore in case of business or Rs. 50 lakh in case of profession, during the financial year immediately preceding the financial year in which such virtual digital asset is transferred; (b) not having any income under the head "Profits and gains of business or profession" - such person being referred to as a "specified person" - the value or aggregate value of such consideration does 1098

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The Bill has introduced a new system for taxation of virtual digital asset transactions. In this new system, profit from a transaction shall be taxed at the rate of 30% and no benefit for loss arising in virtual digital asset transaction.

not exceed Rs. 50,000 during the financial year; and the consideration is payable by any person other than a "specified person", the value or aggregate value of such consideration does not exceed Rs. 10,000 during the financial year.

A transaction in respect of which TDS has been made under this section, such transaction is not be liable for TDS under any other provision of the Chapter XVII of the Act.

The provision is proposed to be operative from the 1^{st} day of July, 2022.

This provision will enable capturing by taxman, transactions in virtual digital assets, profit from which was always taxable.

Certain difficulties can arise while dealing with this TDS. In case of loss from the transaction, TDS is required. So, where there is no income, no advantage of set off of loss against income, TDS will be made, which will block funds.

Moreover, thousands of transactions taking place

within a span of one hour will be exposed to the challenge of TDS compliance. Transactions of exchange i.e., exchange of one category of virtual asset say, crypto currency for another one will require TDS at either end and associated issues of valuation of virtual asset in rupees and mechanism for ensuring payment of tax by the payee.

The Government expects Rs. 1,000 crore from this TDS. This provision proposes to track transactions in the market and widen the tax-base. It is stated in an interview from the Finance Ministry that the provision should not be read to giving any legitimacy to crypto currency. Since, virtual assets is going to be future and as such, attempt to capture trail of such assets.

Interest on TDS Payment Default

Section 201 (1A) of the Act provides that if any person who is liable to make TDS:

- (i) does not deduct it or
- (ii) after so deducting fails to pay the TDS to the credit of the Government,

then, he shall be liable to pay simple interest at the specified rates.

Interest is not 'Penal' but 'compensatory in nature'. In Bennet Coleman & Co. Ltd. v. V.P. Damle, Third ITO [1985] 21 Taxman 131 / [1986] 157 ITR 812 (Bom.), the Court has held that the payment of interest under Section 201(1A) is not a penal provision and therefore, no question of waiver off of such payment on the basis of that default was not intentional or on any other basis.

It is, now, proposed to provide that where an order is made by the Assessing Officer for the default referred to in sub-section (1), the interest shall be paid by the person in accordance with such order.

Similar interest liability for defaults in making payment, etc. of TCS, section 206C(6A) has made provision. In this case also, proposed similar amendment provides that interest shall be paid by the defaulting person in accordance with the order made by the Assessing Officer in this regard.

This amendment will take effect from the 1st day of April, 2022 and in case of continuing default, in my view, order can cover period prior to that date.

Interest is not appealable, however, for these two sections, the right of appeal has been expressly provided under section 246A of the Act, while additionally, for calculation, etc. errors, application for rectification can be preferred.

Additional TDS & TCS from Non-Filers

Sections 206AB and 206CCA of the Act provide for deduction and collection of tax at source respectively, in case of nonfilers called in the section as "specified persons" at higher rates specified therein.

Meaning of the term "Specified person" is a person who has not

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filed the returns of income for both the two assessment years relevant to the two previous years immediately preceding the financial year in which TDS/TCS is to be made and for which the time limit for filing return of income under section 139(1) has expired and the aggregate of TDS/TCS in his case is Rs. 50,000 or more in each of these two previous years. Online utility to taxpayers to check whether the person is a specified person or not has been made available.

A person in whose case significant amount of TDS / TCS do furnish their return of income, it is proposed to reduce two years requirement to one year by amending sections 206AB and 206CCA of the Act.

However, in order to reduce the additional burden on individual and HUF covered under section 194-IA, 194-IB and 194M of the Act for whom simplified tax deduction system has been provided without requirement of TAN, it is proposed that the provisions of section 206AB be applicable.

Erroneous use of terms "deductor" and "collectee" has been ironed out. Following e-era, in place of 'filing' of return, the term 'furnishing' of return will be substituted.

These amendments will take effect from 1st April, 2022. Delay in payment of interest is a continuing default. Therefore, where the default commencing from a period prior to 1st April, 2022, however continues on that day or thereafter, it will be covered by the proposed amendment.

It needs to be noted that provisions of section 206AB are not applicable in relation to transactions on which tax is to be deducted under sections 192, 192A, 194B, 194BB, 194LBC or 194N of the Act.

Non-Resident TDS Refund

In contract with enterprises from countries beyond India, they are reluctant to bear Indian tax. Therefore, consideration payable to foreign enterprise is contracted 'net of tax'. In such cases, local vendor bears the tax. In case TDS from supplies by non-residents is paid and later it is realised that it was not payable, procedure for claiming refund is cumbersome.

For out of non-resident TDS refund, Section 248 of the Act lays down the procedure. For claiming refund of TDS under section 195 of the Act, one may appeal to the Commissioner (Appeals) [CIT(A)] for a declaration that no tax was deductible on such income, if he claims that such tax is to be borne by him since no tax was required to be deducted on such income. However, appeal can be filed only after making TDS payment to the Government. Under section 249, such an appeal claiming TDS refund can be filed within 30 days of making payment of TDS to the Government. Of course, the CIT(A)holds power to condone delay for just reasons. However, this provision does not cover TDS from interest.

To obtain a refund in above case, any person has no recourse to approach the Assessing Officer. Preferring appeal before the CIT (A) is the only available remedy. In this process, facts in this behalf did not reach the record of the Assessing Officer [AO] or affording him any examination thereof.

To address these limitations, a new section 239A is sought to be introduced. New section provides that such a person, who has made TDS from income paid to any non-resident under section 195 under such an agreement or arrangement and borne the tax liability, when no TDS was required, can approach the AO. He is allowed file an application to the AO for refund of TDS under section 195.

Where he is aggrieved by the order of the AO, option of appeal against such order before the CIT (A) is available under section 246A of the Act.

These amendments will be operative from 1st April, 2022. As such, provisions of section 248 will not apply in cases where the date of tax payment,

Sections 206AB and 206CCA of the Act provide for deduction and collection of tax at source respectively, in case of non-filers called in the section as "specified persons" at higher rates specified therein.

to the credit of Central Government is on or after 01.04.2022.

Penalty for Laxity in Compliance

Administrative provisions relating to TDS and TCS cast responsibility of timely furnishing of statement of TDS made or TCS collection, issuing TDS, TCS certificates to deductee or sellers. Based on these statements, Income tax Department gets informed about receipt by a person and tax collection on his behalf. Therefore, these provisions carry great importance.

Section 272A of the Act provides for penalty for certain failure, etc. The following clauses of subsection (2) provide penalty for administrative lapses:

- (c) to furnish in due time any of the returns, statements or particulars mentioned in section 133 or section 206 (TDS quarterly statements) or section 206C (TCS quarterly statements) or section 285B;
- (f) to deliver or cause to be delivered in due time a copy of the declaration mentioned in section 197A;

Section 272A ensures seamless flow of tax credit and indication of receipt as such non-compliance and acting as a deterrent.

- (g) to furnish a certificate as required by section 203 or section 206C;
- (h) to deduct and pay tax as required by sub-section (2) of section 226;
- to furnish a statement as required by sub-section (2C) of section 192;
- (j) to deliver or cause to be delivered in due time a copy of the declaration referred to in sub-section (1A) of section 206C;
- (k) to deliver or cause to be delivered a copy of the statement within the time specified in section 200(3) or the proviso to section 206C(3);
- (l) to deliver or cause to be delivered the statements within the time specified in section 206A(1);
- (m) to deliver or cause to be delivered a statement within the time as may be prescribed under section 200(2A) or section 206C(3A).

For these defaults, prescribed penalty is Rs. 100 for every day during which the failure continues. There is an upper cap on the amount of penalty for default for failures in relation to a declaration mentioned in section 197A, a certificate as required by section 203 and returns under sections 206 and 206C and statements under section 200(2A) / (3) or the proviso to under section 206C(3)/(3A). Moreover, no penalty shall be levied for the failure referred to in clause (k), if such failure relates to a statement referred to in section 200(3) or the proviso to section

206C(3) which is to be delivered or caused to be delivered for TDS/TCS, as the case may be, on or after the 1st day of July, 2012.

Section 272A ensures seamless flow of tax credit and indication of receipt as such non-compliance and acting as a deterrent. Therefore, the low penalty of Rs. 100 had been commented upon by the CAG, which is not increased since 1999 and fails to have deterrence value.

In this background, it is proposed to increase the amount of penalty for failures listed under section 272A(2) by 500% i.e., to Rs. 500 from Rs. 100 for each day of noncompliance.

This amendment will take effect from 1st April, 2022. Therefore, delay and lapses in administrative compliances relating to TDS or TCS on or after that date shall attract penalty at a higher rate.

Of course, there is provision for not charging penalty if there was a reasonable cause for any noncompliance.

No doubt, the proposed substantial increase in quantum of penalty will be biting to the erring assessee. However, it will certainly bring in discipline in this arena.

Summing up

From the proposals in the arena of TDS and TCS, one can easily decipher that the Tax Department is affording significant importance to TDS and TCS in tax collection process. Lapses in this behalf attract more stringent consequences. It is necessary for stakeholders to observe the TDS and TCS obligations with utmost care and caution.

Proposed Amendments - Crypto Assets and International Taxation vide Finance Bill, 2022

The Finance Bill 2022 has come to give impact to the financial proposals of the Central Government for the financial year 2022-2023. It proposes a number of changes that are directed to galvanize the growth of economy. The budget this year tries to stabilize the economy and set the tone for future growth. Read on...

The article covers proposed amendments in the Finance Bill 2022, specifically in context to Crypto **Assets and International Taxation**. Further with reference to the above, in Finance Bill 2022, amendments proposed are as follows.



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Sl. No.	Section	Finance Bill (Clause No.)	Proposed Amendment
1	Section 2 (47A)	Clause 3	Definition on Virtual Digital Assets (VDA)
2	Section 56 (vii/x) and explanation thereto	Clause 16	Meaning of the expression "property"
3	Section 115BBH	Clause 28	Income from Virtual Digital Assets
4	Section 194S	Clause 59	TDS from payment on transfer of VDA
5	Section 92CA	Clause 24	Reference to Transfer Pricing Officer
6	Section 144C	Clause 43	Reference to DRP
7	Section 153	Clause 48	Time Limit for completion of Assessment/ Re-assessment/ Re-computation
8	Section 263	Clause 72	Revision of Order prejudicial to revenue



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Currency includes all currency notes, postal notes, postal orders, money orders, cheques, drafts, travellers' cheque, letters of credit, bills of exchange and promissory notes, credit cards or such other similar instruments as may be notified by the Reserve Bank. The current Finance Bill 2022 has introduced the virtual digital asset (VDA).

For quite a long time, from the point of view of legality, crypto currency has been a buzz word. The interesting debate about the legality of crypto currency from the point of view of legal tender or medium of accepting as currency in payments settlement system and its taxation has been appearing in the public domain. However, the uncertainty which has prevailed all along has been intervened and a change has been brought now in by the Finance Bill 2022 for the first time by proposing certain amendments regarding taxation of income form virtual currencies is a small step in the onward direction.

Though the Finance Minister has proposed levy of tax, there is a view that collection of the tax on VDA does not automatically make it legal. The levy of income tax knows no boundaries curtailing its levy and levy justified by the Courts on income which is earned illegally. One can refer to the decision of the Hon'ble Apex court on the point in case of *Dr T A Quereshi vs CIT* (2006) [287 ITR 547 (SC)] and decision of the Hon'ble Madras High Court in case of *CIT Vs K. Thangamani (2009) [309 ITR 15 (Mad)]*

One can refer to the judgement of the Hon'ble Supreme Court in the case of *RBI vs Internet and Mobile Association of India (IMAI)* dated 4 March 2020 post issue of circular by RBI dated 6 April 2019.

Scheme for taxation of Virtual Digital Assets

Virtual Digital Assets have gained tremendous popularity in recent times and the volume of trading in such digital assets has increased substantially. Further, a market is emerging where payment for the transfer of VDA can be made through another **such asset**. Accordingly, a new scheme to provide for taxation of such VDA has been proposed in the bill.

Section 2 (47A) defines Virtual Digital Assets. As per this section, VDA means any information or code or number or token but excludes Indian currency or foreign currency. VDA is supposed to be generated through crypto graphic means. It has a value which can be exchanged with or without consideration. From the definition, it is evident that it can be transferred, stored or traded but electronically.

Clause (b) of Section 2(47A) says VDA means non- fungible or any other token of similar nature. As per clause (c), government can notify any other currency as VDA. Similarly, government can exclude any currency from the definition of VDA.

The above is the sum and substance of the definition.

One point to be noted is that, all virtual currencies are not anonymous.

What is meant by "generated through cryptographic means"?

Cryptography is a method of protecting information and communications through the use of codes, so that only those for whom the information is intended can read and process it.

In computer science, cryptography refers to secure information and communication techniques derived from mathematical concepts and a set of rulebased calculations called algorithms, to transform messages in ways that are hard to decipher. These deterministic algorithms are used for cryptographic key generation, digital signing, verification to protect data privacy, web browsing on the internet and confidential communications such as credit card transactions and email.

In general, one has to contend that cryptography is in the form of a code/token. Broadly, it can also be understood as an intangible asset like patent, trademark, copyright. However, VDA is in the domain of currency.

Section 115BBH- Tax on Income on Virtual Digital Assets

In this section, it is proposed that where the total income of an assessee includes income from transfer of any Virtual Digital Asset, the tax shall be payable at the rate of 30% plus tax on other income of the assessee which shall be charged to tax after reducing the income from transfer of VDA. It is further provided that no deduction except for cost of acquisition shall be allowed. Further, loss from VDA shall neither be allowed to set off nor will be allowed to be carried forward.

It is interesting to note that no amendment is proposed in section 2(24), section 28 and section 45. None of the heads of the income as specified in section 14 of the Act are made applicable for computation of income from transfer of VDA. Generally, Income-tax Act, provides that if the income is not taxable under the head Profits and Gains from Business and Profession, the income will be taxed as Income from

No amendment is proposed in section 2(24), section 28 and section 45. None of the heads of the income as specified in section 14 of the Act are made applicable for computation of income from transfer of VDA. other Sources. For example, interest earned in money lending business is taxable as PGBP or IOS depending upon the facts of the case. Similarly, rent from renting of properties can be taxed as income under the head PGBP or Income from House Property depending upon the facts of the case. Provision regarding clarity for characterization of income under particular head brings more clarity for taxpayer and saves taxpayer from litigation. Otherwise in the past we all have witnessed lot of litigation for determination of head of income for a particular stream of income.

General principle that income includes negative income

It is the cardinal principle of the law that income includes negative income. While claiming set off of losses, inter source/ inter-head adjustment is generally permissible. It is common that any activity carried out may not always lead to earning of profit. Despite all precautions, the commercial activity may run into loss. It is also acknowledged by the Hon'ble Apex Court that once the expenditure is incurred, it does not mean that would necessarily lead to earning profits. Refer, the decision of CIT v/s Rajendra Prasad Moody (1978) [115 ITR 519 (SC)].

Even in the case of speculative business, speculative business loss from speculative activity is allowed to be set off from profit of speculative business. However, in the context of the proposed amendment, no set off of loss/ expenditure except for cost of acquisition is permissible. The provision appears to be very harsh. As a taxpayer, if the money is lost, then obviously there cannot be flow for payment of taxes. This kind of provision therefore needs a relook and may be reconsidered.

Virtual currencies have to be seen qua users, consumers, traders and investors and accordingly, the characterization and computation of income rather real income be allowed to compute with regard to all the other applicable provisions of the Act.

Tax Deduction at source under section 194S

Section 194S provides that any person responsible for paying to a **resident any sum** by way of consideration for transfer of VDA shall at the time of credit of such sum to the account of resident or at the time of payment of such sum by any mode, whichever is earlier deduct an amount equal 1% of such sum as income tax thereon.

Provided that where the consideration is wholly in kind or in any exchange of other VDA and there is no part in cash or partly in kind or partly in cash and the part in cash is insufficient to meet the liability of TDS in respect of sum of whole transfer, the person responsible for paying such consideration has to ensure that 1104

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The tax deduction is not applicable where the consideration is payable by a specified person where the value of such consideration does not exceed Rs. 50,000 in a year.

tax has been paid in respect of such consideration for the transfer of VDA.

The tax deduction is not applicable where the consideration is payable by a specified person where the value of such consideration does not exceed Rs. 50.000 in a year. The meaning of specified person is explained in explanation to section 194S. The value of consideration of Rs. 50,000 is reduced to Rs. 10.000 if the consideration is payable other than the specified person. Once, tax is deducted under section 194S then TDS or TCS under other provisions of the Act shall not apply. Even if the consideration is credited in "Suspense A/c" the provision of section 194S shall apply.

Rate prescribed under section 115BBH to be increased by surcharge, while deducting tax under section 194S surcharge is not to be considered

It is proposed that the rates for deduction of income-tax at source during the FY 2022-23 under the provisions of section 193, 194A, 194B, 194BB, 194D, 194LBA, 194LBB, 194LBC and 195 is to be deducted at the rate of deduction of tax at source as specified in Part II of the First Schedule to the Bill. The amount of tax so deducted is to be increased by surcharge. The rate of surcharge to be considered while deducting tax under these sections is variable as per the slabs of income and status of the taxpayer prescribed in the relevant schedule.

It is to be noted that the rate of deduction of tax at source under section 194S is prescribed at the rate of 1%. The rate of tax under section 115BBH is to be increased by surcharge to be levied based on status of the taxpayer and slab of income. However, for rate of tax deduction under 194S there is no provision for considering surcharge. The provision of section 194S is applicable with effect from 1 July 2022.

An important "argument"

This section i.e, 194S uses the term "sum" and not the term "income". The general principle laid down by various courts that if there is no income chargeable to tax, the tax is not liable for deduction. However, when TDS provisions prescribe TDS from "sum" instead of "income" the applicability of these judicial precedents is not applicable meaning thereby if there is absence of income yet TDS provisions will get attracted.

"Cash v/s Kind"

If consideration in kind is larger than cash, then the deductor has to ensure that the portion in cash is sufficient to meet the obligation of TDS on entire consideration. This certainly causes difficulty for deductor. TDS is a vicarious liability and ultimate obligation of payment of tax is of the deductee. In view of larger portion of consideration in kind if tax deduction cannot be made from cash portion, the deductee is always liable for balance payment of tax while filing the return of income. In view of this casting the obligation on deductor for deduction of tax on "in kind" portion is unwarranted and may be amended suitably to avoid the hardship of the deductor.

Identification of two persons in dealing of crypto currency or VDA is difficult and KYC norms such as PAN, Aadhar Card number will be not in the knowledge of payer. Therefore, how these difficulties can be encountered is a real challenge while, implementing TDS provisions. For revenue also, if there are any provisions of violation of 194S, how to catch the assessee in default can also pose a challenge.

Rate of deduction of tax at source under section 194S is prescribed at the rate of 1%. The rate of tax under section 115BBH is to be increased by surcharge to be levied based on status of the taxpayer and slab of income.

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If consideration in kind is larger than cash, then the deductor has to ensure that the portion in cash is sufficient to meet the obligation of TDS on entire consideration.

TDS under section 194S vis a vis 194O

It is proposed that where tax is deductible under section 194O along with proposed section 194S then tax is to be deducted under section 194S and not under section 194O.

Proposed amendment in section 56

Section 56(2)(x) inserted by Finance Act, 2017 and applicable for receipt without consideration/ inadequate consideration on or after 01st April, 2017, the meaning of the word "property" is clarified in explanation thereto (explanation to clause (vii) of section 56 (2)). Now, the said explanation is proposed to be amended to enlarge the meaning of the word "property" to include VDA. The said amendment will take effect from 01st April 2023 and will apply in relation to assessment year 2023-2024 and subsequent years thereon.

Faceless schemes under the Act

The Central Government has undertaken a number of measures to make the processes under the Act, electronic, by eliminating person to person interface between the taxpayer and the Department to the technologically feasible extent and provided for optimal utilisation of resources and a team-based assessment with dvnamic jurisdiction. A series of futuristic reforms have been introduced in the domain of Direct Tax administration for the benefit of taxpayers and economy. This started with faceless assessment in electronic mode involving no human interface between taxpayers and tax officials. The faceless procedures are being introduced in a phased manner in the Act.

As part of this process of making the tax administration transparent and efficient, provisions for notifying faceless schemes under sections 92CA, 144C were introduced in the Act through Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 with effect from 01 November 2020, was inserted through Finance Act, 2021 with effect from 01 April 2021.

As per the earlier scheme, the date of limitation under section 92CA for determination of arm's length price in faceless scenario and under section 144C for faceless Dispute Resolution Panel route was 31 March 2022. The modifications proposed for this purpose will have an impact on Information technology structure. The notification at this time shall result in delay in stabilisation of the systems. In light of this, it is proposed to extend the date of issuing directions for the purposes of sections 92CA and 144C till 31 March 2024 as against the earlier date of limitation which was declared as 31 March 2022.

Amendment in the provisions of section 263 of the Act – Clarity as to the provisions of power under section 263 to revise the order of Transfer Pricing Officer ('TPO') passed under section 92CA of the Act

There was an important ongoing controversy with reference to the revision of the order passed by the TPO under section 92CA of the Act by Principal CIT by assuming the jurisdiction under section 263 of the Act. Recently, just 3-4 days before the presentation of the Budget by the Hon'ble Finance Minister, the decision by the Hon'ble Delhi Tribunal in the case of JCB India Ltd [TS-26-ITAT-2022(DEL)-TP] has come to the notice, in which the Tribunal has rejected the revisionary jurisdiction over TPO's order as well as consequent assessment order passed in conformity with TPO's order for the assessee. In the facts of case, after following

It is proposed that where tax is deductible under section 1940 along with proposed section 194S then tax is to be deducted under section 194S and not under section 1940.

the procedure laid down in Sec. 92CA, the TPO passed an order and made an adjustment to the ALP of the royalty paid to the AE. Accordingly, the AO passed the final assessment order in conformity with the order passed by the TPO. Subsequently, a show-cause notice (SCN) was issued under Sec. 263 and assessment order was set aside by PCIT since the same was based on TPO's noninquiry/non-examination of royalty paid for the product.

> While delivering its judgement, the Hon'ble ITAT emphasised on the twin condition of assessment order being 'erroneous' and 'prejudicial' to the interest of revenue as a pre-requisite for invoking revisionary powers. The Hon'ble ITAT further holds that due to restriction imposed under section 263(1), learned PCIT had no administrative power to revise the order passed by the TPO. Accordingly, the Hon'ble ITAT proceeds to decide whether the assessment order passed in conformity of the TPO order be subjected to revisionary proceedings. While interpreting the use of word "shall" in Sec. 92CA, the Hon'ble ITAT observes that TPO had proposed adjustment only in respect of royalty paid to the AE and accordingly, AO had not made any error in passing assessment order based on TPO's order. The

Hon'ble ITAT has drawn support from the decisions of the Tribunal in the case of *Essar Steel Limited vs Addl. CIT (2012) [28 taxmann.com 232 (Mum)]* and *Tata Communications Limited vs DCIT (2014) [41 taxmann.com 486 (Mum)].* Accordingly, Hon'ble ITAT held that the revisionary order was invalid and quashed the same and restored the original assessment.

As mentioned earlier, this decision has appeared in public domain 3-4 days prior to presentation of the Budget. Before the ink of the said decision could dry, the Budget proposed an amendment to settle this controversy. Section 263 of the Act contains the provision for revision of order which is erroneous in so far as it is prejudicial to the interests of revenue. An order under section 263 of the Act can be passed within two years from the end of the financial year in which the order sought to be revised was passed.

As per provisions of section 92CA, if the Assessing Officer considers it necessary or expedient, he may, with the approval of the Principal Commissioner or Commissioner refer the computation of arm's length price (ALP or specified domestic transaction entered into by an assessee, to the Transfer Pricing Officer (TPO). The TPO passes an order determining the ALP in an international transaction or specified domestic transaction under the provisions of section 92CA and sends it to the Assessing Officer for final income determination. However, as per the existing provisions in the Act, it is not clear as to who has the power under section 263 to revise the order of the TPO passed under section 92CA.

Therefore, it is proposed to amend the provisions of section 263 of the Act so as to provide that the Principal Chief Commissioner or the Chief Commissioner or the Principal Commissioner or Commissioner who is assigned the jurisdiction of transfer pricing may call for and examine the record of any proceeding under this Act, and if he considers that any order passed by the TPO, working under his jurisdiction, to be erroneous in so far as it is prejudicial to the interests of revenue, he may pass an order directing revision of the order of TPO. Consequential changes are also be made in the provisions of section 153 of the Act inter alia to provide two months' time to the Assessing Officer to give effect to the order of TPO consequent to the directions in the revision order. As the provision is intended to remove the confusion for exercising the revisionary power, it is a good amendment to save the litigation on technicality of the issue of exercising the power of the revision.

Personal and Corporate Taxation Proposals of Budget 2022

This note takes cognizance of certain amendments proposed by Finance Bill 2022 to existing provisions of Income Tax Act particularly those affecting the corporates. It doesn't deal with amendments applicable to corporates who are registered with CIT(Exemption) U/ Sec.12AA/12AB of the Income Tax Act. Read on...

Virtual Digital Assets / Crypto Currency

Sec. 2 deals with definitions of some words referred in Income Tax Act under various sections. A new clause i.e. sub-section 2(47A) has been inserted w.e.f. 1st April 2022, defining "Virtual Digital Asset" (i.e. VDA), generally known as 'Crypto Currency'. Income from such VDAs is to be taxed at 30% (plus surcharge). Recognition of a some evolving asset is a typical welcome measure. Yet, a separate taxation mechanism leads to some conceptual challenges, stated below.



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- P "Property" is a word of widest import. A VDA is also a form of property only. Was there any real need to provide a complex definition u/s 2(48A)?
- A separate taxation provided regime now, whether is to be understood as, absence of taxation till yester-years?
- Loss in one VDA deal ought to be eligible as setoff against another VDA (at least in the same year)

Amendment in Sec.14A

This section restricts the scope of expenditure incurred for

earning exempt income i.e. income not subject to charge of tax and which are dealt in Sec.10 of the Income Tax Act which deals with exempt income. Said section is subject to litigation right from its inception. With amendments proposed in the past amending scope of exemption of dividend income, long term capital gains, etc.; scope for restricting the expenses incurred (by triggering section 14A) is reduced substantially as of date. The proposed amendment begins with a non-obstante clause and states that no deduction of expenditure shall be allowed which is incurred with respect to exempt income whether same



is accrued/ arisen/ received or not received during the relevant financial year. It was argued and accepted in many rulings that if exempt income is not earned/ accrued/ arisen then no disallowance can be imposed. Now the said view upheld in various rulings appears to be overruled with the proposed amendment. Further said amendment is proposed to be operative w.e.f. 1st April A.Y.2022-23 onwards. It deviates from the policy of existing government not to make amendments with retrospective effect. Following issue arises in this regard.

• Whether this new section is happily applicable for such situations where, there is some (say) miniscule exempt income? In other words, whether the amendment to section 14A is to be restricted only to a situation where, there is no exempt income at all.

Amendment to Sec.37

Sec.37 (read with Explanations thereto) grants deduction of unspecified expenditures incurred for a business or profession. Some restrictions are also provided therein, i.e.,

- Personal expenses
- Capital expenditure CSR expenses
- Expenses incurred for any purpose which is an offence
- Large controversies arises as regards
- Meaning of offence (as per laws in India)

- Whether only Indian enactments are to be considered for deriving meaning of 'offence'
- Whether infringement of any law, in hands of receiver, leads to infringement in hands of payer
- Whether, legal recourses followed for getting out of some offence, are also to be treated as offence...

All these issues are pending before one or other courts. But, without awaiting the end result, some new provisions have been injected which provide a totally different framework. Now, the ambit of the offence is enlarged. Apart from offences of regulatory laws, some situations are deemed as offences (Pharma companies extending freebies to medical professionals, etc.). Violation of foreign laws are also considered as offences. Propriety and rightness of this amendment is almost certain to face challenges in courts. Be that as it may, some relevant issues which arise are as follows

- Whether distinction is required to be made serious breach of law resulting into offence and curable infringements leading to irregularities?
- Can something be deemed as offence for disallowances and penalties, when, such a thing is not an offence as per Regulatory law? Can Pharma companies be punished for extending free samples to medical

professionals, when, related laws are silent of the same.

 How can compounding an offence be equated with offence?

Amendment to Sec.40

Sec.40 specified, amounts which are not deductible while computing business income. Sub-clause (ii) of section 40(a) thereto clarified that, while computing income, any tax / surcharge, etc. will not be deductible. In the last few years, controversy has arisen, whether "education cess" is part of tax and hence deductible while computing income u/s 28. An amendment is proposed in the form of an 'Explanation-3' which states that for the "removal of doubts it is clarified that" 'tax' shall include any surcharge or cess, by whatever name called, on such tax, and the same would not be deductible. Though an effort is made to curb the scope of claiming deduction of 'Education Cess' which is recovered along with tax payable on the income by an assessee, still time will prove whether the purpose is achieved by the said amendment. This amendment is proposed with retrospective effect from 1st April, 2005. Some interesting issues do arise as follows -

 As per the main section 40(a)(ii), that tax is not eligible for deduction, which is assessed as a proportion of profits or gain. Now, Education Cess is not having any link to the base profit / gain. Then, despite Explanation-3A, is the aimed purpose is really getting served?

• What will be the fate of numerous past decisions allowing Education Cess as a deduction till AY 2021-22 considering the clarificatory nature of the amendment?

Amendment to Section 43B

Sec.43B deals with certain deductions to be claimed only on actual payment (*i.e. irrespective of the method of* accounting followed by an assessee). Explanation 3C,3CA and 3D of Sec.43B provide scope of deduction of interest payable by an assessee w.r.t. money borrowed from entities specified in Sec.43B i.e. from financial institutions (referred in Sec.43B(d)), NBFCs (referred in Sec.43B(da)) and from Banks/ co-operative banks/ institutions (referred in Sec.43B(e)). In view of an amendment proposed now, it is provided that if the due date for payment of interest liability is deferred to a future date by mechanism of "Debenture" or "any other instrument", then the deduction will be allowed only on actual payment thereof. Some interesting issues arise-

 Contrary to other limbs of section 43B, in case of "Debenture like instrument", the banks / NBFCs are bound to have offered the related income for taxation. And yet, for the borrower, the interest is being deferred. This leads to imbalance and plausible double deduction.

- Mechanism of claiming of deduction at the time of payment / redemption of such debentures is not specified.
- Complexity may also arise if such "Debentures" are converted into shares and so on.

Amendment in Section 50

Sec.50 deals with 'Special Provision for Computation of capital gains in case of depreciable assets'. Since A.Y.2021-22 goodwill is not eligible for depreciation U/ Sec.32 while computing income U/Sec.28 of the Income Tax Act. The present amendment proposes to deal with removal of 'Goodwill' from the 'block of assets' in accordance with sub item (B) of item (ii) of sub-clause (c) of clause (6) of section 43, by considering it as a deemed transfer. Since the amendment to the effect that goodwill of a business or profession is not a depreciable asset has been made applicable from assessment year 2021-2022 the above amendment will take effect retrospectively from 1st April 2021 and will accordingly apply in relation to the assessment year 2021-22 and subsequent assessment years.

Amendment to Sec.68

Sec.68 deals with Cash Credits. It provides unexplainable/ or

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In view of an amendment proposed now, it is provided that if the due date for payment of interest liability is deferred to a future date by mechanism of "Debenture" or "any other instrument", then the deduction will be allowed only on actual payment thereof. 1109

credits appearing in books of an assessee on which satisfactory explanation cannot be given by an assessee may be treated as an income of the assessee by the assessing officer. In this regard an assessee was expected to prove the identity and creditworthiness of the creditor and genuineness of such transactions w.r.t. credits appearing in the books of an assessee. Now, with an amendment proposed an assessee is further burdened to prove the source of such credits of the person gainst whom the liability is booked in assessee's books to the satisfaction of the assessing officer. From the rigorous of the amended provisions creditors who are well regulated entities i.e., if it is a Venture Capital Fund, Venture Capital Company registered with SEBI then they are not required to meet the requirements of the amended provisions. The proposed amendment will certainly affect ease of doing business for assessee since assessee is required to become an assessing

officer before recording credit entries in the name of entities with whom assessee executes business transactions to justify genuineness of such credit entries by obtaining details from such person justifying the source of resources based on which such transaction was executed. This amendment will be effective from AY 2023-24 and onwards. Following issues are worth considering –

- Can every assessee be capable to discharge such heavy onus of proving the source of a source?
- Will this not lead to double addition, firstly in hands of the receiver of money (since source of source is a failure triggering section 68, and also in the hands of investor (since source of his investment is a failure, triggering Section 69).

Insertion of a new section i.e. Section 79A

This section is proposed to be inserted. Its heading is 'No

Sec.68 deals with Cash Credits. It provides unexplainable/ or credits appearing in books of an assessee on which satisfactory explanation can't be given by an assessee may be treated as an income of the assessee by the assessing officer. set-off of losses consequent to search, requisition and survey'. The object of insertion of this new section appears to prohibit those assesses who are subject to search action initiated pursuant to provisions of Sec.132/132A or survey U/Sec.133A (barring u/ Sec. 133A(2A)) where additional income is disclosed and assessed. In such case now in view of the proposed amendment setoff of brought forward losses is prohibited against income revealed and assessed (on *whatever count*) as a result of search/ survey. Said amendment will be effective from A.Y.2022-23 and onwards.

Amendment in Sec.80-IAC

Section 80-IAC provides deduction of 100% of profits derived by an eligible start-up for three consecutive years out of ten years beginning with the year from incorporation of such start-up (*subject to fulfillment of provisions of said section*).

It comes with a condition that:

- the total turnover of business does not exceed one hundred crore rupees,
- (ii) it is holding a certificate of eligible business from the Inter-Ministerial Board of Certification, and
- (iii) it is incorporated on or after 1st day of April, 2016 but before 1st day of April 2022.

Because of the pandemic there are delays in some cases. An amendment proposed extends the period of incorporation of such start-up by another year and puts a condition by extending the date of

Sec.115BAB is applicable to new manufacturing domestic companies who are granted concession in tax rate on their manufacturing profits which attracts the tax rate of 15%.

incorporation up to 31st March, 2023.

Amendment in Sec.115BAB

Sec.115BAB is applicable to new manufacturing domestic companies who are granted concession in tax rate on their manufacturing profits which attracts the tax rate of 15%. One of the preconditions for it is that such company should be registered as a company on or after 1st October, 2019 and commence manufacture or production of an article or things on or before the 31st Day of March, 2023. Now with an amendment proposed to said section extends the last date by one year and says that it should commence such activity for which such concessional rate of tax is applicable on or before 31st March, 2024.

Amendment to section 94

Sec. 94 deals with 'Avoidance of tax by certain transactions in securities.' This provision is also known as anti-avoidance provision which is applicable to transactions in units and it curbs dividend stripping and bonus stripping in case of Units. Now the bonus stripping

provisions are made applicable to securities which includes shares. It is also clarified that 'Units' will include 'Units' issued by Infrastructure Investment Trust (InvIT) or Real Estate Investment Trust (REIT) or Alternative Investment Funds (AIFs). This amendment will be effective from A.Y. 2023-24 and onwards.

Amendment to section 115BBD

Sec.115BBD deals with tax on dividends received from foreign companies. Sec.115BBD prescribes a concessional tax rate of 15% to dividend income earned by an Indian company from a foreign company where an Indian company holds 26% or more of the nominal of equity shares of a specified foreign company. The concessional tax rate of 15% was in alignment with the rate of dividend distribution tax prescribed U/Sec.115-O of the Income Tax Act. Since Sec.115-O is deleted by Finance Act 2020 thereafter dividend income is made taxable. To bring parity with respect to dividend income earned by companies from foreign companies (since dividend income is chargeable to tax at the rate applicable to any corporate) provisions of Sec.115BBD are proposed to be deleted and accordingly dividend income earned from a foreign company will be chargeable to tax at the rate of tax applicable to a corporate.

This amendment will be applicable from A.Y.2023-24 onwards.

Insertion of new section 115BBH

It will deal with 'Tax on Virtual Digital Assets' (*in popular sense called as 'crypto currency*').

The proposed section seeks to provide that income arising from transfer of such assets shall be taxable at the rate of 30%. This means it comes out of the ambit of rate applicable to 'Long Term Capital Asset' where such asset is held by an assessee as a capital asset and then it will not be governed by provisions of Sec.112 or 112A while meeting the tax obligation on income earned on transfer of such asset/s. Further it is provided that while computing income, no deduction for expenditure will be allowed while taxing such income arising on transfer of such asset. Further. if any loss is incurred on transfer of such an asset then, such loss shall not be available for set-off against any other income. Further such transfer is subject to TDS U/ Sec.194S which may bring difficulties if the purchaser is unknown to the seller. The proposed amendment will take effect from 1st July 2022. This amendment creates debates/ controversies about rate of tax, loss incurred, if held as a capital asset then whether indexation is applicable and set-off of losses incurred earlier on said transactions i.e. prior to the date on which the amended provisions get force of law. This amendment will be applicable from A.Y.2023-24 onwards.

Amendment in Sec.132 and 132B

These sections deal with 'Search and Seizure' and 'Power to requisition books of account etc.' respectively. Now since w.e.f. search initiated after 1st April 2021 provisions of It is provided that while computing income no deduction for expenditure will be allowed while taxing such income arising on transfer of such asset. Further. if any loss is incurred on transfer of such an asset then, such loss shall not be available for set-off against any other income.

Sec.153A and Sec.153C are applicable an amendment is proposed for holding the books or other documents seized during search or requisitioned U/Sec. 132B. As per the proposed amendment the reference is made for returning the books/ documents based on order of assessment/ reassessment U/Sec.143(3)/ 147 or 144 as the case may be.

This amendment will be effective from 1st April 2022.

Amendment of Sec.139 i.e. insertion of sub-section (8A)

Amendment to Sec.139.

This section deals with 'Return of Income'.

Now new sub-section (8A) is inserted in said section.

The object of inserting said sub-section appears to achieve the purpose of voluntary compliance of reporting correct chargeable income by

an assessee so then it may save him from further litigation, controversies, charge of penalty associated with under-reporting or mis-reporting of income while filing the Return of Income' by an assessee. If an assessee having filed realized errors/ omissions in the income returned then, he gets an opportunity to correct the same in view of the newly inserted sub-section (8A). Besides this option is available to an assessee who has not filed 'Return of Income' earlier.

The amended provisions consist of following peculiar aspects:

- a. The 'return' filed cannot reduce the loss returned earlier or it results in reduction of tax liability or it results in increase in refund based on 'Return' filed U/Sec.139(1)/(4)/(5);
- An assessee will not be eligible to revise the 'Return' sequel to search or survey or ;
- c. A notice is issued to an assessee intimating any money, bullion, jewellery or valuable article or thing is seized U/Sec.132 or requisitioned U/Sec.132A where such things belong to such person who is then willing to revise the 'Return';
- Where a 'Return is already revised U/Sec.139(8A) earlier;
- e. Where assessment/ reassessment or revision is pending or completed for

concerned assessment year (needless to say in view of notice issued to an assessee);

- f. In case the A.O. has information in his possession for the concerned assessment year and the assessee is communicated to about it under- Prevention of Money Laundering Act, 2002, Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015, Prohibition of Benami **Property Transactions** Act, 1988, Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976.
- g. Where information is received under the exchange of information mechanism in view of Double Taxation Avoidance Agreement or Exchange of Information agreement between India and other country about which there is communication to an assessee earlier then such return cannot be revised.
- h. Where prosecution proceedings are initiated in Chapter XXII of the Income Tax Act which covers Sec.275A to Sec.280D of the Income Tax Act prior to such revision.
- i. In case survey/ search/ requisition is initiated then such revision cannot happen for two preceding assessment years
- j. Assessee is a person or belongs to a class of

persons, as maybe notified by the Board in this regard.

This amendment will be effective from 1st April 2022.

Amendment to Sec.139(9)

Said section deals with intimation by the assessing officer to an assessee stating the 'Return of Income' filed by an assessee is defective under certain circumstances stated therein.

Now it is proposed to provide that a return filed under the proposed sub-section (8A) of the said section 139 shall be defective unless such return is accompanied by the proof of payment of tax as required under the proposed section 140B.

This amendment will be effective from 1st April, 2022.

Insertion of new section 140B

Its heading is 'Tax on Updated Return' and it deals with return filed U/Sec. 139(8A) described earlier in this note.

We are aware that the 'Return' filed U/Sec.139(1) can be revised at any time before three months prior to the end of the assessment year or before completion of assessment whichever event happens earlier.

In view of an amended provisions now U/Sec.139(8A) an assessee gets an opportunity to revise the 'Return' filed earlier in the circumstances described above while clarifying said amended provision.

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It is proposed to provide that a return filed under the proposed sub-section (8A) of the said section 139 shall be defective unless such return is accompanied by the proof of payment of tax as required under the proposed section 140B. This amendment will be effective from 1st April, 2022.

Now, such revision of 'Return of Income' comes with additional tax liability for an assessee.

Where the assessee revises the 'Return' after the expiry of time stated U/Sec.139(4) or 139(5) but before the completion of period of 12 months from the end of the relevant assessment year then an assessee is required to pay additional tax of 25% of the aggregate of tax and interest payable on the revised income returned and 50% of the aggregate of tax and interest payable on the revised income returned where the 'Return' is revised after the expiry of 12 months from the end of the relevant assessment year but, before completion of 24 months from the end of the relevant assessment year.

While computing the additional tax liability same shall include surcharge and cess also.

Where no return is furnished earlier then, the tax payable

shall be computed after taking into account the following:-

- (i) the amount of tax, if any, already paid as advance tax;
- (ii) any tax deducted or collected at source;
- (iii) any relief of tax claimed under section 89;
- (iv) any relief of tax or deduction of tax claimed under section 90 or section 91 on account of tax paid in a country outside India;
- (v) any relief of tax claimed under section 90A on account of tax paid in any specified territory outside India referred to in that section; and
- (vi) any tax credit claimed to be set off in accordance with the provisions of section 115JAA or section 115JD.

Such updated return shall also be accompanied by proof of payment of such tax, additional tax, interest and fee.

Where a Return of Income is furnished U/Sec. 139(1)/ (4) or (5) earlier by an assessee then, before furnishing the return under sub-section (8A) of section 139, an assessee will be liable to pay the additional tax due i.e., 25% or 50% as the case may be together with interest and fee payable under any provision of this Act for any delay in furnishing the return or any default or delay in payment of advance tax, along with the payment of additional tax, as reduced by the amount of interest paid under

the provisions of the Act in the earlier return,. The tax payable shall be computed after taking into account the following:-

- (i) the amount of relief or tax, referred to in sub-section(1) of section 140A, the credit for which has been taken in the earlier return;
- (ii) tax deducted or collected at source, in accordance with the provisions of Chapter XVII-B, on any income which is subject to such deduction or collection and which is taken into account in computing total income and which has not been claimed in the earlier return;
- (iii) any relief of tax or deduction of tax claimed under section 90 or section 91 on account of tax paid in a country outside India on such income which has not been claimed in the earlier return;

In view of an amended provisions now U/ Sec.139(8A) an assessee gets an opportunity to revise the 'Return' filed earlier in the circumstances described above while clarifying said amended provision. Now, such revision of 'Return of Income' comes with additional tax liability for an assessee.

- (iv) any relief of tax claimed under section 90A on account of tax paid in any specified territory outside India referred to in that section on such income which has not been claimed in the earlier return;
- (v) any tax credit claimed, to be set off in accordance with the provisions of section 115JAA or section 115JD, which has not been claimed in the earlier return.

The aforesaid tax shall be increased by the amount of refund, if any, issued in respect of such earlier return.

The additional tax payable will also attract interest payable U/ Sec.234A/B/C as the case may be as stated below:

Interest payable Sec.234A: It shall be computed on the amount of the tax on the total income returned U/Sec. 139(8A).

Interest payable Sec.234B: Interest shall be computed on an amount equal to the assessed tax or, as the case may be, on the amount by which the advance tax paid falls short of the assessed tax, where, "assessed tax" means the tax on the total income as declared in the return to be furnished under sub-section (8A) of section 139, after taking into account the following:

(i) the amount of relief or tax, referred to in sub-section
(1) of section 140A, the credit for which has been taken in the earlier return;

- (ii) tax deducted or collected at source, in accordance with the provisions of Chapter XVII-B, on any income which is subject to such deduction or collection and which is taken into account in computing such total income and which has not been claimed in the earlier return;
- (iii) any relief of tax or deduction of tax claimed under section 90 or section 91 on account of tax paid in a country outside India on such income which has not been claimed in the earlier return;
- (iv) any relief of tax claimed under section 90A on account of tax paid in any specified territory outside India referred to in that section on such income which has not been claimed in the earlier return;
- (v) any tax credit claimed, to be set off in accordance with the provisions of section 115JAA or section 115JD, which has not been claimed in the earlier return. The aforesaid tax shall be increased by the amount of refund, if any, issued in respect of such earlier return.

This amendment will be effective from 1st April, 2022.

Amendment to section 144B

Sec.144B deals with Faceless Assessment. The existing provision consists of subsection (9) stated that if the faceless assessment is done by deviating from provisions of said section then the assessment made will be considered as non-est. Difficulties are faced by assessees and by department during the faceless regime.

Now new procedure is prescribed for faceless assessment where it is also stated that the SOP (standard operating procedure) will be prescribed by the Board. However, a fair provision which existed earlier i.e. Sec.144B(9) which stated that if an order is passed by deviating from the prescribed procedure then such order shall be held as non-est is omitted under the amended provision. This may result in injustice on assesses where there is deviation and an order is passed. Further, in view of electronic communication at the back end for which assessee has no access it will be difficult as it appears today for an assessee to verify/ examine whether the SOP was followed before completing the faceless assessment.

Sec.144B deals with Faceless Assessment. The existing provision consists of sub-section (9) stated that if the faceless assessment is done by deviating from provisions of said section then the assessment made will be considered as nonest.

Union Budget 2022-23

This amendment will be effective from 1st April, 2022.

Amendment to Section 148

Sec. 148 deals with Issue of Notice where income has escaped assessment before making reassessment/ assessment/ recomputation U/ Sec.147.

Now an amendment is proposed by inserting a new proviso to the effect that approval to issue of notice under Section 148 is not required where the proper officer, with the prior approval of the specified authority has passed an order under clause (d) of Section 148A that it is a fit case to issue a notice under the said section.

It is also proposed to amend 'Explanation-1' of Section 148 to increase the scope of the term 'information'.

With effect from 1st April 2022, an order of assessment or reassessment or recomputation under the IT Act in search/ survey cases shall not be passed by an Assessing Officer below the rank of Joint Commissioner, except with the prior approval of the Additional CIT or Additional DIT or Joint Commissioner or Joint Director.

Bill proposes to amend Section 149 to provide that no notice under Section 148 shall be issued for the relevant assessment year after three years but prior to ten years from the end of the relevant assessment year unless the assessing officer is in possession of books of account/ other documents/ evidence which reveals the fact that the income chargeable to tax, represented in the form of an asset, expenditure in respect of a transaction or in relation to an event or occasion, an entry or entries in the books of accounts has escaped assessment and the impact of all these shortcomings amounts to Rs. Fifty lac or more.

This amendment will be effective from 1st April 2021.

Amendment to Section 148A

This section deals with conducting enquiry, providing opportunity before issue of notice U/Sec.148.

Now, in view of an amendment proposed

i. the assessing officer is not required to take approval of specified authority while serving a notice to an assessee a show cause notice why notice U/ Sec.148 should not be issued on the basis of information in his possession which suggests that income chargeable to tax has escaped assessment for relevant assessment year.

Further, where the assessing officer has received any information under the scheme notified U/Sec.135A (*i.e. faceless collection of information*)which reveals that income chargeable to tax has escaped assessment for relevant assessment year then, provisions of Sec.148A shall not apply.

This amendment will be effective from 1st April, 2022.

Insertion of New Section 148B

This section will deal with 'Prior Approval for assessment, reassessment or recomputation in certain cases?

It is now proposed that no order of assessment or reassessment or re-computation under the Act shall be passed by an assessing officer below the rank of Joint Commissioner, except with the prior approval of the Additional Commissioner or Additional Director or Joint Commissioner or Joint Director, with regard to assessments consequent to search, survey and requisition to reduce avoidable inaccuracies.

This amendment will be effective from 1st April, 2022.

Amendment to Sec.149

Sec. 149 deals with 'Time limit for notice'. It prescribes time limit within which a notice for reopening U/Sec.148 can be issued.

Now proposed amendment to Sec. 149(1))(b) will result in expanding the scope of reassessment where, on the basis of books of account or other documents or evidence it is revealed that the income chargeable to tax amounts to or likely to amount Rs. Fifty Lakhs or more has escaped assessment in view of expenditure in respect of a transaction or in relation to an event or occasion or an entry in the books of account of a sum amounting to Rs. 50 lacs or more.

Further in view of amendment proposed to the first proviso it is said where no notice under section 148/ 153A/ 153C could have been issued on/ before

1st April 2021 since same was then beyond time limit prescribed under the provisions of Sec.153A or 153C then such cases will come under the amended provisions of Sec.148.

Besides above in view of insertion of new sub-clause(1A) in Sec.149 it is proposed that notwithstanding anything contained in 149(1), where the income chargeable to tax represented in the form of an asset or expenditure in relation to an event or occasion of the value referred to in clause 149(1)(b) has escaped assessment and the investment in such asset or expenditure in relation to such event or occasion has been made or incurred, in more than one previous years relevant to the assessment years within the period referred to in clause 149(1)(b), then a notice under section 148 shall be issued for every such assessment year for assessment, reassessment or re-computation, as the case may be.

This amendment will be effective from 1st April, 2022.

Amendment to Section 153

Sec.153 deals with Time limit for completion of assessment, reassessment and recomputation.

In view of insertion of Sec.139(8A) when an assessee submits the Return under said amended provision then, an order may be made at any time before the expiry of nine months from the end of the financial year in which such return is furnished. This amendment gives opportunity to the department to assess the Return filed by an assessee U/ Sec.139(8A) beyond the time period otherwise available to assess income in the context of the Return of Income filed U/ Sec.139(1). This amendment may have a consequential on Sec.148 and Sec.263 of the Income Tax Act.

Consequential amendments are also proposed in Sec.153(3) & (5) w.r.t. orders to be passed by the Transfer Pricing Officer.

Further, in view of insertion of new sub-section (5A) TPO can give effect to an order/ direction in view of an order passed U/Sec.263 which then may be further subject matter of an order to be passed by the assessing officer subject to prescribed time limit of two months from the end of the month in which the TPO's order is received by the assessing officer.

This amendment will be effective from 1st April, 2022.

Amendment to Sec.153B

Sec.153B deals with time limit for completion of assessment U/ Sec.153A.

In view of insertion of new subsection (4) under section 153B which begins with a non-obstante clause now w.e.f. 1st April, 2021 said section will override provisions of Sec.153A sequel to search initiated U/Sec.132 or requisition is made U/Sec.132A. Accordingly suitable amendments are proposed in Explanation to Sec.153B by inserting new clause (xi) therein.

Sec.153 deals with Time limit for completion of assessment, reassessment and recomputation. In view of insertion of Sec.139(8A) when an assessee submits the Return under said amended provision then, an order may be made at any time before the expiry of nine months from the end of the financial year in which such return is furnished.

This amendment will be effective from 1st April 2021.

Insertion of new section 156A

This section will deal with 'Modification and revision of notice in certain cases'.

This section will deal with notice of demand issued U/Sec.156 where such demand is reduced as a result of an order passed by the adjudicating authority U/ Sec.5(1) of the Insolvency & Bankruptcy Code, 2016, or by the National Company Law Appellate Tribunal of Supreme Court then, the assessing officer shall modify such demand accordingly. This amendment will be effective from 1st April, 2022.

Insertion of new section 158AB

This section will deal with 'Procedure where an identical question of law is pending before High Courts or Supreme Court'.

The proposed new section states that if in any appeal decided by

CIT(A) there is a question of law which is decided in favour of an assessee or other assessee for any assessment year by the jurisdictional High Court or where an SLP is awaiting decision of Supreme Court or where an issue is decided by Tribunal by following decision of jurisdictional High Court then, the collegium may communicate to the Pr. CIT not to file further appeal against such order subject to compliance with certain administrative measures which among others include (*impliedly - written*) consent of an assessee. Then within time limit prescribed for filing further appeal without filing an appeal 'Revenue' will file an application stating that an appeal on question of law involved will be filed after the decision of such appellate authority. Then if the question is decided against an assessee in such an event appeal will be filed before appropriate appellate forum by the Revenue within sixty days from the date of jurisdictional high court or Supreme Court's order.

Time will prove whether this provision has achieved the desired object.

In view of insertion of section 158AB, Sec. 158AA(1) is suitably amended by inserting a sunset clause which provides that no direction shall be given under the said sub-section on or after 1st April, 2022.

Sec.170 deals with Succession to business otherwise than on death.

The newly inserted Sec.170A will deal with 'Effect of order of Tribunal or court in respect of business reorganization'.

In view of insertion of sub-section (2A) in Sec.170 where a business is subject to reorganisation (*i.e. amalgamation/ demerger*) then during the pendency of such reorganisation (*means the* reorganisation scheme is subjudice before approving or adjudicating authority who is required to approve such reorganisation) then the predecessor or successor will be governed for any proceedings initiated as per provisions of Income Tax Act during either intervening period or thereafter.

Once the reorganisation is approved as per newly inserted provisions of Sec.170A the successor is required to comply with provisions of Sec.139 within six months from the end of the month the reorganisation order is issued the modified 'Return' for the erstwhile entity. The amendment proposed in Sec.170(2A) is in alignment with the insertion of new Sec.170A.

Amendment in Section 170

Sec.170 deals with Succession to business otherwise than on death. The newly inserted Sec.170A will deal with 'Effect of order of Tribunal or court in respect of business reorganisation'. In view of insertion of sub-section (2A) in Sec.170 where a business is subject to reorganisation *(i.e. amalgamation/ demerger)* then during the pendency of such reorganisation (means the reorganisation scheme is subjudice *before approving or adjudicating* authority who is required to *approve such reorganisation*) then the predecessor or successor will be governed for any proceedings initiated as per provisions of Income Tax Act during either intervening period or thereafter. Once the reorganisation is approved as per newly inserted provisions of Sec.170A the successor is required to comply with provisions of Sec.139 within six months from the end of the month the reorganisation order is issued the modified 'Return' for the erstwhile entity. The amendment proposed in

Sec.170(2A) is in alignment with the insertion of new Sec.170A. Sec.170 deals with Succession to business otherwise than on death. The newly inserted Sec.170A will deal with 'Effect of order of Tribunal or court in respect of business reorganisation'. In view of insertion of sub-section (2A) in Sec.170 where a business is subject to reorganisation *(i.e. amalgamation/ demerger)* then during the pendency of such reorganisation (means the reorganisation scheme is subjudice *before approving or adjudicating* authority who is required to *approve such reorganisation*) then the predecessor or successor will be governed for any proceedings initiated as per provisions of Income Tax Act during either intervening period or thereafter. Once the reorganisation is approved as per newly inserted provisions of Sec.170A the successor is required to comply with provisions of Sec.139 within six months from the end of the month the reorganisation order is issued the modified 'Return' for the erstwhile entity. The amendment proposed in Sec.170(2A) is in alignment with the insertion of new Sec.170A.

Amendment in Section 179

This section deals with 'Liability of directors of private company in liquidation'. Said section provides for recovery of tax from such a private company from its directors where the tax cannot be recovered from such private limited company. In view of the misleading word appearing in its heading 'in liquidation' the proposed amendment brings clarity on the object for which said provision exists irrespective of the fact that such private limited company is not under liquidation.

This amendment will be effective from 1st April 2022.

Amendment to Sec. 194-IA

Sec.194-IA which deals with 'Payment on transfer of certain immovable property other than agricultural land'.

Said section prescribes for deduction of TDS @1% on the consideration payable on transfer of immovable property (*other than agricultural land*) if consideration payable exceeds Rs. Fifty Lacs. In view of an amendment proposed now one has to deduct TDS on stamp-duty value if consideration payable is less than the same.

This provision will be effective from 1st April 2022.

Insertion of new section 194R

This section will deal with 'Deduction of tax on benefit of perquisite in respect of business or profession'.

This provision appears to take cognizance of provisions of Sec.28(iv) or Sec.2(24)(iv) of the Income Tax Act. Sometimes these provisions are skipped from TDS perspective by concerned provider of benefit and then the recipient also fails to report such income. Now, the person providing such benefit is required to comply with TDS provisions by deducting TDS on such benefits (*which are cash less advantages or non-monetary personal advantages*). The TDS rate

Sec.170 deals with Succession to business otherwise than on death. The newly inserted Sec.170A will deal with 'Effect of order of Tribunal or court in respect of business reorganization'. prescribed is 10%. Compliance with TDS provisions is required to be made by a person subject to certain conditions stated therein.

This amendment will be effective from 1st July, 2022.

Amendment of Section 201/206C

These sections deal with consequences of failure to deduct or pay (*impliedly TDS under various sections*) and TCS (*tax collectible at source*) respectively.

According to the proposed amendment now it is provided that an assessee shall be liable to pay interest liability determined by the assessing officer associated with failure to comply with the TDS provisions.

This provision will be effective from 1st April 2022.

Insertion of section 239A

This section will deal with 'Refund for denying liability to deduct tax in certain cases'.

As per provisions of Sec.195 any payment to a non-resident is subject to TDS. Very often a question arises either in view of provisions of Income Tax Act or Double Taxation Avoidance Agreement/ Treaty (*DTAA*) whether payment to be made to a non-resident is subject to TDS/ withholding tax. This question gets importance where the person making payment is required to bear the tax liability on such payment.

If a person is of the opinion that such payment is not attracting TDS/ withholding tax either under the provisions of Income Tax Act or under the DTAA then one option is to make an application U/Sec.195(2) to the assessing officer and ask him to determine the tax payable on such remittance. Invariably the

If a person is of the opinion that such payment is not attracting TDS/ withholding tax either under the provisions of Income Tax Act or under the DTAA then one option is to make an application U/Sec.195(2) to the assessing officer and ask him to determine the tax payable on such remittance.

experience is such an application is not processed in time in spite of rigorous follow-up and the concerned assessee is under the time pressure of remitting money in view of contractual obligations. So by passing route of Sec.195(2) assesses had an option to pay tax on such remittance and then file an appeal U/Sec.248 of the Income Tax Act and claim refund in said appeal.

In view of proposed amendment now where an assessee pays tax on such remittance and claims that same is not deductible then he may file an application before the assessing officer U/Sec.239A within thirty days from the date of payment of such tax. Then, the assessing officer is required to pass an order within six months. If the A.O. denies refund to an assessee then, assessee may file an appeal U/Sec.246A1(ia) of the Income Tax Act is suitably amended to accommodate an order passed U/Sec.239A.

The purpose appears to be avoiding a direct appeal before CIT(A) U/Sec.248 on payment of withholding tax by an assessee.

This amendment will be effective from 1st April, 2022.

Taxation of Virtual Digital Assets - Ramification for Non-Resident

Crypto assets have been in existence since 2009 and across the globe¹, rules and regulations are being introduced to regulate and tax transactions in cryptocurrencies. The Finance Bill, 2022 proposes to introduce a regime for taxation of income arising from transfer of *"virtual digital* assets" (VDA). The scope of VDA as per the proposed definition is wider than the typical cryptocurrencies. The rationale of introducing the tax law seems to be the popularity gained by such assets and also the trading volume of the assets in recent times. Read on...



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This article analyses the implications of the proposed tax regime for taxation of VDAs from the perspective of non-residents.

Proposed Taxation Regime

The finance minister in the Budget speech on 1st February 2022 stated that there has been a phenomenal increase in transactions in virtual digital assets. The magnitude and frequency of these transactions have made it imperative to provide for a specific tax regime.

The following proposed sections have been introduced to tax the transactions of virtual digital assets:

Section 2(47A)

Proposed section 2(47A) contains a very wide definition of term "virtual digital assets".

"(47A) "virtual digital asset" means-



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- (a) any information or code or number or token (not being Indian currency or foreign *currency*), generated through cryptographic means or otherwise, by whatever name called, providing a digital representation of value exchanged with or without consideration, with the promise or representation of having inherent value, or functions as a store of value or a unit of account including its use in any financial transaction or investment, but not limited to investment scheme; and can be transferred, stored or traded electronically;
- *(b) a non-fungible token or any* other token of similar nature, by whatever name called;
- any other digital asset, as the (c) Central Government may,



¹ OECD report suggests that countries such as Australia, France, Chile, Czech Republic, Luxembourg, Nigeria, Spain, Sweden Switzerland, Argentina,* Brazil, Croatia, Denmark, Israel, Japan, Slovak Republic, South Africa and the United Kingdom have introduced guidance on taxation of virtual currencies.

by notification in the Official Gazette specify:

Provided that the Central Government may, by notification in the Official Gazette, exclude any digital asset from the definition of virtual digital asset subject to such conditions as may be specified therein.

Section 115BBH

This section provides that any income from transfer of any virtual digital asset shall be taxed at the rate of 30 per cent. No deduction in respect of any expenditure or allowance shall be allowed while computing such income except cost of acquisition. Further, loss from transfer of virtual digital asset cannot be set off against any other income.

Section 194S

In order to capture the transaction details, it is also proposed to provide for Tax Deduction at Source (TDS) on payment made in relation to transfer of virtual digital asset at the rate of 1 per cent of such consideration above a monetary threshold.

Section 56(2)(x)

Besides the above new sections, an amendment has been proposed in section 56(2)(x) to tax the transactions of gift of virtual digital asset in the hands of the recipient. The definition of the term "property" has been amended to include VDA.

1. Taxation of Non-resident

a. Basis of Taxation

India follows residence basis of taxation. Residents are taxed on global income and non-residents are taxed on India sourced income. The

² [2016] 71 taxmann.com 315 (Delhi) ³ Circular No. 3 (WT) of 1957, dated 28-9-1957 following income of nonresidents are taxed in India:

- Income received or deemed to be received in India;
- Income accrues or is deemed to accrue in India

If the income from transfer of VDA is received in India or accrues or deemed to accrue in India, then the income earned by non-resident from transfer of VDA shall be chargeable to tax in India.

Existence of the situs of the asset is in India would be important in determining whether the income from transfer of VDA can be said to be accruing in India or deemed to be accruing in India.

Identification of situs of an intangible asset like VDA becomes difficult. VDA is comparable to an intangible asset and some guidance can be availed from judicial precedents related to intangible assets. The Delhi High Court has in the case of *CUB Pty Ltd. v.* **Union of India²** held that location of an intangible asset (trademark) owned by a non-resident is not in India. The High Court relied on the well accepted principle of 'mobilia sequuntur personam' according to which the situs of the owner of an intangible asset would be the closest approximation of the situs of an intangible asset. Reference may also be made to a CBDT Circular³ issued in the context of wealth tax, which deals with location of assets.

Based on the above, the NR may want to argue that the

In order to capture the transaction details, it is also proposed to provide for Tax Deduction at Source (TDS) on payment made in relation to transfer of virtual digital asset at the rate of 1 per cent of such consideration above a monetary threshold.

situs of the VDA owned by him is outside India. However, when the VDA transactions happen on an exchange in India or the VDAs are issued by an Indian issuer, it will be difficult to claim that income does not accrue or arise in India. Further, the income would also be taxable in India if the income is received in India.

b. Capital asset or stock in trade

The taxability in the hands of the non-resident will also depend on whether the VDA is held as a stockin-trade or capital asset. Characterization of income from sale of shares has historically resulted in several disputes and the guidance contained in judicial precedents and CBDT circulars can be applied to some extent to VDAs by analogy as the proposed regime does not categorically classify VDA as a capital asset.

Consequentially, it may not be relevant to get into characterization of VDA as capital asset or stock in

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If the income from transfer of VDA is received in India or accrues or deemed to accrue in India, then the income

earned by non-resident from transfer of VDA shall be chargeable to tax in India.

> trade for the purposes of the provisions of section 115BBH. However, the same may be relevant for the purposes of applying the provisions of the applicable tax treaty.

The subsequent para discusses the aspects of taxation on transfer of VDA held as a capital asset and stock in trade.

2. Stock in trade

a. Taxation under the domestic law

Business is defined in section 2(13) of the Act as "business" which includes any trade, commerce or manufacture or any adventure or concern in the nature of trade, commerce or manufacture.

A trader would be one who regularly (frequency) buys and sells VDA and seeks to make profits out of shortterm market fluctuations (profitability). In such a scenario, holding of VDA may be considered as stock in trade. The gains realized by the trader may be taxed as business income.

Under the Act, the nonresident shall be liable to tax under section 115BBH.

b. Taxation under the tax treaty

By virtue of the provisions of section 90(2), the nonresident has an option of applying the provisions of the tax treaty, if the same are more beneficial.

Generally, Article 7 of the tax treaty deals with taxation of business profits. It provides that the profits of a non-resident carrying on business shall be taxable only in a resident State unless the non-resident carries on business in the other Contracting State through a permanent establishment (PE). If the non-resident carries on business in the other Contracting State, only profits attributable to the PE shall be taxable in the other Contracting India.

Thus, non-residents holding VDA as stock in trade shall be liable to tax in India if they have a PE in India and the profits from transfer of VDA is attributable to the PE in India. However, few treaties signed by India⁴ include Force of attraction (FOA) rule under Article 7 and applicability of this rule also needs to be considered.

3. Capital asset

a. Taxation under the domestic law

Section 2(14) of the Incometax Act, 1961 ('Act') defines capital asset as property of any kind held by an assessee, whether or not connected with his business or profession.

b. Taxation under the tax treaty

⁴ E.g. Belarus, Canada, Slovak Republic, Denmark, Indonesia, Italy, Mongolia, New Zealand, Poland, Spain, USA.

If the VDA is held as a capital asset, the income

⁵ Residuary clause of Capital Gains Article of treaties such as Singapore, Mauritius, Netherlands, Swiss Confederation, etc. provide for taxability of capital

arising from transfer of such a VDA would be governed by the provisions of Article on Capital Gains of the tax treaty. Generally, the Article on capital gains specifically provide for taxability from alienation of:

- Immovable property;
- Movable property forming part of PE including gains from alienation of the PE;
- Ships and aircrafts operated in international traffic;
- Shares
- Any other property

It can be argued that the VDAs such as crypto currencies may not qualify as immovable property.

Similarly, if VDA constitutes movable property forming part of the PE of the nonresident in India, the alienation of such VDA would be taxable in India.

If the VDA does not qualify as any of the specified assets governed by the capital gains article, the taxability of income from transfer of VDA would be governed by the residuary clause⁵ which generally provides for taxation of the gains in the resident State of the alienator.

A trader would be one who regularly (frequency) buys and sells VDA and seeks to make profits out of shortterm market fluctuations (profitability).

gains in the resident State.

4. Income from other sources

If under the domestic law provisions, the income from transfer of VDA is taxed under the head 'income from other sources', it is likely that under the tax treaty also it would be taxed under the Article dealing with other income. Tax treaties signed by India adopting Other Income article from the UN Model provides for taxation of other income in the source state.

5. Tax deducted at source on income of non-resident

Proposed section 194S provides for obligation of 'any person' responsible for paying to a resident consideration on transfer of VDA to deduct tax at source @ 1% on such consideration. The said section does not deal with payment to non-residents.

Payments to non-residents on account of transfer of VDA would continue to be governed by the provisions of section 195.

If the income from transfer of VDA by non-residents is chargeable to tax in India, the withholding will have to be done as per the provisions of section 195. This would typically cover the following transactions:

(i) Resident acquiring VDA from a non-resident.

If the VDA is held as a capital asset, the income arising from transfer of such a VDA would be governed by the provisions of Article on Capital Gains of the tax treaty. (ii) Non-resident acquiring VDA from another non-resident⁶

However, based on the discussion in paras 4 and 5 above, if the income of the non-resident is not chargeable to tax relying on the favourable tax treaty provisions, the purchaser can rely on the judicial precedents⁷ which have held that if the income of the non-resident is not chargeable to tax in India, there is no obligation to withhold any tax under section 195.

However, if the transaction of buy-sell of VDA is happening through an exchange, it will be practically difficult to comply with the TDS provisions for the reason that the buyer and the seller may not know each other. It will not be possible to comply with withholding provisions when the identity of the seller is not known to the buyer.

6. Obligation of a nonresident to deduct tax at source

a) Proposed section 194S

Section 194S casts an obligation on 'any person' to deduct tax at source @ 1% on the amount of consideration paid to a resident on transfer of VDA. The term 'any person' is wide enough to cover non-residents. Consequently, non-residents acquiring VDA from a resident, shall be liable to withhold tax under section 194S.

On the basis of the observation of the Supreme Court in the case of Vodafone International Holding B.V. v. UOI⁸, one may want to argue that when the non-resident does not have a presence in India, the TDS provisions cannot be applied relying on the principle of extraterritorial application of

"

If under the domestic law provisions, the income from transfer of VDA is taxed under the head 'income from other sources', it is likely that under the tax treaty also it would be taxed under the Article dealing with other income.

the domestic law. However, after the above Supreme Court ruling, Finance Act, 2012 amended the provisions of section 195 retrospectively, clarifying that withholding tax obligation on payment to a non-resident is applicable to non-residents whether or not such non-resident payer has any presence in India. This suggests the approach of not excluding non-resident from withholding obligations. However, when the transaction happens on an exchange, the identity of the recipient of consideration would not be known to the non-resident buyer and implementation of withholding could become impossible.

Conclusion

There are ambiguities in the proposed regime. As per the media reports, Central Board of Direct Taxes (CBDT) is expected to issue guidelines shortly to provide clarity on various aspects of taxation. The definition of VDA itself will have to be clarified. Further, issues such as applicability of TCS / TDS provisions also need to be clarified. Hence, taxpayers will have to wait and watch till the CBDT comes out with the guidelines.

⁶ Explanation 2 to section 195.

⁷ GE India Technology Centre Private Ltd v. CIT (2010) 327 ITR 456

⁸ [2012] 17 taxmann.com 202 (SC)

Input Tax Credit - Amendments proposed in Finance Bill, 2022

During the excise era, a new concept of proforma credit scheme was introduced in order to reduce the double taxation effect with restriction that the credit can be claimed only within the same tariff of goods that were manufactured. This system had lot of deficiencies and hence, the Government came up with a revised version in the name of 'Modified Value Added Tax' (MODVAT) in the year 1986-87 with the same objective and permitting credit of excise duty only on inputs for manufacturers. Later on, the scheme was extended to capital goods also. Read on...

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History of Input Tax Credit

In the year 2001, CENVAT Credit Rules, 2001 were introduced which were superseded by the CENVAT Credit Rules, 2002. Credit of service tax paid on input services was introduced for the first time in the year 2002. In the year 2004, CENVAT Credit Rules, 2004 were notified to integrate the credit of excise duty payable on goods (both inputs and capital goods) and service tax payable on services.

In the meantime, from the system of sales tax, one-point tax, resale tax etc., the States moved to implement Value Added Tax Laws from 2005 onwards wherein the law permitted the taxpayer to claim input tax credit (VAT) and use the same for payment of output tax liability.

While VAT continued without much disturbance, the CENVAT

Credit Rules, 2004 were hit with amendments every year after year. One can find that, the scope of availment of CENVAT Credit started shrinking continuously. This concept, having spent considerable time under the Excise, Service tax and VAT laws, moved to the biggest reform in the tax landscape of the country – implementation of Goods & Services Tax in India.

Graduation of Cenvat – Input Tax Credit Under GST

The input tax credit (ITC) was introduced as part of the GST Act under section 16 which was earlier governed by 'Rules' as far as CENVAT was concerned. The slogan to make GST reach out to every common man was "One Nation One Tax". This was supported by the phrase – "Seamless flow of Input Tax Credit".

INPUT TAX CREDIT (ITC)

One will be aware that, from the time the GST law was introduced, the concept of "blocked credit" also came along and had its seat under section 17(5) of the CGST Act. The law provides that no credit can be availed on construction, rent a cab, business promotion expenses etc., though many such transactions are for business purpose. This adversely affected the flow of ITC. Later, the rates of various goods and services were tweaked and many such amendments carried conditions with them that no ITC shall be availed by the supplier. This further hindered the flow of ITC.

Multiple Rate Tweaks With "No ITC" Conditions

One can find that on 'recommendations from the council', the CBIC has tweaked the rates multiple times for various services with conditions that "no input tax credit shall be availed".

The input tax credit (ITC) was introduced as part of the GST Act under section 16 which was earlier governed by 'Rules' as far as CENVAT was concerned. The slogan to make GST reach out to every common man was "One Nation One Tax".

SAC Code	Activity	Rate of Tax	Conditions	
9954	Construction of Residential Complex	1% or 5%	No ITC	
9963	Supply of Food or any article for human consumption including by Railways, IRCTC, Outdoor catering (i) to (v)	5%	No ITC	
9964	Passenger Transportation Service (except for other than economy class)	5%	No ITC	
9965	Transport of goods by rail/ vessel/GTA (except forward charge) and multimodal transport	5%	No ITC on goods for rail and vessel	
9966	Rental services of transport vehicles with operators (Option to opt for full rate with ITC available separately)	5%	No ITC	
9971	Financial related services by foreman of a Chit Fund in relation to chit	12% No ITC on good		
9985	Tour operator service	5%	No ITC	
	Support services by way of house-keeping and plumbing even if supplied through e-commerce	5%	No ITC	

Due to reduction of rates for the benefit of common man, the cascading effect could not be removed as the supplier is barred from taking input tax credit. The cost has only increased, and it is passed on to the end consumer. The *Roti* and *Makaan* (Restaurant & Construction services) are already under the concessional rate with no ITC, the effect of which has fallen on a common man.

Going forward, a provision *vide* rule 86B was introduced to restrict the payment of full tax with input tax credit. Based on certain conditions, at least 1% of tax was mandated to be paid in cash, which has been removed recently. Further, rule 36(4) was introduced to provide for restriction in availment of input tax credit which does not appear in the Form GSTR-2B. The taxpayer was initially permitted to avail the input tax credit on those transactions that were reflecting in Form GSTR-2B [earlier Form GSTR-2A] and claim 20% of such eligible credit for those transactions which are not appearing in GSTR-2B but supported by a valid invoice. Later, the rate of 20% was reduced to 10%. then to 5% and now, it is made "0%". This step, though mirrors the 'Zero Tolerance' approach by Government on the reason of fake invoicing and bill

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trading has also hit the genuine taxpayers very badly.

Budget Proposals, 2022 on ITC

The present Budget, 2022 came up with few salient provisions with regard to the input tax credit. The proposals are discussed along with the implications below.

Section 16 of the CGST Act, is all about eligibility and conditions for taking input tax credit. A new clause is proposed to be inserted *vide* clause (ba) after section 16(2)(b) which is as follows:

"(ba) the details of input tax credit in respect of the said supply communicated to such registered person under section 38 has not been restricted"

Earlier clause (aa) was introduced and made effective from 1st Jan 2022 which prescribed conditions that, the details of the invoice or debit note has been furnished by the supplier in the statement of outward supplies i.e., GSTR-1 and such details have been

The law provides that no credit can be availed on construction, rent a cab, business promotion expenses etc., though many such transactions are for business purpose. This adversely affected the flow of ITC. communicated to the recipient of such invoice or debit note in the manner specified under section 37.

The current proposal aims to put additional condition that such credit which is communicated to the registered person as per the new section 38 should be a restricted one. In other words, only that credit, which is not restricted, will be available to be claimed. The restrictions imposed by way of section 38 are discussed below.

The newly proposed section 38 prescribes the manner as well

as conditions and restrictions for communication of details of inward supplies and input tax credit to the recipient by means of an auto-generated statement which shall consist of:

- a) details of inward supplies in respect of which credit of input tax **may be available** to the recipient; and
- b) details of supplies in respect of which such credit cannot be availed, whether wholly or partly, by the recipient, on account of the details of the said supplies being furnished under sub-section (1) of section 37, -

Checks introduced on supplier's action on account of the details of the said supplies being furnished in Form GSTR-1 under sub- section (1) of section 37:	Impact on ITC to be claimed by recipient
by any registered person within such period of taking registration as may be prescribed;	
by any registered person, who has defaulted in payment of tax and where such default has continued for such period as may be prescribed;	a supplier who has defaulted in payment of tax for certain period
by any registered person, the output tax payable by whom in accordance with the statement of outward supplies furnished by him under the said sub-section during such period, as may be prescribed, exceeds the output tax paid by him during the said period by such limit as may be prescribed	the output liability is more than the output tax paid by the supplier during the said period exceeding certain limit as may be prescribed. (Restriction can be to the extent of proportionate unpaid
by any registered person who, during such period as may be prescribed, has availed credit of input tax of an amount that exceeds the credit that can be availed by him in accordance with clause (a), by such limit as may be prescribed;	or restricted the credit if the recipient's supplier, during the said period has availed ITC in excess of what can be availed by him.

by any registered person, who has defaulted in discharging his tax liability in accordance with the provisions of sub-section (12) of section 49 subject to such conditions and restrictions as may be prescribed;	Again, a new insertion of sub- section 12 under section 49, which begins with a non-obstante clause to provide that, Government may specify such maximum proportion of output tax liability under this Act or under the Integrated Goods and Services Tax Act, 2017 which may be discharged through the electronic credit ledger by a registered person or a class of registered persons, as may be prescribed. Hence, even if there are no restrictions, 49(12) will be invoked for restricting the usage of ITC. (Restriction)
by such other class of persons as may be prescribed."	Government can prescribe the class of persons from whom the ITC availed can be restricted or not allowed.

There are few other amendments which have been proposed in order to ensure that all the ways and means to plan an escape by the errant taxpayer are blocked completely:

 a) Section 16(2)(c) of the CGST Act is proposed to be amended to refer section 41 and to provide that the tax charged in respect of such supply has been actually paid to the Government either in cash or credit which is admissible in

"

Due to reduction of rates for the benefit of common man, the cascading effect could not be removed as the supplier is barred from taking input tax credit. The cost has only increased, and it is passed on to the end consumer. respect of the concerned supply. In this situation, a taxpayer does not have any means other than getting a confirmation from the vendor as to whether the tax charged by the vendor has been actually paid to the Government. The taxpayer cannot be in a position to comply with this particular provision in order to become eligible to claim input tax credit.

b) Section 41 of the CGST Act, is proposed to be completely substituted with a new section with the new name – "Availment of input tax credit" specifying that, the registered person subject to conditions and restrictions will be entitled to claim input tax credit as per "self-assessed" mode in his returns. (Provisional basis has been done away with. Hence, two-way communication is also out). Further, if the supplier has not paid the appropriate taxes, such ITC availed by the recipient shall be reversed along with applicable interest in such manner as may be prescribed. It is pertinent to note here that, section 50 is proposed to be amended with retrospective effect to say that interest will be applicable only if the ineligible credit is availed and utilised.

A proviso also has been inserted to state that where the concerned supplier is making the tax payment, the registered person i.e., recipient may re-avail the amount of credit reversed earlier.

c) Consequent to the availment of credit being made under "Selfassessment" mode, the question of provisional availment, two-way communication and various steps to be followed by the tax officer and taxpayer in order to match and claim the tax from the actual supplier has been removed. In other words, the only section which the taxpayer could fall upon to defend the mismatch between GSTR-2A & GSTR-3B issues i.e., section 42 has been removed along with section 43A which was introduced with expectation of launch of new set of instructions for furnishing return and availment of input tax credit.

Issues With Regard to Procedural Aspects

Many taxpayers and professionals would have experienced quite a few problems with regard to ITC in doing GST compliance:

- The first instance is Invoice from the supplier is dated 29th of a month and goods are received on 3rd of next month. However, GSTR-2B of the current month contains the details of ITC which a taxpayer is not supposed to take unless he is in receipt of goods or services. Later, when he avails the credit in the next month, the system highlights that excess credit has been claimed. Even, the popup box opens a message that the registration is liable for suspension if credit is claimed in excess.
- The second instance being

 non reflection of IGST
 credit paid during imports.
 Though a window has
 been provided to pull the
 information, it is really a
 difficult task for taxpayers
 who have multiple import
 transactions in a tax period
 as there is no window for
 bulk processing facility.
- The third instance being if a taxpayer inadvertently has availed the input tax credit as CGST & SGST instead of IGST, and it is discovered only during the GST Annual return filing exercise, the taxpayer is made to reverse the credit of CGST & SGST as it amounts to excess

availment. Further, he is not permitted to take IGST credit as the time limit has already lapsed. The Government must permit availment of input tax credit under correct head in genuine cases.

Time Limit for Availing Input Tax Credit

Section 16(4) of the CGST Act. provided that, a registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the due date of furnishing of the return under section 39 for the month of September following the end of financial year to which such invoice or debit note pertains or furnishing of the relevant annual return, whichever is earlier. The above underlined words have been modified to "thirtieth day of November". In other words, the credit from invoice belonging to a particular year can now be claimed till 30th November of next vear.

If one can relate the input tax credit provisions with the erstwhile regime of CENVAT or VAT, it may be recollected that, there was no restriction with regard to time for availing the input tax credit. For instance, if an excise or service tax return was being filed for a tax period after a period of say 2 years, the taxpayer was permitted to claim input tax credit as was available with him during the said period and adjust the same with the tax liability of the said period and pay the balance amount in cash along with interest on the same. Only in late 2014, a limitation on availment of credit was imposed

based on the invoice date. i.e., a taxpayer was not permitted to claim credit on any invoice which is beyond one year.

Though the proposal to extend the time limit for availing ITC under GST is a welcome move. still there is a requirement of much more clarity. Let us take an instance under GST - in the Covid pandemic situation, the taxpayer had availed the input tax credit in his books for say the month of March 2020 and he was unable to file the returns resulting in cancellation of his registration. The taxpayer could file the return only during November 2020. Since the due date provided for availing the ITC as per section 16(4) had lapsed, it was concluded by the Department that credit availed is ineligible and it will be accepted as valid return only if the entire amount is paid in cash. It is important here to note that the credit has already been availed by him in his books and it is only a declaration that is being made in the form of a return. The Government can consider the imposing of restriction by way of fixing limitation on time from date of invoice and permitting the claiming of credit in the particular month's return to which it belongs whenever such return is filed.

Concluding Remarks

Input tax credit, being the core fulcrum of GST Law, the provisions thereof should aim at seamless flow of credit and improving ease of doing business. There is a need to work more convincingly on strengthening the input tax credit mechanism in GST law. With the involvement of the trade and industry bodies and more importantly the common man, Government can take appropriate steps to ensure that the objective of seamless flow of credit is achieved.

Risk Management in Bank Branch Audit

Risk is present in any activity which is carried out and audit is no exception. Any activity that is conducted can go wrong anytime, sometime or at all times despite the controls that have been designed and implemented to specifically address and mitigate the risks inherent therein. Risk is that residual threat, gap or vulnerability that one is finally exposed to. Read on...

The key to risk management is to anticipate, in a formal, structured manner what can go wrong, how and why it can go wrong and what could be done to ensure that we zeroise, minimize the possibilities of things going wrong. The gross or the inherent risk has to be within the risk appetite and the residual risk within the risk tolerance. Risk is a function of probability or likelihood of the adverse event happening and the impact or the loss caused if the event was to actually happen.



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Risk needs to be managed effectively by identifying, analysing, evaluating, measuring, monitoring, treating and communicating risk on an ongoing manner

Risk cannot operate in a silo and would always be mapped by a control. The controls have to be pro-active, automated, corrective and collaborative. Controls ensure that the risk finally gets treated to an acceptably low level.

Banks are trustees of public money and regulated by the RBI. They receive funds from public in the form of deposits like fixed deposits, savings / current accounts and lend it onward for business purposes at a spread. Numerous transactions in cash, ATM, cheques, pay-orders, drafts, NEFT, RTGS take place daily in a bank branch. The sheer volume and the value of transactions necessitate that the banks have various checks and balances in place to ensure that the transactions are processed timely and correctly as per internally laid down policies.

Banks are exposed to various risks, namely - Operational, Credit, Regulatory, Legal, Technology, Reputational, Money Laundering, Security, Market, Liquidity, Interest rate, Competition, Liquidity, Concentration, Social media



risks and Fraud risks. Branches based on their business and customer mix will be exposed to some or all of these risks in varying degrees. Hence it is imperative that the risk profiling of the bank branch under audit be drawn up so that the auditor can focus on the key risks really impacting the branch.

Banks institute various controls namely maker checker, segregation of duties, job rotations, mandatory leaves, job descriptions, certifications, authorizations, ratifications, audits, verifications, confirmations, inspections, reconciliations, balancing, delegations etc. Any manual or detective control should be flagged of for upgradation to a preventive, system -based control.

The bank branches should have a formal mechanism of identifying risks at the gross level and mapping the controls to these risks to arrive at the residual risk. It is the foremost responsibility of the bank branch to have a robust risk management process in place. Absence of a formal risk identification process is in itself a major risk which has to be reported appropriately by the statutory bank branch auditor.

Bank branch audit process

In a bank branch audit, the auditors certify the branch financial statements as true and fair (free from material misstatements), issue mandatory certificates as required by the Bank and the regulator besides issuing the LFAR. The bank financial statements comprise of Balance sheet, Profit and loss account, Cash flow statement, accounting policies and notes on accounts.

The risk is that auditor may certify the financial statements as correct but auditor could have missed out on something in the conduct of audit due to absence of following a structured audit methodology accentuated by time pressure to complete audit.

A thing well begun is said to be half done. The auditor should plan his audit considering well the limited time available at his disposal and the co-operation he will get duly factoring further ongoing contingencies, if any.

An audit is an independent and objective examination of financial statements with a view to express an opinion thereon. The audit opinion could be unmodified, qualified, adverse or a disclaimer. An audit has to be conducted in accordance with the Standards on Auditing (SAs). These standards require audit to be conducted as per prescribed methodologies and more importantly document the same. Various Standards on Auditing (SAs) have prescribed different requirements for auditors. Non- compliance of the same will tantamount to professional misconduct under the provisions of the Chartered Accountants Act, 1949.

The first & foremost in any audit & bank branch audit being no exception is to conduct the audit in

accordance with the Standards on Auditing & having adequate documentation in place to evidence the aforesaid compliance

While Chartered Accountants are extremely sound in the basics of accounting, taxation, law & audit, what they need to strengthen is the robustness of their documentation. SA 230, "Audit Documentation" specifically deals with the fundamentals of documentation while various other SAs have specific documentation requirements namely -

- SA 220 Quality Control for an audit of financial statements.
- SA 240 The Auditor's Responsibilities relating to fraud in an audit of financial statements.
- SA 250 Consideration of Laws and Regulations in an audit of financial statements.
- SA 260(Revised) -Communication with those charged with Governance.

It is the foremost responsibility of the bank branch to have a robust risk management process in place. Absence of a formal risk identification process is in itself a major risk which has to be reported appropriately by the statutory bank branch auditor.

- SA 300 Planning an audit of financial statements.
- SA 315 Identifying and assessing the risks of material misstatement through understanding the entity and its environment.
- SA 320 Materiality in planning and performing an audit.
- SA 330 The auditor's responses to assessed risks.
- SA 450 Evaluation of misstatements identified during the audit.
- SA 530- Audit Sampling.
- SA 540- Auditing Accounting Estimates, Including Fair Value Accounting Estimates, and Related Disclosures.
- SA 550- Related Parties.
- SA 580- Written Representations.
- SA 610(Revised) Using the work of internal auditors.
- SA 701 Communicating Key Audit Matters in the independent auditor's report.

An audit has to be conducted in accordance with the Standards on Auditing (SAs). These standards require audit to be conducted as per prescribed methodologies and more importantly document the same. SA 720(Revised) - The auditor's responsibilities relating to other information.

It is imperative that auditor reads the Standards on Auditing afresh before commencing a bank branch audit and draws up a checklist on the areas and the depth of its coverage during the course of the audit. The documentation has to be completed daily, on an ongoing manner in the course of audit. The audit file should be updated and signed off first after review by the signing partner before he proceeds to sign off the accounts.

Each bank also issues accounts closing instructions along with the audit appointment letter. The auditor has to diligently examine that the branch has duly complied with these instructions especially in regard to those on accounting policies. Any non-adherences will have to be duly qualified in the auditor's report.

The auditor should obtain the organization chart as that will make him aware of the various branch functions, activities carried by each branch official and the functional inter linkages. This ensures that he does not miss out any activity especially the key performance indicators (KPI) or key risk areas (KRA). Checking this in sync with the Trial Balance will ensure that all activities finally having a financial impact completely come under audit radar.

Key changes in RBI circulars that impact the accounts

especially on NPA classification, provisioning and asset restructuring will need to be looked in depth. The auditor should verify whether the bank is tracking the 45 Early Warning Signals of Fraud as indicated in the RBI circular dated 7th May, 2015 on Framework for dealing with loan frauds. The ICAI publishes a Guidance Note on Audit of Banks every year. It is imperative that the auditor reads the Guidance Note to update his knowledge. The "Advisory for statutory bank branch auditors w.r.t. specific considerations while conducting Distance audit/ remote audit / online audit of bank branch under current Covid 19 situation" issued by the Auditing and Assurance Standards Board of ICAI in May 2020 should be looked into if the situation is also applicable that time.

Frauds (including cyber security frauds) is another area which the auditor should be sceptical about. While in the limited audit time it is not possible to do a detailed deep dive, any major control weaknesses noted or pending from issues brought out in earlier audits should be highlighted. The auditor should also comment on the adherence to the anti-fraud policy of the bank, process for identification of fraud scenarios, control mapping & training thereon.

The entire audit team has to be made aware and sensitized of the finer nuances of bank branch audit. Attending year end seminars on bank audits, reading the bank branch audit articles published in the ICAI

Journal, refresher materials published by the Regional Councils of ICAI should definitely aid knowledge.

Revenue recognition is a key area and the process of updation, accurate application and modification of interest rates both on deposits and advances will have to be verified.

NPA identification is an area where the RBI inspection always finds divergences. The crux of all bank branch audits is to ensure that IRAC norms have been correctly complied with. NPAs have to be identified from the system without any manual intervention. Any issues in interpretation of IRAC norms could be sorted out in consultation with the Central Statutory Auditors (CSA). The correspondence should be in writing so that it can serve as an audit trail to justify the rationale for taking a particular stand.

Another area which the auditor should focus on is KYC-AML. The process of reporting in the CTR, identification of alerts and its subsequent reporting as suspicious in the STR should be verified. Even if the reporting process is centralized, the transaction diligence is done at the branch and the robustness of the diligence process should be verified. FATF recommendations and the red flag indicators pointed out by IBA should be borne in mind.

Other areas to be focussed upon are -

1) Adherence to key policies like Credit, KYC-AML

- Risk classification of accounts as High, Medium and Low
- 3) Priority sector classification
- 4) Balance transfers to DEAF
- 5) Reversal of last year's MOC
- 6) Stock audit reports especially calculation of correct drawing power
- 7) MIS reports generated especially exception reports
- 8) Reconciliation of Inter Office accounts
- 9) Suspense account monitoring
- 10) Monitoring end use of funds and fund diversion
- 11) Classification of Guarantees as financial and performance
- 12) Pending issues from reports of various audits
- Booking of fixed assets and providing depreciation thereon
- 14) Cash and ATM Operations
- 15) Remittances, SWIFT and Foreign Currency account operations wherever applicable

A key requirement in bank branch audit is the issuance of the LFAR which is a detailed questionnaire requiring the auditor to comment on the internal functioning of the branch for the entire year. The auditor is at the branch physically or virtually only for a few days at the year-end while his comments cover the entire

Revenue recognition is a key area and the process of updation, accurate application and modification of interest rates both on deposits and

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verified

year. The comments made in the LFAR are based on his observations of the processes / systems in operation at the time of his audit. The auditor relies on Management Representation Letters, Concurrent, stock, internal audit reports and previous years LFAR. The auditor should comment on the LFAR points only after conducting verification of these concerned processes. He should clearly state in his observations, the basis of arriving at a particular response to the question. This should state what he did (area covered), how he did (audit methodology) and to what extent he did (transactions sampled). The reliance on the Management representations, Concurrent audit reports wherever done should be explicitly stated. Discussions with concurrent auditors is a must.

Management Representations if not received should be explicitly stated and appropriate disclaimers should be made in the concerned LFAR question

The auditor should not use the LFAR to state issues which otherwise would have been a

matter of qualification in the auditor's report. The LFAR can only add to the qualification in auditor's report but can never substitute it.

The auditor is also required to issue various certificates as part of the audit requirement. The certificates should be verified for data accuracy and compilation from the source records. In case, any calculations are manually done, then the process needs to be verified for robustness. Necessary professional scepticism has to be exercised and cross corroborative evidence to support the validation should be verified wherever available. The auditor can only give a reasonable or limited assurance in case of certificates which has to be strictly borne in mind. The certificates are to be issued in terms of the "Guidance Note on Reports or Certificates for Special Purposes (Revised 2016)" issued by the ICAI.

The certificates issued should state in detail the documents verified, the actual issues verified, methodology of

A key requirement in bank branch audit is the issuance of the LFAR which is a detailed questionnaire requiring the auditor to comment on the internal functioning of the branch for the entire year.

verification and the extent of verification.

From the previous year, the branch auditors of public sector banks also have to issue report on Internal Financial Controls Over Financial Reporting as it was made mandatory by RBI for public sector banks. The auditor should specifically refer the "Technical Guide on Audit of Internal Financial Controls in Case of Public Sector Banks" issued by the Auditing and Assurance Standards Board of ICAI (especially Appendix V of the Technical Guide which gives illustrative risk control matrices in respect of various areas. The Appendix V covers 17 points on advances and 7 points on deposits)

The real challenge for the auditor is the time pressure, availability of data, obtaining timely, correct and complete responses to the issues raised. Auditor requires a skill of framing the right question and attentive listening to obtain the relevant information on time and in entirety. The branch management responses to the queries raised have to address the issue and should be duly incorporated in the auditor's report. Sign off from the branch head should be specifically obtained on the responses submitted. The auditor should also factually state the date of commencement of audit and the actual man-hours spent. The auditor should not bow down to the time pressure and sign off without complete verification. The auditor should at the audit commencement stage issue a complete list of details needed which should be updated daily taking stock of what details are received and

Auditor requires a skill of framing the right question and attentive listening to obtain the relevant information on time and in entirety.

what details are pending. The auditor should be in regular touch with the CSA and the Regional Bank Audit Department (RBAD) co-ordinating the audit communicating the status of audit and constraints faced especially delays hampering the smooth conduct of audit. If despite the fact, the auditor's report still has to be signed off on a particular date because of non-negotiable deadlines, the auditor could gualify or disclaim in the auditor's report as appropriate, keeping the concerned CSA & RBAD in loop.

Conclusion

The auditor should approach a bank branch audit in a similar manner to any statutory audit considering well the time constraints, finer aspects of how a bank functions and the ever- changing RBI regulations mandating governance of banks.

Planning and training are key. Appropriate guidance of peers should be taken wherever felt necessary.

The auditor has to apply necessary due care and diligence with the right blend of professional scepticism clearly documenting the audit process from start to end.

Auditor has to stand firm ethically and do the right things right.

Whenever there is a risk, one needs to derisk. Every risk can be derisked.

Prudential Norms on Income Recognition and Asset Classification – Changes effective for 31.3.2022

This Article is intended to provide a look into the Prudential Norms on Income Recognition and Asset Classification for Banks with special reference to the changes which are effective for the year ended 31.3.2022. Read on...

Important RBI notifications

- 1. RBI/2020-21/37 Ref. No. DoS.CO.PPG./ SEC.03/11.01.005/2020-21 dated September 14, 2020 - Automation of Income Recognition, Asset Classification and Provisioning processes in banks
- RBI/2021-2022/104 DOR.No.STR. REC.55/21.04.048/2021-22 dated October 1, 2021-Master Circular - Prudential norms on Income Recognition, Asset Classification and Provisioning pertaining to Advances
- 3. RBI/2021-2022/125 DOR.STR.

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REC.68/21.04.048/2021-22 dated November 12, 2021-Prudential norms on Income Recognition, Asset Classification and Provisioning pertaining to Advances – Clarifications

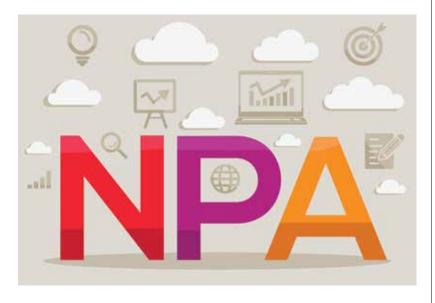
 RBI/2021-2022/158 DOR.STR. REC.85/21.04.048/2021-22 dated February 15, 2022 - Prudential norms on Income Recognition, Asset Classification and Provisioning pertaining to Advances – Clarifications

Automation of IRAC norms – Daily reckoning of NPA

Bank Audit

This should be the **most important** change in the IRAC norms going forward from the current year and hence the members are advised to familiarise themselves before the audit is taken up.

As per notification dated September 14, 2020, banks were required to put in place / upgrade their systems to conform to the guidelines in respect of automated Asset



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Classification (classification of advances/investments as NPA/ NPI and their upgradation) latest by June 30, 2021. The banks have submitted compliance of this circular to RBL. It is understood that while the automation is put in place generally, there are specific areas where the same is in progress and hence the members while approaching the audit for the current year may initially confirm the extent to which automation is in place.

All borrowal accounts. including temporary overdrafts, irrespective of size, sector or types of limits, are required to be covered in the automated IT based system (System) for asset classification, upgradation, and provisioning processes along with Banks' investments

Calculation of provisioning requirement shall also be System based as per pre-set rules for various categories of assets, value of security as captured in the System and any other regulatory stipulations issued from time to time on provisioning requirements.

In addition, income recognition/reversal in case of impaired assets (NPAs/NPIs) shall be system driven and amount required to be reversed from the income account should be obtained from the System without any manual intervention.

The System shall handle both down-grade and upgrade of accounts through Straight Through Process (STP) without manual intervention.

The System based asset classification shall be an ongoing exercise for both downgradation and up-gradation of accounts. Banks are required to ensure that the asset classification status is updated as part of *day end process* which is a significant departure from, which were hitherto, an exercise as on the balance sheet date.

In short, the down grading of borrower accounts as NPA and up grading as standard asset would be a daily exercise instead of being carried out as on the balance sheet date.

Consequential changes - Classification as NPA -Term Loans

As a result of the moving into daily identification of NPA, various clarifications are issued by RBI vide its circular dated 12.11.2021.

As per the circular, the borrower accounts shall be flagged as *overdue* by banks as part of their day-end processes for the due date. Similarly, classification of borrower accounts as SMA as well as NPA shall be done as part of day-end process for the relevant date and the SMA or NPA classification date shall be the *calendar date* for which the day end process is run. In other words, the date of SMA/NPA shall reflect the asset classification status of an account at the day-end of that calendar date.

Example: If due date of a loan account is March 31, 2021, and full dues are not received before the banks runs the day-end

process for this date, the date of overdue shall be March 31, 2021. If it continues to remain overdue, then this account shall get tagged as SMA-1 upon running day-end process on April 30, 2021 i.e. upon completion of 30 days of being continuously overdue. Accordingly, the date of SMA-1 classification for that account shall be April 30, 2021.

Similarly, if the account continues to remain overdue, it shall get tagged as SMA-2 upon running day-end process on May 30, 2021 and if continues to remain overdue further, it shall get classified as NPA upon running day-end process on June 29, 2021. (Refer paragraph 11.97 of Guidance Note on Audit of Banks 2022 edition)

The circular further clarifies that in case of interest payments, generally, an account is classified as NPA only if the interest due and charged during any quarter is not serviced fully within 90 days from the end of the quarter. In order to fully align with the 90 days delinquency norm as well as the requirement to apply interest at monthly rests, the instructions are modified to the effect that in case of interest payments in respect of term loans, an account will be classified as NPA if the interest applied at specified rests remains overdue for more than 90 days. (Refer paragraph 11.99(a) of Guidance Note on Audit of Banks 2022 edition)

The circular also requires that the exact due dates for repayment of a loan, frequency

of repayment, breakup between principal and interest, examples of SMA/NPA classification dates, etc. shall be clearly specified in the loan agreement and the borrower shall be apprised of the same at the time of loan sanction and also at the time of subsequent changes. As a result, the date of debit of interest in the borrower account becomes important. Some banks run the interest application on staggered days during the last week of every month/ quarter. In such cases, the 90 day norm shall be calculated accordingly. Auditors need to ensure that the application of IRAC norms are ensured accordingly, during the audit for the current year.

Consequential changes – CC/OD accounts

In the case of CC/OD accounts, an account was considered as 'out of order' only if there were no credits continuously for 90 days as on the date of Balance Sheet or credits were not enough to cover the interest debited during the same period.

The determination of 'out of order' status of CC/OD accounts would now be on the following basis:

- i. the outstanding balance in the CC/OD account remains continuously in excess of the sanctioned limit/drawing power for 90 days, or
- ii. the outstanding balance in the CC/OD account is less than the sanctioned limit/ drawing power but there are

no credits continuously for 90 days, or

 iii. the outstanding balance in the CC/OD account is less than the sanctioned limit/ drawing power but credits are not enough to cover the interest debited during the previous 90 days period.

Accordingly, treatment of CC/ OD accounts as 'out of order' on or after the date of this circular shall be based on the above instructions. In other words, the reckoning of NPA in the case of CC/OD accounts by regularisation near to the balance sheet date is no longer possible. (Refer paragraph 11.98 of Guidance Note on Audit of Banks 2022 edition)

The change could be best *explained with the following* example: Hitherto, if the outstanding balance in any CC/OD account was above the sanctioned limit / drawing power say from 15th December, it would have been possible to retain the account as standard if the remittance is received on or before 31st March to bring the balance outstanding within sanctioned limit / drawing power. In the same manner, even if there are no credits in the account in the months of December, January and February and credit is received by end March, the account would have continued to be standard. Applying the revised norms, the account would turn NPA by end of day on 14th March, being the end of the 90^{th} day.

Since banks have moved into monthly debits towards interest, credits to cover interest debit period should also be reckoned in a 90 day period from each debit. Example for an interest debit on 30th November, if the credits between 30th November to 27th February are not enough to cover the interest debit, the account will be NPA by end of day on 27th February.

Bank Audit

Banks have come out with exquisite and innovate loan products where OD facility is granted against primary security of property, personal guarantee of borrower etc. In all these cases, there is no requirement of furnishing monthly stock statements, yearly audited accounts etc. and consequently the computation of drawing power is not required. Monitoring of end use of funds is also not required as per the internal circular issued to branches. In some cases, borrowers are required to service only the interest debited. Doubts had arisen whether under such circumstances the revised 90 days norm as above would be attracted. RBI vide its clarification dated 15.2.2022, has made it clear beyond any doubt that:

i. The definition of 'out of order', as clarified in the Circular, shall be applicable to all loan products being offered as an overdraft facility, including those not meant for business purposes and/or which entail interest repayments as the only credits.

 The 'previous 90 days period' for determination of 'out of order' status of a CC/OD account shall be inclusive of the day for which the day-end process is being run.

The members while carrying out the branch audit, need to closely look at the above changes mandated as it is quite doubtful whether the system updation to capture all such circumstances are in place.

Standard Assets under Securitisation

Master Direction – Reserve Bank of India (Securitisation of Standard Assets) Directions, 2021 dated 24.9.2021 explains Securitisation as those transactions where credit risk in assets are redistributed by repackaging them into tradeable securities with different risk profiles which may give investors of various classes access to exposures which they otherwise might be unable to access directly. While complicated and opaque securitisation structures could be undesirable from the point of view of financial stability, prudentially structured securitisation transactions can be an important facilitator in a well-functioning financial market in that it improves risk distribution and liquidity of lenders in originating fresh loan exposures. As per paragraph 55 of the said directions, the asset is to be treated as NPA if the amount of liquidity facility remains outstanding for more than 90 days in respect of

a securitisation transaction undertaken in terms of the said directions (Refer paragraph 11.99(d) of Guidance Note on Audit of Banks 2022 edition).

Agricultural Advances

The IRAC norms in the case of agricultural advances would be based on whether such advances are for 'long duration' or 'short duration' crops. The crop season for each crop would be as determined by the State Level Bankers' Committee in each State. Depending upon the duration of crops raised by an agriculturist, the above NPA norms would also be made applicable to agricultural term loans availed of by the borrower.

The above norms should be made applicable only to Farm Credit extended to agricultural activities as listed at Annexure -2 to RBI circular no. RBI/2021-2022/104 DOR.No.STR. REC.55/21.04.048/2021-22 dated October 1, 2021. In respect of agricultural loans, other than those specified in the Annexure - 2, identification of NPAs would be done on the same basis as non-agricultural advances, which, at present, is the 90 days delinquency norm. (Refer paragraph 11.101 of Guidance Note on Audit of Banks 2022 edition)

Upgradation of accounts classified as NPA

With the alignment of classification of borrower accounts as NPA on a 90 days norm, there are consequential changes in the upgrading of accounts that are classified as NPA. Due to the percolator effect, once one facility of a borrower is classified as NPA, all other facilities are also treated as NPA though the other facilities could be only in SMA category. RBI circular of 12.11.2021 makes it categorical that: It has been observed that some lending institutions upgrade accounts classified as NPAs to 'standard' asset category upon payment of only interest overdues, partial overdues, etc. In order to avoid any ambiguity in this regard, it is clarified that loan accounts classified as NPAs may be upgraded as 'standard' asset only if entire arrears of interest and principal are paid by the borrower.

Hence, upgradation is allowed only if the account reaches "no over dues" status. This should not be misunderstood with "overdues brought within 90 days". Further, in case of borrowers wherein the bank has multiple exposures, it would be pertinent to note that the 'no overdue' status needs to

The IRAC norms in the case of agricultural advances would be based on whether such advances are for 'long duration' or 'short duration' crops. The crop season for each crop would be as determined by the State Level Bankers' Committee in each State.

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Due to the percolator effect, once one facility of a borrower is classified as NPA, all other facilities are also treated as NPA though the other facilities could be only in SMA category.

be achieved with reference to all exposures of the bank as on the date of upgradation of the account. (Refer paragraph 11.135 (i) of Guidance Note on Audit of Banks 2022 edition).

For example, if a term loan account is classified as NPA and if the borrower has a home loan which may be standard, that too would be classified as NPA. Suppose the home loan account slips to SMA when the term loan irregularity is removed, the borrower continues to be an NPA until the home loan account also moves from SMA to Standard, *with no overdues*.

Auditors may bear in mind the guidance given in Page 396 of the Guidance Note on Audit of Banks 2022 edition where it is cautioned that in case of advances upgraded during the year, the auditor needs to review such upgradation in the light of the criteria specified for upgradation of NPA accounts, considering the possibility of incorrect upgradation of account on the basis of partial recoveries made in the account wherein the overdue portion is not extinguished in entirety, recoveries made

in the account subsequent to the cut-off date, (i.e., date of financial statements) and non-identification of NPAs on on-going basis resulting in an account being considered as standard though overdue portion of such unidentified NPAs is not recovered in entirety.

This aspect is once again reiterated in the clarification circular issued by RBI on 15.2.2022 which reads as under: In case of borrowers having more than one credit facility from a lending institution, loan accounts shall be upgraded from NPA to standard asset category only upon repayment of entire arrears of interest and principal pertaining to all the credit facilities.

Here again, the members need to exercise caution as it is understood that the system updation in this regard is not complete in many banks and there are possibilities of errors in identification.

It may be borne in mind that upgradation of accounts classified as NPA due to restructuring, non-achievement of date of commencement of commercial operations (DCCO), etc., the instructions specified for such cases shall continue to be applicable.

Income recognition policy for loans with moratorium on payment of interest

There have been lot of discussions and debates on accrual of interest during moratorium period as well as 12.11.2021 has issued necessary

clarification in such cases.

Bank Audit

In cases of loans where moratorium has been granted for repayment of interest, banks may recognize interest income on accrual basis for accounts which continue to be classified as 'standard'. This shall be followed only in the case of borrower accounts falling within the definition of 'restructuring' provided in paragraph 1 of the Annexure -1 of RBI circular - 'Prudential Framework for Resolution of Stressed Assets' dated June 7, 2019. Income recognition norms for loans towards projects under implementation involving deferment of DCCO and gold loans for nonagricultural purposes shall continue to be governed as per the existing instructions issued in this regard. For DCCO cases reference may be made to Para 4.2.15 of Master Circular dated 1.10.2021 and in the case of agricultural advances

In cases of loans where moratorium has been granted for repayment of interest, banks may recognize interest income on accrual basis for accounts which continue to be classified as 'standard'.

RBI circular DBOD.No.BP. BC.27/21.04.048/2014-15 dated July 22, 2014 as updated from time to time may be referred to.

Paragraph 3.2 of the Master Circular on Prudential norms dated October 1, 2021 requires that once an account is classified as NPA, the interest accrued and credited to income account in the past periods, must be reversed to the extent it remains unrealised. However, if loans with moratorium on payment of interest (permitted at the time of sanction of the loan) become NPA after the moratorium period is over, the capitalized interest corresponding to the interest accrued during such moratorium period need not be reversed

In the case of interest during the period of COVID moratorium (March 2020 to August 2020) converted into FITL, they were required to be repaid before 31.3.2021. In case of failure to pay the same, the FITL need not be reversed, but should be considered as NPA applying the normal 90 days norm. This is because of specific direction contained in RBI circular dated 17.4.2020 on Covid 19 which specified that the conversion of accumulated interest into FITL as permitted under this circular was not to be treated as concession granted due to financial difficulty of the borrower and consequently will not result in asset classification downgrade, thereby granting relief in the form of retention of class of asset to such accounts (Refer paragraph 11.185 of Guidance Note on Audit of Banks 2022 edition)

Appropriation of recovery in NPA accounts

Many banks were following the accounting policy of appropriation of recoveries in NPA accounts first towards principal and balance if any towards interest and other charges. This was adopted to bring down the Gross NPA which was significant till recently. Some of the banks have changed the accounting policy in the last two years. As per changed policy, recoveries in NPA accounts, except in cases like OTS or in cases where there is a clear agreement for appropriation towards principal, are appropriated towards interest and charges first and balance only towards principal. Auditors are advised to go through the significant accounting policies as well as published quarterly results for the current year to ascertain if there was any change in accounting policy and ensure that the appropriation is done according to the changed policy. (Refer paragraph 11.131 of Guidance Note on Audit of Banks 2022 edition)

Provisioning for Loans and Advances

RBI Master Circular dated October 1, 2021 on Prudential Norms on IRAC contains the principles to be followed by banks in calculating the provisions required for the NPAs. In order to enhance transparency and ensure correct reflection of the unsecured advances in Schedule 9 of the "

As per changed policy, recoveries in NPA accounts, except in cases like OTS or in cases where there is a clear agreement for appropriation towards principal, are appropriated towards interest and charges first and balance only towards principal.

banks' balance sheet RBI has stipulated various requirements.

Attention of the members is drawn to the disclosure requirement of advances for which *intangible securities* such as charge over the rights, licenses, authority, etc., have been taken as also the estimated value of such intangible collateral. The disclosure is to be made under a separate head in "Notes to Accounts". This would differentiate such loans from other entirely unsecured loans.

As per the existing instructions of RBI, in the Balance Sheet of banks, the advances against book debts (though not tangible assets), charged as security are grouped as "secured by tangible assets" and disclosure is made with a remark in parenthesis in Schedule 9, without any quantification of the advances covered by security of book debts.

However, as per Master Circular dated 1.10.2021, the amounts comprising the intangibles (such as charge over the rights, licenses, authority, etc.) will need to be culled out of the secured exposures and quantified to be reflected as unsecured advances; which would also require corresponding reclassification of advances for the earlier year. More importantly, in case of NPAs, the unsecured portion would attract a higher provision, when segregated from the secured portion. (Refer paragraph 11.138 of Guidance Note on Audit of Banks 2022 edition)

Advances covered by certain types of guarantee

In case the advance covered by Credit Guarantee Fund Trust for Micro and Small Enterprises (CGTMSE) or Credit Risk Guarantee Fund Trust for Low Income Housing (CRGFTLIH) guarantee becomes non-performing, no provision need be made towards the guaranteed portion. The amount outstanding in excess of the guaranteed portion should be provided for as per the existing guidelines on provisioning norms. Illustrative examples of provisioning in case of advances covered by CGTSI guarantee is given under

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Verification of advances and application of IRAC norms continues to be the most important area in the case of bank audits. Paragraph 5.9.4 of the RBI Master Circular dated October 1, 2021 on Prudential Norms (Refer paragraph 11.151 of Guidance Note on Audit of Banks 2022 edition).

Restructured Advances

Over the last two years different guidelines have been issued on restructuring of advances and guidelines to be followed in complying with IRAC norms. Part B1 of RBI Master Circular dated October 1, 2021 explains the Framework for resolution of stressed assets while Part B2 of RBI Master Circular dated October 1, 2021 explains the prudential norms applicable for restructured advances. Para 15.3 of the above said Master Circular gives the special dispensation granted to specific categories of borrowers on account of COVID 19. Accounts restructured under the revised framework shall attract provisioning as per the asset classification category as laid out in Part A of the above said Master Circular. The members may go through the guidelines explained in detail in paragraphs 11.159 to 11.209 of the Guidance Note on Audit of Banks 2022 edition since restructuring as well as provisioning guidelines are distinct and different across categories of borrowers. This is besides the disclosure requirement of such advances in the Notes on Accounts.

Conclusion

Verification of advances and application of IRAC norms continues to be the most important area in the case of

Bank Audit

The auditors, both branch and central, are required to continue to keep vigil in ensuring compliances and not to be carried away by the fact that the number of divergences observed by RBI in asset classification have come down over the period of time.

bank audits. The identification and classification of accounts as NPA would be the challenge continued to be faced in the audit of branches while ensuring the provisioning requirements are taken care would be the responsibility of the central statutory auditors. The changed 90 day norms both for classification and upgrading of NPA which is reiterated by RBI through two clarification circulars shows the intention of the regulator in ensuring compliance. The auditors, both branch and central, are required to continue to keep vigil in ensuring compliances and not to be carried away by the fact that the number of divergences observed by RBI in asset classification have come down over the period of time. The members, especially those who are presently carrying out only branch audits, should familiarise themselves with the guidance given in the Guidance Note on Audit of Banks issued by ICAI which is updated every year and published much before the audit process is expected to commence.

Demystifying Non Fungible Tokens

Non Fungible Tokens (NFT) are the game changers in the world of decentralised digital currencies. NFT are the ownership claims of the virtual assets created by their owners. NFT is a proof that uses the blockchain to record the ownership of the digital asset. In India, the NFT craze is picking up as many celebrities have recently joined the NFT club to launch their digital memorabilia. With the increasing popularity of NFT, this paper tries to demystify these digital assets. This conceptual paper develops an understanding about NFT, their future in India and an analysis of the strength, weaknesses, opportunities and challenges these virtual assets will create. Read on...



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Introduction

In February 2021, the meme of The Nyan Cat was sold for \$600,000, Jack Dorsey founder of Twitter auctioned his first Tweet for \$2.5m. These transactions refer to the assets that existed in the virtual world. In the virtual space some assets have intrinsic individuality i.e., these assets do not have any substitution or an identical item. These virtual assets are owned by their creators. Ownership claims of the virtual assets is created through Non fungible Assets. Non fungible tokens are thus, the new assets in the virtual world. This paper studies the concept of NFT and decodes this latest evolution of the virtual world from an Indian perspective.

Understanding Non Fungible Tokens

Non Fungible Tokens represent the non-flexible assets on the blockchain. These cryptographic tokens are built on the Ethereum blockchain (Kugler, 2021). NFT are similar to Bitcoins in the way that these are minted and sold on the internet in same manner. However, Bitcoins are fungible. An asset that can be replaced with an identical one in terms of both quality and quantity, it is deemed fungible (e.g. money). Similarly, an asset is non-fungible when it is not possible to replace it with a similar item due to the good's inherent uniqueness (e.g. a work of art. A fungible token is a token equal to every other of its kind and capable of mutual substitution. In fact, "one fungible token can be traded or exchanged for another fungible token (of the same kind)."(Panel et al., n.d.).

Objective of the Paper

- 1. Understanding the concept of NFT.
- 2. Understanding the future of NFT in India.
- 3. SWOC Analysis of NFT.



Digital Assets

Research Methodology

The study is a conceptual study undertaken in three stages. The first stage is about understanding NFT. The second stage of the study looks into the way forward for NFTs in India. And in the last stage, a SWOC analysis of NFT is undertaken.

Literature Review

(Wang et al., 2021) The authors discuss the technical aspects of NFT. The paper explains NFT's as unique identifications that are tied to virtual/digital properties. According to the study, "till May 2021, the total amount spent on completed NFT sales was 34, 530, 649.86 USD, which was a ten-fold return on its growing market". These returns have attracted a lot of attention from all across the world. The NFT ecosystem is, however, still in its early stages of development, and NFT technologies are still in their infancy.

(Lau, 2020) Non-fungible tokens combine the greatest features of decentralised blockchain technology with non-fungible assets to generate tokens that are unique, rare and provably legitimate. The paper studies the various applications of NFTs which includes collectibles. gaming, art, virtual assets, and tokenizing real-world goods. NFT also provide a versatile approach to store, control, and safeguard personal information. The paper concludes that despite their advantages, NFT adoption is currently modest owing to inaccessibility, the newness of the technology, the unpredictability of transaction costs, the complexity of linking real-world assets to NFTs, and regulation are all barriers to widespread use of NFTs.

(Kugler, 2021) The study points at the importance of NFTs and

states that before NFTs," there was no widely accepted way to determine the "original" piece of a digital artwork. There was also no widely accepted way to prove or transfer its ownership". The paper finds potential for NFTs in the art market and beyond. The paper investigates how NFTs have changed the way artists and creators make a living while also changing how people buy, sell, and relate to art because of their ability to mint ownership of digital assets.

(Trautman, 2021) The paper is a discussion of the new and rapidly expanding market for digital art. It investigates how the digital world and virtual property have evolved. The paper also contains an explanation and history of the blockchain and virtual currencies. There is a brief discussion of unresolved concerns affecting the law of NFTs, as well as possible solutions and some ideas on the future of digital real estate.

(Valeonti et al., 2021) The paper observes that Nonfungible tokens (NFTs) make it possible to possess and exchange digital assets, for the first time introducing the concept of scarcity into the digital arena. As a result of this technological advancement, this article investigates whether they provide a means for galleries, libraries, archives, and museums (GLAM) to raise funds by selling ownership of digital copies of their holdings.

(Bao, 2021) The study highlights the meteoric rise of CryptoKitties (NFT), which led to the Ethereum network's blockage in December 2017 and the growth of the NFT market. "The NFT market remained stable until mid-2020. with an average daily trading volume of \$60,000. However, the market has been rapidly expanding since July 2020, with

NFT are similar to Bitcoins in the way that these are minted and sold on the internet in same manner. However, Bitcoins are fungible.

total daily volume topping 10 million in March 2021, making it 150 times greater than it was eight months prior." NFT is most commonly employed in sectors such as art, collectibles, games, metaverse, other, and utility, according to the study. However, no research on the efficiency and spill over effects of the NFT market has been conducted in any of the available articles, according to the study.

Roadmap for NFT in India

Globally, "the total market cap of NFTs is \$18,369,471.87 as on December 1, 2021, according to a global crypto exchange coinmarketcap.com and "increased by 28.49 per cent in the last 24 hours". The NFT business in India is expanding, with Bollywood celebrities being the most recent to jump on board. These celebrities are either launching or about to launch their NFTs. This section of the paper looks into India's landscape of NFT.

Legality of NFT in India; Are they (NFT) even legal: As of today, there is no blanket limitation prohibiting an Indian resident from purchasing or selling NFTs. However, the Foreign Exchange Management Act of 1999 creates some ambiguity (FEMA). NFTs are non-fungible, but currencies, both traditional and crypto, are fungible, hence any future

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rule restricting or prohibiting crypto-asset transactions should preferably exclude them. Since there is no separate legal framework for NFTs in India there is a confusion over how to classify NFT's. "Some argue that NFTs are contracts, while others argue that they are derivatives. If the latter is correct, trading in NFTs in India would be prohibited."

Double Taxation: Despite its popularity, consumers interested in purchasing digital collectibles may find themselves paying higher taxes to the government. When buying an NFT, the buyer may be subjected not just to the GST, but also to a 2% equalisation tax, which is normally reserved for enterprises based outside of India but operating in India.

Environmental Issues

There is a growing belief that NFTs are partially liable for the millions of tonnes of CO_2 emissions produced by cryptocurrencies used to buy and sell NFTs. Ethereum blockchain, are used to store NFT, one Ethereum transaction consumes approximately 178.89 kilowatts per hour, which is still more than 1,000 Visa transactions. Ethereum utilised 33 Terawatt hours of

When buying an NFT, the buyer may be subjected not just to the GST, but also to a 2% equalisation tax, which is normally reserved for enterprises based outside of India but operating in India. electricity in April 2021, which is equivalent to the whole country of Serbia, and has clocked 94.1 TWh per year as of December 2021.

Security Issues

The NFT ecosystem is in the nascent stage and it is expected to grow in the times to come. Hence the security risks involved in the NFT transactions need to be considered and appropriate defence mechanism needs to adopted to tackle them. The risk of a blockchain based attack, Tampering, Spoofing or denialof-service (DoS) attack are some of the security risks involved in NFT space.

SWOC Analysis

A SWOC analysis has been undertaken to create a better understanding of NFT in terms of the external and internal factors that may affect its performance. These factors create opportunities, throw light upon the strengths, weaknesses and also challenges that will be encountered by NFT.

Strengths

Non-fungible tokens combine the greatest features of decentralised blockchain technology with non-fungible assets to create blockchain based tokens that are provably unique, rare, and authentic. NFTs are:

- No two NFTs are alike. Each NFT has a unique characteristic that is frequently documented in the token information.
- NFT is stored on the blockchain network. Hence, the certificate of ownership is available on a variety of

The NFT ecosystem is in the nascent stage and it is expected to grow in the times to come. Hence the security risks involved in the NFT transactions need to be considered and appropriate defence mechanism needs to adopted to tackle them.

networks, this allows the owner of a digital asset to be identified.

- Most NFTs cannot be broken down into smaller denominations, nor can they be bought or transferred in part. NFTs are indivisible.
- These tokens guarantee the ownership of the asset transferred.
- They are fraud-proof since they are freely transferable and unaffected by fraud.

Weaknesses

- The newness and complexity of the technology makes it difficult for laymen to understand NFT.
- The unpredictability of transaction cost is a drawback of NFT.
- High and fluctuating transaction fee.
- Investing in NFT does not assure the buyer that the virtual assets acquired by him have no copies on the internet.

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Opportunities

- NFTs can be used to represent all kinds of creative work in the virtual world e.g. collectibles, games, art, virtual assets, and tokenizing real-world assets are just a few examples where NFTs might be used. They also provide a flexible method of storing, controlling, and safeguarding personal information.
- Thus, these digital assets can expand a company's market and generate new revenue streams, allowing firms of all sizes to diversify their revenue streams.

Challenges

- The complexity of linking real-world assets to NFTsalso defines the value of NFT.
- NFT also faces the legal challenges as till date there is no legal definition for the NFT in fact different countries across the world use different approaches to classify these assets.
- The growth of NFT has also brought in light the security concerns in the form of cyber threats for the NFT market.

"

NFT is stored on the blockchain network. Hence, the certificate of ownership is available on a variety of networks, this allows the owner of a digital asset to be identified. • The blockchain on which NFTs function consumes a lot of energy, which has a negative impact on the environment, especially if the energy required for their operations comes from fossil fuels. These issues need to be addressed before the widespread use of NFTs.

Figure-1 SWOC Analysis of NFT

Weakness

Technology

Accessibility

transaction fee

Volatile

Strengths •Unique

•Digitally Scarce resources

• Indivisible • Fraud Proof

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Conclusion

NFT's are thus unique, traceable rare and indivisible. Non-fungil assets are combined with the finest features of decentralised blockchain technology to create NFTs. Unlike traditional digital assets, which are issued and governed by centralised institutions and can be taken away at any time, NFTs can be really owned and controlled by their owners. Overall, it can identified that NFTs are a young asset class that has the potential to evolve into an uncorrelated asset class. which is a very desirable feature for investors seeking assets to store their monetary worth.

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NFT's are thus unique, traceable, rare and indivisible. Non-fungible assets are combined with the finest features of decentralised blockchain technology to create NFTs.

es	C	opportunities		Challenges
e	•Ga •Fa	gital Art iming shion al Estate		•Security Concerns •Carbon footprints •Art Theft •Legal issues
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Taxation

Key Issues in the Presumptive Taxation Scheme of Section 44AD

This article attempts to highlight key issues which have surfaced over the period of time under the presumptive taxation scheme of section 44AD of the Income-tax Act, 1961. Though the presumptive taxation scheme was introduced to simplify the law for small business/ profession, the legal position to certain aspects of these provisions are still subject to diversified views and interpretation. An attempt is made to explain these aspects with illustrations and after considering judicial precedents on the said matters. Read on...



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Introduction

Considerate about the hardship faced by small business classes in maintaining of books and other records, getting it audited and other compliances; section 44AD and section 44AE of the Income-tax Act, 1961 ("the Act") were introduced vide Finance Act. 1994 w.e.f. 01.04.1994. Over these years, there have been several amendments in these presumptive provisions apart from new provisions being introduced. In this article, we shall be attempting to address certain prominent intricacies prevailing in section 44AD.

Section 44AD provides that an eligible assessee who is engaged in an eligible business may opt for presumptive taxation and can declare a minimum of 8% of his turnover/gross receipt as income under chapter IV-D. Proviso to sub-section (1) provides for incentivized deemed profit rate of 6% in respect of that part of turnover/ receipt which is received by specified banking channel or specified electronic mode.

Imperative to understand that section 44AD does not operate independently and has interplay with other provisions like section 44AA (maintenance of accounts) and section 44AB (requirement to get accounts audited) which we shall be dealing herewith.

I. Section 44AD applies only to 'business' or even to 'profession'?

Sub-section (6) specifically provides that a person



Section 44AD provides that an eligible assessee who is engaged in an eligible business may opt for presumptive taxation and can declare a minimum of 8% of his turnover/gross receipt as income under chapter IV-D.

> carrying on any profession as referred to in section 44AA(1) cannot avail benefit of section 44AD. However, what if a person is carrying on a profession which is not covered by sub-section (1) of section 44AA, can such professional opt for section 44AD?

The title of section 44AA reads as 'Maintenance of accounts by certain persons carrying on profession or business'. Further, section 44AA(1) deals with certain specific profession whereas section 44AA(2) deals with 'business' or 'profession'.

Similarly, clause (a) of section 44AB specifically provides for threshold limit of 'business' to get accounts audited and clause (b) of section 44AB specifically provides for threshold limit of 'profession' to get accounts audited.

Thus, it can be observed that the legislature in its wisdom has specifically used the term 'business' or 'profession' wherever required. Now, for the purpose of section 44AD the legislature has only used the term 'business'; **thus**, **in my opinion provisions of section 44AD shall be applicable only to an activity which qualifies to be called as 'business' and not for 'profession'**.

To support this contention, reference may also be drawn from the decision of Hon'ble Supreme Court in the case of G.K.Choksi & Co. v. CIT [2007] 295 ITR 376 (SC) wherein it was held that wherever Legislature intended that benefit of a particular provision should be for both business or profession, it has used the words 'business or profession' and wherever it intended to restrict benefit to either business or profession, it has used either word 'business' or word 'profession'. The scope of the word 'business' as appearing in section 32(1)(iv) does not include in its word 'profession'. The ratio laid down in this case may even apply to the present intricacy.

Further, can a partner of a firm opt for section 44AD w.r.t. the remuneration and interest earned from the firm?

Hon'ble High Court of Madras in the case of Anandkumar vs. ITO [2021] 430 ITR 391

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(*Madras HC*) held that a partner of a firm in his individual capacity cannot be said to be carrying on business just on account of remuneration/interest received from such firm. Therefore, the remuneration and interest received by the assessee from the partnership firm cannot be termed to be a turnover/ gross receipts of the assessee.

Accordingly, a partner of a firm cannot opt for section 44AD for the remuneration/ interest earned.

II. Difference in actual income and presumed income

On plain reading of subsection (1) of section 44AD it can be ascertained that the section allows the eligible assessee to declare profit of 8% of the turnover/ gross receipt or such higher amount as claimed to have been earned by such assessee.

However, a vital question which is asked by the taxpayers is whether in case higher profit is earned (i.e.,

Sub-section (6) specifically provides that a person carrying on any profession as referred to in section 44AA(1) cannot avail benefit of section 44AD.

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more than 8%) then is it mandatory to offer such a higher rate of profit only.

Firstly, on interpretation of the phrase 'a sum higher than the aforesaid sum claimed to have been earned by the eligible assessee' it can be ascertained that the legislature has left upon the assessee to determine and declare the deemed rate of percentage, subject to minimum of 8%. Further, the use of phrase 'sum claimed to have been earned, shall be deemed to be the profits and gains of such business' itself leaves some room for discretion upon the Assessee. Here, the Assessee has to determine the income by himself based on his estimation. This does not mean that he should maintain each and every minute detail so as to substantiate the rate of profit, if that was so then the very purpose of presumptive taxation gets defeated.

By inserting the word 'claimed' the legislature has left the discretion/ estimation upon the Assessee. Further, the word 'presumptive' as used in the title of the section itself suggests that income shall be determined based on 'estimation'.

Because it is not obligatory to adopt a profit rate of 8% only; hence, it is imperative that the businessmen, based on their understanding and prudence, offer the business income at the profit rate which they are of the view, their business might have reasonably generated (subject to minimum of 8%).

If the legislature is entrusting the small businessmen with selfassessment of tax on presumptive basis and provides easement from complex compliance requirements, then it becomes a moral obligation upon such masses to act conscientiously and respect the law.

However, at this juncture it is pertinent to refer to the decision of Hon'ble High Court of Allahabad in the case of CIT vs. Nitin Soni [2012] 21 taxmann.com 447 (Allahabad) wherein while interpreting identical provisions of section 44AE it was held that the words 'shall be deemed' are the keys words and they are indicative of the legislative intent that the tax shall be chargeable on presumptive income. Such presumptive schemes are made just to complete the assessment without further probing. The presumed deemed income is taxable, such deemed income may be more or less than the actual income. Such an assessee is not required to maintain any account books. Thus, even if, its actual income in a given case, is more than income calculated as

per presumptive scheme, cannot be taxed.

Hon'ble Punjab & Haryana High Court in case of CIT Vs. Surinder Pal Anand [2010] 192 Taxman 264, held that once under a special provision, exemption from maintaining books is provided and rate of 8% of gross receipts itself is the basis for determining the taxable income then the assessee is under no obligation to explain individual entries of bank unless such entry had no nexus with the gross receipts.

In case of Nandlal Popli Vs. DCIT [ITA no. 1161&1162/Chd/2013], Hon'ble Chandigarh ITAT held that if 8% of gross receipts is 'deemed' income then remaining 92% is also 'deemed' expenditure for the purpose of taxation and the actual income/ expenditure may be varying. Assessing officer cannot ask the assesse to prove the expenditure to the extent of 92%.

III. Ineligibility of 5 years

Sub-section (4) of section 44AD provides that if for any assessment year the Assessee has opted for provisions of section 44AD and if anytime in immediately succeeding 5 assessment year such assessee declares profit not in accordance with provisions of section 44AD; then in such circumstances, the said assessee will be ineligible to opt for the benefit of presumptive taxation of section 44AD for 5 Assessment Years immediately succeeding the year in which the Assessee decides not to declare profit in accordance with section 44AD.

Example

Mr. RST claims to be taxed on presumptive basis under Section 44AD for AY 2019-20. For AY 2020-21 and 2021-22 also he offers income on the basis of presumptive taxation scheme. However, for AY 2022-23, he did not opt for presumptive taxation Scheme. In this case, he will not be eligible to claim benefit of presumptive taxation scheme for next five Assent Years, i.e., from AY 2023-24 to 2027-28.

In other words, once provisions of section 44AD are opted for an Assessment Year, the same shall be opted for subsequent 5 assessment years also; otherwise the said assessee will be ineligible to avail the benefit for 5 Assessment Years subsequent to the Assessment Year of default, moreover he would also be required to get his accounts audited pursuant to subsection (5) of section 44AD.

IV. Requirement of conducting audit

Sub-section (5) of section 44AD was substituted *vide*

Finance Act, 2016 w.e.f. AY 2017-18. However, before analyzing the present provisions of sub-section (5) of section 44AD it is important to understand the requirement for audit under the erstwhile law.

Requirement for Audit under section 44AD prior to AY 2017-18

The erstwhile sub-section (5) reads as follows:

(5) Notwithstanding anything contained in the foregoing provisions of this section, an eligible assessee who claims that his profits and gains from the eligible business are *lower than the profits* and gains specified in sub-section (1) and whose total income exceeds the *maximum amount which is* not chargeable to incometax, shall be required to keep and maintain such books of account and other documents as required under sub-section (2) of section 44AA and get them audited and furnish a report of such audit as required under section 44AB.

The erstwhile provision for audit was plain and clear and requirement for maintaining books of accounts and getting them audited arose only when both of these conditions were fulfilled:

1st condition: The assessee claims that his profit rate is lower than the rate of profit provided in sub-section (1) [i.e., 8%]

2nd condition: Such assessee's total income exceeded the minimum amount not chargeable to tax [i.e., basic exemption limit].

Thus, for any given year assessee declared profit at lower rate than he was required to maintain books of accounts and get them audited **for that particular Assessment Year only**. From the subsequent year, the assessee can again opt for presumptive taxation and there was no ineligible criteria for reopting section 44AD.

Presently, similar provision exists in section sub-section (4) of section 44ADA where if profits are declared at the rate lower than that prescribed (i.e., 50%) then tax audit requirements is attracted.

Requirement for Audit under section 44AD prior from AY 2017-18

The present sub-section (5) reads as follows:

(5) Notwithstanding anything contained in the foregoing provisions of this section, an eligible assessee to whom the provisions of sub-section (4) are applicable and whose total income exceeds the maximum amount which is not chargeable to incometax, shall be required to keep and maintain such books of account and other documents as required under sub-section (2) of

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section 44AA and get them audited and furnish a report of such audit as required under section 44AB.

As per the present provisions, an assessee is required to maintain books of accounts and get them audited and furnish audit report if both of the following conditions are fulfilled.

1st condition: Provisions of subsection (4) are attracted (i.e., opting out of section 44AD).

2nd condition: Such assessee's total income exceeded the minimum amount not chargeable to tax [i.e., basic exemption limit].

As already discussed before, the first consequence of not opting for section 44AD in any of the subsequent 5 assessment year from a particular base assessment year will attract ineligibility to opt for section 44AD for 5 Assessment Years immediately subsequent to the Assessment Year in which section 44AD was not opted.

Now, the second consequence is that the Assessee will be required to maintain books of accounts, get them audited and furnish audit report (only if his total income exceeds the basic amount not chargeable to tax).

Moreover, clause (e) of section 44AB also specifically provides that in case provisions of subsection (4) are applicable and income exceeds the maximum amount which is not chargeable to income-tax then such assessee shall get accounts audited and furnish audit report.

Thus, as per the existing provision, the question of getting accounts audited will arise only if provisions of sub-section (4) are attracted (subject to the total income of the assessee).

Further, in the erstwhile provisions the requirement of maintaining books of accounts and audit was restricted only for the relevant Assessment Year in which profits lower than the prescribed rate was declared by an assessee and not for any other subsequent year.

However, as per the existing provisions of sub-section (5) once provisions of sub-section (4) are applicable, maintaining of books and getting them audited applies. However, the moot issue is when the ineligibility provisions of sub-section (4) are attracted, is it applicable for subsequent 5 assessment year. By strict interpretation of sub-section (4) and sub-section (5) of section 44AD read with clause (e) of section 44AB it can be said that once provisions of sub-section (4) of section 44AD is applicable the assessee will be liable to maintain books of accounts, get them audited and furnish report for total of 6 assessment Years (i.e., the AY in which section 44AD is not opted + subsequent 5 assessment years).

The above position is clarified by CBDT in one of the FAQs published on their official website. The same is reproduced below: "

Clause (e) of section 44AB also specifically provides that in case provisions of sub-section (4) are applicable and income exceeds the maximum amount which is not chargeable to income-tax then such assessee shall get accounts audited and furnish audit report.

"If a person adopts the presumptive taxation scheme but he opts out from the scheme in any of the subsequent five years, then what are the consequences?

If a person opts for presumptive taxation scheme, then he is also required to follow the same scheme for the next 5 years. If he failed to do so, then presumptive taxation scheme will not be available for him for the next 5 years.

He is required to keep and maintain books of account and he is also liable for tax audit as per section 44AB **from** the AY in which he opts out from the presumptive taxation scheme. [If his total income exceeds maximum amount not chargeable to tax]"

The use of the word 'from' instead of 'for' in the answer to the above FAQ clearly

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suggests that the requirement of maintaining books of accounts and audit applies for a total of 6 assessment years.

This provision is somewhat more stringent in nature and needs to be reconsidered because, a small businessman cannot be expected to bear the cost of audit and other compliances even for the future assessment years. At the most he may be considered ineligible for availing the benefit of presumptive taxation for 5 years but getting books of accounts audited for these 5 years may prove to be burdensome.

As per the erstwhile provisions the requirement of audit was only dependent upon one factor i.e., whether the profits are declared at a lower than the prescribed profit rate. Whereas, as per the existing provisions one must bear in mind following factors while determinate applicability of audit:

- a) Whether assessee had opted for section 44AD in the preceding Assessment years?
- b) If yes, then for relevant assessment year whether he desires to opt for section 44AD or he desires to opt out? [if opts to stay under section 44AD – no requirement for audit; if desires to opt out- audit applicable]
- c) Whether the relevant Assessment Years is falling within the time span of ineligible term of 5 years – [If yes, Audit applicable].

Can there be a scenario where assessee declares profit lower than the prescribed profit rate but still is not liable to do audit?

Yes, in the following scenarios it is possible that assessee may declare lower profit rate but still is not required to conduct audit.

Scenario No.1

It is the first year of business, turnover is up to Rs. 1 crore (limit of audit as per section 44AB); assessee maintains proper books of accounts and declare lower profit than 8%. In this scenario, provisions of sub-section (4) are not attracted because it is the first year and there is no preceding year in which section 44AD might have opted so as to opt out in the relevant assessment year.

Scenario No. 2

Business of the assessee is continuing for several years, however in each of these preceding years the assessee has either gotten his accounts audited u/s. 44AB or has maintained proper books of accounts but was not subject to audit (say, turnover was upto Rs. 1 crore).

In this scenario also if assessee declares profit at the lower rate (by duly maintaining books of accounts), he still won't be attracted by provisions of subsection (4) because he had never opted in for section 44AD so as to opt out of it.

Accordingly, even if lower profit is declared, audit as per clause (e) of section 44AB read with

Though the presumptive taxation scheme was introduced to simplify the law for small business/ profession. However, the legal position to certain aspects of these sections is still subject to multiple views and interpretation.

sub-section (5) of section 44AD will not be attracted.

Pertinent to mention that compliance of maintaining books of accounts as per the provisions of section 44AA needs to be kept in mind in both of the above scenarios.

Conclusion

Though the presumptive taxation scheme was introduced to simplify the law for small business/ profession. However, the legal position to certain aspects of these sections is still subject to multiple views and interpretation. A layman who wishes to file his income tax return by himself without professional help cannot be expected to know these intricacies and rigors of presumptive taxation scheme, especially the ineligibility and audit requirement as provided in sub-section (4) and (5) of section 44AD. There is certainly a need for further clarifications and easement with regards to certain aspects of these presumptive taxation schemes.

Reference

ACCOUNTANT'S BROWSER

PROFESSIONAL NEWS & VIEWS PUBLISHED ELSEWHERE

Index of some useful articles taken from Periodicals received during January - February 2022 for the reference of Faculty/Students and Members of the Institute.

1. Accountancy

Accounting Standards: Choosing right path by Steve Collings. *International Accountant*, November/December 2021, pp. 16-18.

Ind AS/IGAAP- interpretations and practical application: Share issue costs Vs. Share listing expenses by Dolphy D'souza. *Bombay Chartered Accountant Journal*, January 2022, pp. 66-68.

2. Audit

CARO 2020 series: New clauses and modifications: Non-banking finance companies (NBFCs) [Including core investment companies] by Zubin Billimoria. *Bombay Chartered Accountant Journal*, January 2022, pp. 19-25.

Use of data analytics in external auditing: a content analysis approach by Yeamin Jacky and Noor Adwa Sulaiman. *Asian Review of Accounting*, Vol. 30, No. 1, 2022, pp. 31-58.

3. Economics

Impact of economic growth, trade openness and manufacturing on CO2 emissions in India: an autoregressive distributive lag (ARDL) bounds test approach by Yaswanth Karedla, Rohit Mishra and Nikunj Patel. *Journal of Economics, Finance and Administrative Science*, Vol. 26, No. 52, 2021, pp.376-389.

4. Investment

Importance of machine learning in making investment decision in stock market by Akhilesh Prasad and Arumugam Seetharman. Vikalpa *The Journal of Decision Makers*, October-December 2021, pp. 209-222.

SEBI tightens regulations for related party transactions: Key amendments and auditor's responsibilities by Deepa Agarwal. *Bombay Chartered Accountant Journal*, January 2022, pp. 26-30.

5. Management

Charities Risks of financial crime by David Potts. *International Accountant*, November/December 2021, pp. 22-23.

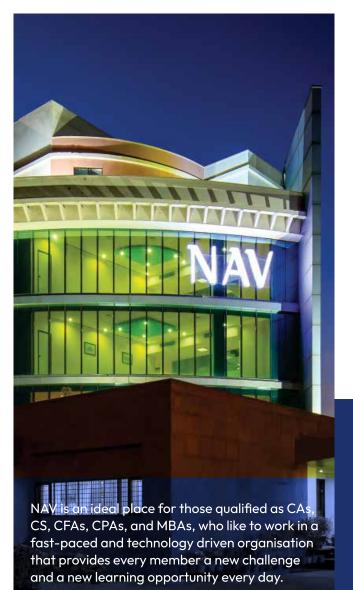
Effect of COVID fatigue on mental health in the public sector organizations: exporing cpmpassion as a mediator by Shilpi Kalwani. *Decision*, December 2021, pp. 403-418.

Persevering through supply chain disturbances: Lumber prices skyrocketed as a result of the pandemic. One homebuilder's CFO explains how the company navigated those tough and unpredictable waters by Amanda Abrams. *Journal of Accountancy*, December 2021, pp. 18-21.

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.



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Legal Decisions



LD/70/111 [Bombay High Court: ITA No 41/2019] Prin. Commissioner of Income Tax Vs. Goldline Pharmaceuticals Pvt. Ltd 14/01/2021

Disallowance deleted by ITAT in case of assessee a pharma company regarding tour and travel expenses incurred for medical practitioners, upheld by the Bombay High Court; Circular No. 5/2012 held to be applicable prospectively and not retrospectively; By Circular No. 5/2012, claim of any expense incurred in providing freebies in violation of the provisions is inadmissible under Section 37(1) and disallowance would be made in the hands of the pharmaceutical companies providing such freebies and claiming the expenditure as deductible against its income; Relevant expense incurred by assessee-pharma-company for AY 2010-11 thus allowed.

LD/70/112 [ITAT Hyderabad: ITA No 1568/ Hyd/2019] Autozilla Solutions Pvt Ltd. Vs. The Income Tax Officer 12/01/2021

ITAT held that once addition of share capital u/s 56(2)(viib) is set aside, sustaining any addition u/s 68 not tenable and once addition was made under one provision the same addition could not be made under another section; Revenue made an addition of Rs.79.91 lakh under Section 68 and alternatively, applying provisions of Section 56(2)(viib) addition of Rs.79.72 lakh was also made; ITAT observed that Revenue disallowed the share premium raised by the Assessee u/s 56(2)(viib) which was also added to Assessee's income under Section 68; ITAT observed that CIT(A) deleted the addition u/s 56(2) (viib) holding that the DCF method adopted by the Assessee was correct; ITAT thus directed the AO to allow the differential between the addition made u/s 68 for Rs.79.91 lakhs and under Section 56(2) (viib) for Rs. 79.72 lakh.

LD/70/113 [ITAT Mumbai: ITA No 28/ Mum/2020] The Dy. Commissioner of Income Tax Vs. Omni Active Health Technologies Ltd. 07/01/2021

ITAT held that expenditure incurred by the Assessee for defending and settling a patent infringement suit is an allowable revenue expenditure; Assessee had claimed Rs. 8.73 Cr as revenue expenditure for AY 2011-12 which included Rs.6.39 Cr. paid to a USbased law firm for defending the Assessee in a patent infringement suit and Rs.1.32 Cr for its settlement; As per the Revenue this was a capital expenditure; ITAT held that any expenditure incurred by the Assessee company for protection of IPR rights and for normal maintenance of its intellectual property are revenue expenditure.

LD/70/114 [ITAT Bangalore: ITA No 1922/ Bang/2018] HP India Sales Pvt. Ltd. Vs. The Jt. Commissioner of Income Tax 06/01/2021

ITAT restricts the addition made over difference in the value of turnover as in the VAT return vis-a-vis income tax return to the extent of failure to furnish evidence supporting the difference; Assessee was required to reconcile the turnover reported for indirect tax with that reported in the income-tax return whereby assessee deducted Rs.167.58 Cr from the sales turnover in the VAT return to arrive at the sales turnover as per books of account; ITAT noted that before the CIT(A) assessee furnished details for Rs.159.56 Cr despite which, the CIT(A) confirmed the entire disallowance; ITAT opines that the disallowance should be restricted to Rs.9.88 Cr. i.e. to the extent to which information was not furnished; Separately ITAT deleted separate disallowance of 88.01 Crores and thus partly ruled the matter in favor of assessee.

LD/70/115 [Bombay High Court: W.P. No 2115 of 2009] Trent Ltd. Vs. The Dy. Commissioner of Income Tax 06/01/2021

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Bombay High Court quashed reassessment proceedings and the order disposing of objections holding that there was no application of mind in the reasons recorded for reopening of assessment; Notice u/s 148 was issued by the Revenue whereby Revenue sought to disallow the 'store launching expenses' of assessee's brand 'Westside', incurred

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.

by the Assessee during AY 2004-05 on the grounds that the expenditure was of capital nature; A query as to change in accounting policy of store launching expenses with effect from Apr 1, 2003 was raised by the Revenue and was duly answered by the Assessee in the course of original assessment; As per High Court, once a query has been raised during the original assessment proceedings and replied to by the assessee, it amounts to subject of consideration of Revenue and no new or fresh information or fact had come to the notice of the Revenue to initiate proceedings u/s 148.

LD/70/116 ITAT Hyderabad: ITA No 1500/ Hyd/2019] The Income Tax Officer. Vs. Hajeebu Venkata Seeta Rama Chandra 05/01/2021

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ITAT held that holds loan received from a company which is struck off in a later AY, not taxable under Section 56(2)(vi); received interest free loan of Rs. 2.84 Cr from a company for AY 2009-10, which was added by the Revenue under Section 56(2)(vi) on the grounds that since the company was struck off, there would be no repayment; ITAT notes that Revenue did not invoke Section 68 to treat the impugned amount as unexplained cash credit whereas invoked the provision under Section 56(2)(vi); ITAT observeed that Revenue itself h-ad accepted that the company had given an interest free loan to assessee, who was the Director's son and opines that a loan accepted as correct in principle; Further loan transaction was for AY 09-10 and company was struck off in 2012.

LD/70/117 [ITAT Mumbai: ITA No 5566/M/2018] The Asst. Commissioner of Income Tax Vs. Shri Niranjan Bhadang 05/01/2021

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ITAT held that for exemption u/s 54F date to be considered is the date of agreement to sell and not the date of receipt of final instalment of the consideration: Assessee had sold two flats and invested the capital gains in a new flat, thus claimed exemption from capital gains u/s 54F; Revenue found that the last and final instalment from sale of the second flat was received beyond the period of one year thus, rejected Assessee's claim for exemption to Rs.2.15 Cr; It was noted that the date of transfer of the under-construction property was 22.07.2014 and flats were sold under a decree of the High Court whereby the purchaser paid 56% of the consideration within one year but delayed in making the balance payment which was made on 24.11.2014; New flat was acquired on 31.10.2013.

LD/70/118 [ITAT Patna: ITA No 115/Pat/2020] The Dy. Commissioner of Income Tax Vs. Dina Mahabir Re-Rollers Pvt. Ltd 05/01/2021

ITAT dismissed Revenue's appeal against CIT(A)'s order setting aside the assessment order passed without passing a draft order; Assessee-Company was subjected to a final assessment u/s 144C without passing a draft assessment order for AY 2015-16; The final assessment order was appealed against by the Assessee which was allowed and was also subjected to revision u/s 263 by the PCIT; ITAT holds that final order is bad in law and the defect of not passing a draft order in not a curable one; Considering the fact that AO's final order itself was held to be non-existent, ITAT denied applicability of revisionary powers u/s 263 over such an order.

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LD/70/119 [ITAT Mumbai: ITA No 616/ Mum/2020] Ketan Sureshcnadra Shah Vs. The Income Tax officer 03/01/2021

ITAT held that income received by assessee individual from coaching institute taxable under business and profession after allowing 50% claim for expenditure; Assessee had received Rs.4.56 lakhs for AY 2004-05 for his services and claimed Rs.2.45 lakhs in computing his income, whereas in the course of assessment of the Coaching Institute, Director of the Institute submitted that all material pertaining to coaching was provided by the Institute and the professors were not required to incur any expenditure; Revenue held that income received by the Assessee was in the nature of salary and disallowed the expenditure claimed by the Assessee; As per ITAT, assessee's case resulted in profit rate of 100% from the profession which was totally unreasonable since CIT(A) had accepted that income was assessed under business and profession;

LD/70/120 [Karnataka High Court: W.P. No 19933 of 2021] Marvell India P. Ltd Vs. The Income Tax officer 15/12/2021

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High Court quashed final assessment order for being violative of the procedure u/s 144C issued along with consequent demand notice for AY 2017-18; Assessee had filed objections both before AO and DRP on 16.03.2021 but despite complying with the provisions u/s 144C(2)(b), AO passed the impugned assessment order without waiting for DRP's directions, thus, contravened the mandatory procedure stipulated u/s 144C(5) to 144C(13); High Court remitted the matter back to DRP for fresh consideration and directed to consider objections filed by the Assessee;

Disciplinary Case



Allotment of shares worth Rs 50 lakhs without verifying the documents as to receipt of consideration -- Respondent is guilty of Professional Misconduct falling within the meaning of Item (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

Held:

The Complainant alleged that the Respondent along with his relatives paid Rs 43 Lakhs to the Company against a loan transaction, while, on the other hand, the Company in collusion with the Respondent allotted him & his relatives the shares in the said Company amounting to Rs 50 Lakhs. It is further alleged that the Respondent neither checked the relevant documents in relation with share allotment nor did he check the actual receipt of money in the company. The Complainant submitted that when he has not paid the balance of Rs. 7 lakhs, how the share worth Rs.50 lakhs be allotted to him. The Complainant alleged that the Respondent is hand in glove with the Company. The Committee noted the submissions of the Respondent that he has not verified documents like bank statement

for receipt of money, shareholders register, minutes etc. which are primarily required for the purpose of certification and relied upon only Board resolution for the purpose of certification and nothing more. The Committee observed that as a chartered accountant, the Respondent should have employed due diligence and conducted an in-depth enquiry on the matter related to allotment of shares worth Rs.50 lakhs for which a sum of Rs.43 lakhs only was received by the company. The Committee further observed that the Respondent had not verified the relevant documentary evidences like scrutiny of shareholders' Register, inflow of money equivalent to the amount of share capital issued or any other document in this regard to substantiate if this was a transaction for issue of capital only. Considering the facts and admissions, the Committee held the Respondent is guilty of Professional Misconduct falling within the meaning of Item (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

(Shri Vinayak Bardolia vs CA. Nitin Madhusudanji Mantri [PR/60/19-DD/90/19-DC/1326/20)



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Circulars/Notifications

Given below are summarised important Circulars and Notifications issued by the CBDT, CBIC-GST and FEMA since the publication of the last issue of the journal, for information and use of members. Readers are requested to use the citation/website or weblink to access the full text of desired circular/notification. Suggestions on this column can be submitted at eboard@icai.in



I. NOTIFICATIONS

1. The CBDT notifies "e-advance rulings Scheme, 2022" u/s 245R & 245W - Notification No. 7/2022, dated

18-01-2022

Vide this notification, deriving powers from section 245R & 245W, the CBDT has introduced e-advance rulings Scheme, 2022 applicable w.e.f. 18.01.2022. The said scheme provides for definitions, scope, E-advance rulings, allocation of applications, procedure for giving advance rulings as well filing applications and other procedures to be followed on receipt of application and other necessary specifications for operationalising the said scheme.

The detailed Notification can be downloaded from the link below:

https://www.incometaxindia.gov.in/communications/ notification/notification-7-2022.pdf

2. Insertion of Rule 8AD prescribing mechanism for computation of capital gains for the purposes of section 45(1B) - Notification No. 8/2022, dated 18-01-2022

Vide the Income tax $(2^{nd}$ Amendment) Rules, 2022, applicable w.e.f. 18.01.2022, the CBTD has inserted a new rule 8AD deriving powers from section 45(1B) so as to lay rules for computation of capital gains. The said rules, *inter alia*, provide that the capital gains as computed shall be deemed to be the capital gains arising from the transfer of a unit of an equity oriented fund set up under a scheme of an insurance company comprising unit linked insurance policies.

The detailed Notification can be downloaded from the link below:

https://www.incometaxindia.gov.in/communications/ notification/notification-8-2022.pdf

3. Government notifies National Skill Development Corporation for the purposes of section 10(46) -Notification No. 10/2022, dated 21-01-2022

In exercise of the powers conferred by section 10(46), the Central Government vide this notification has notified, National Skill Development Corporation, a body constituted by Central Government in respect of the specified income arising to that Corporation subject to satisfaction of conditions laid therein for FYs 2021-22 to 2025-26.

The detailed Notification can be downloaded from the link below:

https://www.incometaxindia.gov.in/communications/ notification/notification_no_10_2022.pdf

4. Amendment in conditions and audit report of Notification No. 89/2020 dated 02.11.2020 -Notification No. 11/2022, dated 25-01-2022

Vide this notification, the Government has substituted clauses (vii) to (xii) pertaining to amendment in conditions specified in Notification No. 89/2020 dated 02.11.2020 (exemption u/s 10(23FE) for the sovereign wealth fund, namely, the MIC Redwood 1 RSC

Limited, Abu Dhabi, United Arab Emirates). Further, Audit report to be filed by the aforesaid Sovereign Wealth Fund for claiming exemption u/s 10(23FE) has also been substituted.

The detailed Notification can be downloaded from the link below:

https://www.incometaxindia.gov.in/communications/ notification/notification-11-2022.pdf

5. Government notifies West Bengal Electricity Regulatory Commission for the purposes of section 10(46) - Notification No. 12/2022, dated 27-01-2022

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.

In exercise of the powers conferred by section 10(46), the Central Government vide this notification has notified, 'West Bengal Electricity Regulatory Commission,' Kolkata (PAN: AAAGW0011J), a Commission constituted by the State Government of West Bengal in respect of the specified income arising to that Commission subject to satisfaction of conditions laid therein for FYs 2021-22 to 2025-26.

The detailed Notification can be downloaded from the link below:

https://www.incometaxindia.gov.in/communications/ notification/notification-11-2022-new.pdf

II. CIRCULARS

1. Clarification regarding the Most-Favoured-Nation (MFN) clause in the Protocol to India's DTAAs with certain countries - Circular No. 03/2022, dated 03-02-2022

The Protocol to India's DTAAs with some of the countries, especially European States and OECD members (The Netherlands, France, the Swiss Confederation, Sweden, Spain and Hungary) contains a provision, referred to as the MFN clause. Though each MFN clause in these DTAAs has a different formulation, the general underlying provision is that if after the signature/ entry into force (depending upon the language of the MFN clause) of the DTAA with the first State, India enters into a DTAA with another OECD Member State, wherein India limits its source taxation rights in relation to certain items of income (such as dividends, interest income, royalties, Fees for Technical Services, etc.) to a rate lower or a scope more restricted than the scope provided for those items of income in the DTAA with the first State, such beneficial treatment should also be extended to the first State. In view of the specified decree/ bulletin/publication on interpretation of the MFN clauses and the representations received from the taxpayers and field formation seeking clarity, the CBDT vide this Circular has issued certain clarifications on the applicability of the MFN clause:

The detailed Circular can be downloaded from the link below:

https://www.incometaxindia.gov.in/communications/ circular/circular-3-2022.pdf

III. PRESS RELEASES/INSTRUCTIONS/OFFICE MEMORANDUM/ORDER

1. ITD conducts search and seizure operations in Haryana - Press Release(s), dated 17-01-2022

The ITD had conducted a search and seizure operations on a diversified business group engaged in the manufacturing of plywood/plyboard, MDF board, inverter and vehicle batteries, and in the refining of lead on 11.01.2022. More than 30 premises spread across the cities of Yamuna Nagar, Ambala, Karnal, and Mohali have been covered in the search operation.

The complete text of the above Press Release(s) can be downloaded from the link below:

https://incometaxindia.gov.in/Lists/Press%20Releases/ Attachments/1051/PressRelease-ITD-conducts-search-andseizure-operations-in-Haryana-17-1-22.pdf

2. Setting up of office for operationalising Interim Boards for Settlement - Office Order, dated 31-01-2022

In continuation to the Notification No. 91/2021 dated 10.08.2021 and in pursuance of Para 4(2) of the e-Settlement Scheme, 202 1, made by the Central Government vide Notification No. 129/2021 dated 01.11.2021, the CBDT vide this Order has set up office for the Interim Boards for Settlement as per details laid down in this Order. Necessary staff shall be provided by the PCCIT concerned, who is the jurisdictional Principal CCIT for the IBS concerned. in consultation with the CBDT. This order shall come into force w.e.f. 01.11.2021.

The complete text of the above Office Order can be downloaded from the link below:

https://www.incometaxindia.gov.in/Lists/Latest%20News/ Attachments/502/Setting-up-of-office-for-operationalising-Interim-Boards-for-Settlement-31-1-22.pdf

3. Around 6.17/6.2 crore Income Tax Returns (ITRs) and about 19/21 lakh major Tax Audit Reports (TARs) filed on the new e-Filing portal of the Income Tax Department – Press Release(s), dated 07-02-2022 & 11-02-2022

The ITD has been issuing reminders to taxpayers through emails, SMS and Twitter encouraging taxpayers and CAs not to wait till the last minute

and file their TARs/ITRs without further delay. Further, to assist the filers for resolution of any grievance related to e-filing, two new email ids i.e. TAR.helpdesk@incometax.gov.in and ITR. helpdesk@incometax.gov.in have been provided.

The complete text of the above Press Release(s) can be downloaded from the link below:

https://incometaxindia.gov.in/Lists/Press%20Releases/ Attachments/1053/Around-6-17-crore-ITRs-and-about-19-lakh-major-TARs-filed-on-new-e-Filing%20portal-ITD-7-2-22.pdf

https://incometaxindia.gov.in/Lists/Press%20Releases/ Attachments/1054/PressRelease-More-than-6.2-crore-ITRsand-about-21-lakh-major-TARs-14-2-22.pdf

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Notification

Central Government vide Notification No. 7/2022-Customs (N.T.)dt.

01.02.2022 has, inter-alia, substituted/amended following rules of Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017:

- Rule 4: Importer to give prior information (i)
- (ii) Rule 5: Procedure to be followed in order to avail the benefit of exemption
- (iii) Rule 6: Importer to maintain records
- (iv) Rule 6A: Procedure for allowing imported goods for job work
- (v) Rule 6B: Procedure for allowing imported goods for unit transfer
- (vi) Rule 7: Re-export or clearance of unutilised or defective goods
- (vii) Form IGCR-1: Prior information to be provided by the importer

Notification No. 7/2022-Customs (N.T.) dt. 01.02.2022 may be referred to for details. The above amendments will be effective from 01.03.2022.

Circular

Clarification regarding applicability of Social Welfare Surcharge on goods exempted from basic and other customs duties/cesses

Social Welfare Surcharge (SWS) is levied and collected, as a duty of customs, vide section 110 of the Finance Act, 2018 and is calculated at the rate of 10% on the aggregate of duties, taxes and cesses which are levied and collected by the Central Government as a duty of customs on goods imported into India. It may be noted that at present SWS applies at the rate of 10% of the aggregate of customs duties payable on import of goods and not on the value of imported goods.

In the absence of any specific exemption on Social Welfare Surcharge, a view is being taken that Social Welfare Surcharge shall be payable on notional customs duty as determined on Tariff rate in case of goods exempted from basic and other customs duties/cesses.

It has been clarified by the Board that the amount of Social Welfare Surcharge payable would be 'Nil' in cases where the aggregate of customs duties (which forms the base for computation of SWS) is zero even though SWS has not been exempted. Law does not require computation of SWS on a notional customs duty where applicable aggregate of duties of customs is zero.

Circular No. 3/2022-Customs dt. 01.02.2022



Voluntary Retention Route (VRR) for Foreign

Portfolio Investors (FPIs) investment in debt

A.P. (DIR Series) Circular No. 22 dated February 10, 2022

Please refer to paragraph 3 of the Statement on Developmental and Regulatory Policies dated February 10, 2022 regarding enhancement of the investment limit under the Voluntary Retention Route (VRR). The investment limit under the VRR is increased to Rs. 2,50,000 crore from Rs. 1,50,000 crore.

These directions shall be applicable with effect from April 1, 2022.

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Regulations Review Authority (RRA 2.0) – Interim Recommendations – Discontinuation / Merger / Online Submission of Returns

A.P. (DIR Series) Circular No. 26 dated February 18, 2022

As part of the implementation of the interim recommendations of the RRA 2.0, it is proposed to discontinue/merge the returns listed below:

Sr. No.	Return Name	Return Description
1.	availed and invoked of	Non-resident guarantee for fund based and non-fund based facilities (such as Letters of Credit/guarantees/Letter of Undertaking (LoU) / Letter of Comfort (LoC) entered into between two persons resident in India

Further, it is also proposed to convert, the paper based/ e-mail-based returns listed below into online filing:

Sr. No.	Return Name	Return Description
1.	FII Weekly	All AD banks advised to report inflow/ of outflow of foreign funds on account of investment by FIIs/FPIs in the Indian capital market in a format which consists of two parts: Part A: Inflow/outflow- Fund Position and Part B: Residual Maturity Pattern.
2.	MTSS	Statement showing details of remittances received through Money Transfer Service Scheme during the quarter ended, within 15 days from the close of the quarter to which it relates.
3.	Statement of default in MTT	Statement on default in Merchanting Trade Transactions (MTT)
4.	Details of remittances made by NRO account	Remittances made out of NRO accounts up to 1 million USD per calendar year - Facilities to NRIs/PIOs and foreign nationals – liberalisation
5.	Overseas Principal-wise list of Sub Agents	Overseas principal-wise list of sub-agents of MTSS Indian Agents
6	Declaration confirming the veracity of the list placed on RBI website	Confirmation of veracity of the list of sub-agents
7	List of additional locations	List of additional locations of MTSS Agents
8	Statement of Foreign Currency Account/s maintained in India in their names with AD Category-I Banks out of export proceeds of Foreign Currency Notes/ encashed Travelers' Cheques	Statement of Foreign Currency Account/s maintained in India in their names with AD Category-I Banks out of export proceeds of Foreign Currency Notes/ encashed Travelers' Cheques

9	Statement of the amount of foreign currency written off during a financial year	Statement of the amount of foreign currency written off during a financial year
10	Form RMC-F	RMC- Restricted Money Changing
11	Statement of the collateral held by MTSS Indian Agents	Statement of the collateral held by MTSS Indian Agents
12	Details of Online Payment Gateway Service Providers (OPGSP) arrangements	Details of Online Payment Gateway Service Providers (OPGSP) arrangements
13.	Extension of time in respect of clean credit for import of rough, cut and polished diamonds	Extension of time in respect of clean credit for import of rough, cut and polished diamonds
14.	Advance remittances made for import of rough diamonds without a bank guarantee or standby letter of credit, where the amount of advance payment is equivalent to or exceeds USD 5,000,000/-	Advance remittances made for import of rough diamonds without a bank guarantee or standby letter of credit, where the amount of advance payment is equivalent to or exceeds USD 5,000,000/-
15.	ESP reporting	"Statement of shares repurchased by the issuing foreign company from Indian employees/ Directors under ESOP Schemes for the year ended March 31, (Year)
		(to be submitted on the letterhead of the Indian Company / Office / Branch through their AD bank)"
16.	FLM8 – (Sale and Purchase of Foreign Currency)	Summary statement of purchases and sale of foreign currency notes during the month reported by FFMCs and AD-Category II.
17.	LO/BO/PO	Consolidated list of all the Branch Office (BO)/ Liaison Office (LO) / Project Office (PO) opened and closed by them during a month
18.	Reporting of Long term Advance	Reporting of Long term Advance of USD 100 million & more along with Progress Report to be submitted by Authorised Dealer Bank on utilization of Long term export Advances
19.	Form ECB	Application and Reporting of loan agreement details
20.	Form ECB 2	Reporting of actual ECB transactions through AD Category -1 banks
21.	Form TC	Compilation of short-term credit extended for imports and payments thereof



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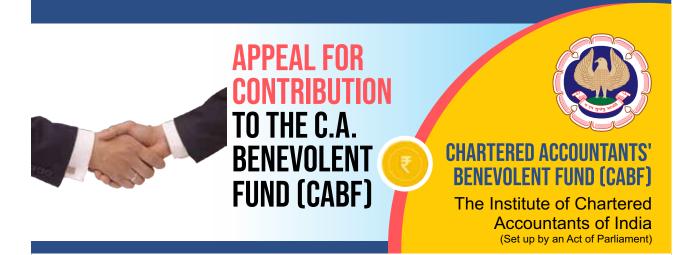


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The Chartered Accountants' Benevolent Fund (CABF) was established in December, 1962 with the objective to provide financial assistance for maintenance, and other similar purposes to needy members of our Institute, their wives, widows, children and dependent parent(s).

During Covid pandemic, hundreds of our members have lost their battle and many others are struggling hard to pass through this difficult time. The impact is deep and has certainly shattered their dreams. The Institute through the CABF has tried to help our members in distress.

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With a view to provide better financial support to our needy members or to their dependents, our humble appeal to members to kindly enroll themselves as Life Members of the Fund by making one-time payment of Rs. 10,000/- and those who are already life Members can further contribute voluntarily any amount for the noble cause. The Contribution is eligible for tax exemption under Section 80G of the Income Tax Act.



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A small contribution with a big heart from each member would facilitate grant of a good amount of financial assistance to needy and suffering members/ dependents of members of the profession to mitigate their hardship during unfortunate circumstances.

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Composition of Standing and Non-Standing Committees for the Year 2022-23

Standing Committees				
Committee	Chairman	Vice Chairman		
Executive Committee	President in Office CA.(Dr.) Debashis Mitra	Vice-President in Office CA. Aniket Sunil Talati		
Examination Committee	President in Office CA.(Dr.) Debashis Mitra	Vice-President in Office CA. Aniket Sunil Talati		
Finance Committee	President in OfficeVice-President in OfficeCA.(Dr.) Debashis MitraCA. Aniket Sunil Talati			
Disciplinary Committee (u/s 21 D read with section 17)	President in Office CA.(Dr.) Debashis Mitra	Vice-President in Office CA. Aniket Sunil Talati		

Non-Standing Committees				
Committee	Chairman/Chairperson	Vice Chairman/Vice Chairperson		
Accounting Standards Board	CA. Pramod Jain	CA. Abhay Chhajed		
Audit Committee	Shri Rakesh Jain	CA.Mangesh Pandurang Kinare		
Auditing & Assurance Standards Board	CA.(Dr.)Sanjeev Kumar Singhal	CA. Vishal Doshi		
Board of Studies (Academic)	CA. Dayaniwas Sharma	CA. Vishal Doshi		
Students Skills Enrichment Board (Board of Studies – Operations)	CA. Sushil Kumar Goyal	CA. Sridhar Muppala		
Banking, Financial Services and Insurance Committee	CA. Prakash Sharma	CA. Charanjot Singh Nanda		
Committee for Members in Practice	CA. Prakash Sharma	CA. Purushottamlal Khandelwal		
Committee on Financial Markets and Investors' Protection	CA. Anuj Goyal	CA. Umesh Sharma		
Committee on Economic, Commercial Laws & Economic Advisory	CA.(Dr.) Rajkumar Satyanarayan Adukia	CA. Hans Raj Chugh		
Direct Taxes Committee	CA. Chandrashekhar Vasant Chitale	CA.(Dr.) Raj Chawla		
Corporate Laws and Corporate Governance Committee	CA. Sripriya Kumar	CA. Priti Savla		
Editorial Board	Editor	Joint Editor		
Editorial Board	CA.(Dr.) Debashis Mitra	CA. Aniket Sunil Talati		
Ethical Standards Board	CA. Mangesh Pandurang Kinare	CA. Kemisha Soni		
Expert Advisory Committee	CA. Pramod Jain	CA. Vishal Doshi		
Financial Reporting Review Board	CA. Durgesh Kumar Kabra	CA. Abhay Chhajed		
Committee on Public and Government Financial Management	CA. Kemisha Soni	CA. Sridhar Muppala		
Coordination Committee with Sister Institutes	Leader CA.(Dr.) Debashis Mitra	Dy. Leader CA. Aniket Sunil Talati		
GST & Indirect Taxes Committee	CA.Rajendra Kumar P	CA.Umesh Sharma		
Digital Accounting and Assurance Board	CA. Charanjot Singh Nanda	CA. Dayaniwas Sharma		
Internal Audit Standards Board	CA. Charanjot Singh Nanda	CA. Gyan Chandra Misra		

International Affairs Committee	CA.(Dr.) Debashis Mitra	CA. Aniket Sunil Talati
Committee on International Taxation	CA. Sanjay Kumar Agarwal	CA. Cotha S Srinivas
Committee on Management Accounting	CA. Rajendra Kumar P	CA. Gyan Chandra Misra
Committee for Members in Industry & Business	CA. Ranjeet Kumar Agarwal	CA.(Dr.) Raj Chawla
Peer Review Board	CA. Chandrashekhar Vasant Chitale	CA. Anuj Goyal
Professional Development Committee	CA. Kemisha Soni	CA. Prasanna Kumar D
Research Committee	CA. Anuj Goyal	CA. Umesh Sharma
Committee for Development of International Trade, Services & WTO	CA. Dheeraj Kumar Khandelwal	CA. Rohit Ruwatia
Infrastructure Development Committee	CA.(Dr.) Debashis Mitra	CA. Aniket Sunil Talati
Management Committee	CA.(Dr.) Debashis Mitra	CA. Aniket Sunil Talati
Committee for Members in Entrepreneurship & Public Service	CA. Hans Raj Chugh	CA. Dheeraj Kumar Khandelwal
Committee on Insolvency & Bankruptcy Code	CA. Durgesh Kumar Kabra	CA. Sripriya Kumar
Organising Committee on World Congress of Accountants	CA.(Dr.) Debashis Mitra	CA. Aniket Sunil Talati
Valuation Standards Board	CA. Mangesh Pandurang Kinare	CA. Cotha S Srinivas
Public Relations Committee	CA. Sanjay Kumar Agarwal	CA. Rohit Ruwatia
Taxation Audits Quality Review Board	CA. Ranjeet Kumar Agarwal	CA. Abhay Chhajed
Continuing Professional Education Committee	CA.(Dr.) Rajkumar Satyanarayan Adukia	CA.Gyan Chandra Misra
Committee on MSME & Start-up	CA. Dheeraj Kumar Khandelwal	CA.(Dr.) Raj Chawla
Strategy, Perspective Planning & Monitoring Committee	CA.(Dr.) Debashis Mitra	CA. Aniket Sunil Talati
Committee on Career Counselling	CA. Hans Raj Chugh	CA. Purushottamlal Khandelwal
Women Members Empowerment Committee	CA. Sripriya Kumar	CA. Priti Savla
Sustainability Reporting Standards Board	CA.(Dr.) Sanjeev Kumar Singhal	CA. Priti Savla
Digital Re-Engineering & Transformation Committee	CA. Dayaniwas Sharma	CA. Rohit Ruwatia

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Directorate	Convenor	Dy. Convenor		
UDIN Directorate	CA. Prasanna Kumar D	CA. Purushottamlal Khandelwal		
Legal Directorate	CA. Aniket Sunil Talati	CA. Sanjay Kumar Agarwal		
Publication & CDS Directorate	CA.(Dr.) Rajkumar Satyanarayan Adukia	CA. Cotha S Srinivas		
Members & Students Services (Grievances Handling and e-Sahayata) Directorate	CA. Sushil Kumar Goyal	CA. Sridhar Muppala		
Centre for Audit Quality Directorate	CA. Durgesh Kumar Kabra	CA. Ranjeet Kumar Agarwal		

ICAI News

Educational Material on Ind AS 41, Agriculture

Ind AS Implementation Committee of the ICAI has been making relentless efforts in making smooth and effective transition to Ind AS in the country. In this regard, the Committee has recently brought out the following publication:

• Educational Material on Ind AS 41, Agriculture

Ind AS 41 prescribes the accounting treatment for biological assets except for bearer plants, when such biological assets are used for agricultural activity and for the initial measurement of agricultural produce at the point of harvest. The Standard also prescribes accounting treatment for government grants relating to biological assets measured at its fair value less costs to sell and used for agricultural activity.

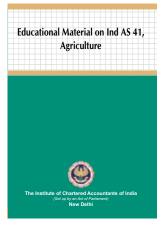
The Educational Material on Ind AS 41, *Agriculture* addresses certain relevant aspects envisaged in the Standard by way of brief summary of the Standard and Frequently Asked Questions (FAQs) which are being/expected to be encountered while implementing the Standard.

Price: Rs. 70/-

The soft copy of the publication is available at the website of ICAI.

Ordering Information:

Available at: The publication can be purchased directly from the ICAI Central Distribution System (CDS Portal) by signing up and placing order on online store



through following link: https://icai-cds.org/

To order by post, request may be sent along with a demand draft for the amount of the price of the publication plus the shipping charges in favour of "The Secretary, The Institute of Chartered Accountants of India", payable at New Delhi, to the Postal Sales Department, The Institute of Chartered Accountants of India, ICAI Bhawan, A-29, Sector-62, Noida – 201309 (U.P) or alternatively at postalsales@icai.in

Classifieds

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- 5895 Guwahati based CA having total experience of 10 years (including 8 years in Industry (Listed Company) in Audit, Accounts, Taxation, Internal audit- seeks professional work, on assignment/ retainership basis from CAs in practice. Please contact at casumitbagra@gmail.com or 9707021603
- **5896** A Seventeen year old CA firm presently having offices in Guwahati, Mumbai, Kolkota and Jaipur is looking for new partners in following places – Ahmedabad, Chennai,

Hydarabad, Bangalore, Trivandrum, Bhopal. New CAs who want to enter in practice may apply at e-mail cahgnco@gmail.com, 8638110228

- 5897 Wanted Freshers/Experienced Chartered Accountants & Article Trainees for assignments in Delhi and Gurugram in the field of Direct/Indirect Taxation, Assurances, Process Re-engineering & Listing Assignments. Serva Associates, Chartered Accountants +91-9999099891 Email: hr@serva.in
- 5898 Required Partners for a Partnership firm. Call Chat Mail on 9920317933/ 9321787756 casgd.office@gmail.com.

Result of Chartered Accountants Foundation Examination Held in December - 2021

The result of the Foundation Examination held in December 2021 was declared recently. The details of percentage of candidates passed in the above said examination are given below:

Gender	No. of Candidates appeared	No. of Candidates passed	% of Pass	No. of Exam Centres
MALE	60097	18151	30.20	
FEMALE	50565	15359	30.37	862
TOTAL	110662	33510	30.28	

Intermediate (IPC) Examination Held in December - 2021

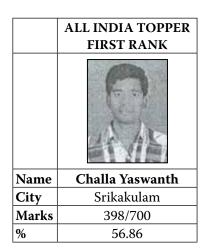
The result of the Chartered Accountants Intermediate (IPC) Examination was declared recently.

The details of percentage of candidates passed in the above said examinations are given below:

	Candidates applied for	No. of candidates appeared	No. of candidates passed	% of pass
Ι	Group-I	7427	400	5.39
II	Group-II	20289	3407	16.79
III	Both Groups	3295	30	0.91

The details of rank holder on the all India basis for the INTERMEDIATE (IPC) Examination held in December- 2021 is also given herewith.

Toppers of Chartered Accountants Intermediate (IPC) Examination December - 2021



Intermediate (New) Examination Held In December - 2021

The result of the Chartered Accountants Intermediate (New) Examination was declared recently. The details of percentage of candidates passed in the above said examinations are given below:

	Candidates applied for	No. of candidates appeared	No. of candidates passed	% of pass
Ι	Group-I	79822	17387	21.78
II	Group-II	62029	7327	11.81
III	Both Groups	31136	3598	11.56

The details of top three rank holders on the all India basis for the INTERMEDIATE (NEW) Examination held in December - 2021 are also given herewith.

1167

Toppers of Chartered Accountants Intermediate (New) Examination December- 2021

	ALL INDIA TOPPER FIRST RANK	ALL INDIA SECOND RANK	ALL INDIA THIRD RANK
	(B)	R	
Name	Kinjal Ajmera	M Yash Doshi	Jatin Poddar
City	Kolkata	Chennai	Kolkata
Marks	690/800	678/800	660/800
%	86.25	84.75	82.50

Result of Chartered Accountants Final (Old Scheme) Examination Held in December - 2021

The result of the Chartered Accountants Final (Old Scheme) Examination was declared recently. The details of percentage of candidates passed in the above said examinations are given below:

	Group(s)	No. of candidates appeared	No. of candidates passed	% of pass
Ι	Group-I	11364	1284	11.3
II	Group-II	14106	1909	13.53
III	Both Groups	3109	44	1.42

Consequent to declaration of result as mentioned above, 2178 candidates qualified as Chartered Accountants.

Result of Chartered Accountants Final (New Scheme) Examination Held in December - 2021

The result of the Chartered Accountants Final (New Scheme) Examination was declared recently. The details of percentage of candidates passed in the above said examinations are given below:

	Group(s)	No. of candidates appeared	No. of candidates passed	% of pass
Ι	Group-I	57254	12767	22.3
II	Group-II	54144	16525	30.52
III	Both Groups	28988	4437	15.31

Consequent to declaration of result as mentioned above, 11868 candidates qualified as Chartered Accountants.

The details of top three rank holders on the all India basis for the FINAL (New Scheme) Examination held in December - 2021 with the marks secured by them are also given herewith.

ICAI News

Toppers of Chartered Accountants Final (New Scheme)				
Examination December - 2021				

	ALL INDIA TOPPER FIRST RANK	ALL INDIA SECOND RANK	ALL INDIA THIRD RANK
Name	Radhika Chauthmal Beriwala	Nitin Jain	Nivedita N
City	Surat	Khatauli	Chennai
Marks	640/800	632/800	624/800
%	80	79	78

ICAI in Media

ICAI in Media : Glimpses of February 2022 Chartered Accountants vow to work on nation-building

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आईसीएआई के नये भवन के निर्माण हेतु संपन्न हुआ भूमि पूजन कार्यक्रम

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आईसीलआई के अच्छत सीए ही देवाशीय मित्रा के द्वारा (आईमीएआई) द इंग्लीखट्ट ऑफ utes seattleen in al error सिलीगुडी के कावाखाली में बनने आ रहे नए भवन का भूमि पुत्रन किया गया। यह भूमि भूजन का सभारोह भाष्यता के साथ सम्पन्न राजा। कायर मंदिर के पुजारों के द्वारा पूजा अर्थना के साथ भूमि पूजन समारोह का आयोजन किया तथा। आईसीएआई र इंग्रीट्यूट ऑफ चारेडे अवगडीरण भूमि पुजन समारोह ये मुख्य तीर पर उपस्थित ये पुकालटी से आयरिक is the nore incelering देवागीय दिला, विसके मुभ कमाल लार्थ के द्वारा भूमि पूजन का अगयोजन किया गया।। भूमि पुजन पश्चात



जानकरी देते हुए आईसीएआई जन्मात हा देवागीक विद्या ने बलाया कि देश में संविध्यान लागू होने से प्रतने में ही सीए एक्ट लागू हो गया था और आईसीएआई दुनिया में दूसरी सबसे बड़ी लेखांकन निफाय है। जिसने १९४ माखा, १.५ लाख

सत्राय और ७.५ साख स्ट्रोट्स शतींपल है। फिलीपुढी शापत का नग अत्याध्यिक भवन विलीगुढी जलपाईगुडी हाकलपमेंट अवसिंही द्वारा दिये गए २० कडू। जमीन पर कावाधाली में बनने का छा है जो लगभग एक वर्ष की अवधि में बना

लिया जाएकः उन्होंने कहा कि देव के पूर्व राष्ट्रपति स्व. एपीजे अब्दल वालाव ने कहा था कि सीए सहीय वियांग ये पालीदार है। सीत राष्ट्रीय वियोग में मुख्य भूमिका निमाने है। जी मित्रा ने बताया कि सिलीगही राष्ट्रा सन्द देश घर थे साम्रिक शास्त्रा

में स्थाप राइती है और सिलीपुडी में इस नए भवन के निर्माण परकात इस सेत के विद्यासिंगी को बहुत लाभ मिलियाः प्रियंत इस क्षेत्र हो नहीं बल्कि धुरे भारत लाभान्तित होगा। साथ को स्थानीय नीनवली मोड स्थित वर्तमान कार्यलय में राष्ट्रीय आयास का सम्मान

रात्त की कई संस्थाओं ने किया। इस नीके पर सिलीगुडी कनिष्ठनर आंफ पुलिस तीम गौरव मार्ग भी पहुँचे। इस भूति गुजन में सेंट्रल क्वेडन्सिन सरस्य elte rate separe, elte epiter गोपाल, हेन्द्रने इंड्रिफ री.बनल बारांसिल वेक्स्पेन सीए सुनील कुमार साह, जवाप्रवास सीच की पटला, सर्ववाय सीच देवापन पाल, जोमाण्यस मीग तरिराम अग्रधान, सीए निरेण कमार घोष, सीए सुचित चिनानी, सीग संजीव संघी, सीग किन्तु कुमार तुलस्वान, सीए गयुर अप्रवाल आदि अन्य तत्रमान्य लोग इस भूमि पुजर में उपस्थित थे। इस भूषि पूजा वार्यक्रम के देखन जिल्लीपुरी when seven aller after separate. लीक भीए प्रमाण आवला महिल सिलोगुडी शाखा के बई बॉस सदस्यों सीरेल सभी की संक्रिय भूमिका गरी।

ICAI News

Toppers of Chartered Accountants Final (New Scheme)				
Examination December - 2021				

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आईसीलआई के अच्छत सील ही देवाशीय मित्रा के द्वारा (आईमीएआई) द इंग्लीखट्ट ऑफ utes seattleen in al error सिलीगुडी के कावाखाली में बनने आ रहे नए भवन का भूमि पुत्रन किया गया। यह भूमि भूजन का सभारोह भाष्यता के साथ सम्पन्न राजा। कायर मंदिर के पुजारों के द्वारा पूजा अर्थना के साथ भूमि पूजन समारोह का आयोजन किया तथा। आईसीएआई र इंग्रीट्यूट ऑफ चारेडे अवगडीरण भूमि पुजन समारोह ये मुख्य तीर पर उपस्थित ये पुकालटी से आयरिक is the noor incelean देवागीय दिला, विसके मुभ कमाल लार्थ के द्वारा भूमि पूजन का अगयोजन किया गया।। भूमि पुजन पश्चात



जानकरी देते हुए आईसीएआई जन्मात हा देवागीक विद्या ने बलाया कि देश में संविध्यान लागू होने से प्रतने में ही सीए एक्ट लागू हो गया था और आईसीएआई दुनिया में दूसरी सबसे बड़ी लेखांकन निफाय है। जिसने १९४ माखा, १.५ लाख

सत्राय और ७.५ साख स्ट्रोट्स शतींपल है। फिलीपुढी शापत का नग अत्याध्यिक भवन विलीगुढी जलपाईगुडी हाकलपमेंट अवसिंही द्वारा दिये गए २० कडू। जमीन पर कावाधाली में बनने का छा है जो लगभग एक वर्ष की अवधि में बना

लिया जाएकः उन्होंने कहा कि देव के पूर्व राष्ट्रपति स्व. एपीजे अब्दल वालाव ने कहा था कि सीम सहीय वियांग ये पालीदार है। सीत राष्ट्रीय वियोग में मुख्य भूमिका निमाने है। जी मित्रा ने बताया कि सिलीगही राष्ट्रा सन्द देश घर थे साम्रिक शास्त्रा

में स्थाप राइती है और सिलीपुडी में इस नए भवन के निर्माण परकात इस सेत के विद्यार्थियों को बहुत लाभ मिलियाः प्रियंत इस क्षेत्र हो नहीं बल्कि धुरे भारत लाभान्तित होगा। साथ को स्थानीय नीनवली मोड स्थित वर्तमान कार्यलय में राष्ट्रीय आयास का सम्मान

रात्त की कई संस्थाओं ने किया। इस नीके पर सिलीगुडी कनिष्ठनर आंफ पुलिस तीम गौरव मार्ग भी पहुँचे। इस भूति गुजन में सेंट्रल क्वेडन्मिन सरस्य elte rate separe, elte epiter गोपाल, हेन्द्रने इंड्रिफ री.बनल बारांसिल वेक्स्पेन सीए सुनील कुमार साह, जवाप्रवास सीच की पटला, सर्ववास सीच देवापन पाल, जोमाण्यस मीग तरिराम अग्रधान, सीए निरेण कमार घोष, सीए सुचित चिनानी, सीग संजीव संघी, सीग किन्तु कुमार तुलस्वान, सीए गयुर अप्रवाल आदि अन्य तत्रमान्य लोग इस भूमि पुजर में उपस्थित थे। इस भूषि पूजा वार्यक्रम के देखन जिल्लीपुरी when seven aller after separate. लीक भीए प्रमाण आवला महिल सिलोगुडी शाखा के बई बॉस सदस्यों सीरेल सभी की सकिल भूमिका गरी।

ICAI in Media

THE ECHO OF INDIA **ICAI elects new torchbearers** for the year 2022-23

EOICORRESPONDENT

KOLKATA, FEB 12/--/The Council of the Institute of Chartered Accountants of India (ICAI) today elected its new President & Vice-President for the term 2022-23. CA. (Dr.) Debashis Mitra has been elected as the President and CA. Aniket Sunil Talati has been elected as the Vice-President of The Institute of Chartered Accountants of India w.e.f. February 12, 2022.

CA. (Dr.) Debashis Mitra, President, ICAI (2022-23): A visionary with strong academic leaning and having deep professional insight, CA. (Dr.) Debashis Mitra, has been elected as the President of The Institute of Chartered Accountants of India (ICAI) for the year 2022-23. Serving his third term in the Council of ICAL he has been serving the accounting profession for last more than thirty-four years. Dr. Mitra, a senior practising member, is also a Cost Accountant, Company Secretary, holds a Master's degree in Commerce, Law graduate and a qualified Information Systems Auditor. With keen interest in academic research, he is a Ph.D. on the topic "A Critical Study of



Select Indian GAAP, US

GAAP&IAS/IFRS*. As President ICAL CA.(Dr.) Debashis Mitra is now the Chairman of all Standing Committees i.e. Executive, Finance and Examination Committees, besides being the ex-officio member of all Non-Standing Committees and Editor of ICAI Journal, The Chartered Accountant. CA. Debashis Mitra is the Director of ICAI Registered Valuers Organisation (RVO) and also the representative from ICAI RVO on the 'Committee to advise on Valuation matters" of MCA. He is also Chairman of the ICAI Research wing, ICAI-Accounting Research Foundation and Extensible Foundation and Extensible Business Reporting Language (XBRL) India. He is also on the Board of Indian Institute of ICAL CA. Aniket Sunil Talati, Vice-President, ICAI (2022-23): He has also been appointed as an advisor to the board of International Federation of Accountants (IFAC). IFAC is the global organization for the accountancy profession. Founded in 1977, IFAC has more than 175 members and associates in more than 139 countries and jurisdictions, representing more than 3 million accountants employed in public practice, industry and commerce, government, and academe. He has served as Executive Committee Member of Gujarat Chamber of Commerce & Industry (GCCI) and is currently member of the Direct Tax Committee of GCCL.

Insolvency Professionals of

লিসিঁ আইসিএআই-এর নতুন সভাপতি ও সহ-সভাপতি নির্বাচিত



CA. Aniket Sunil Talati CA. (Dr.) Debashis Mitra President, ICAI Vice-President, ICAI

স্টাফ রিপোর্টার 1 দ্যা কাউলিল অফ দ্যা ইপটিটিউট অফ চাটার্চ আকাউটেন্টেস অফ ইন্ডিয়া এদিন ২০২২-২৩ অর্থ বর্ষের জন্য নতন সভাপতি ও মহসভাপতি নিৰ্বাচিত করল। শনিবার সিএ (ডাঃ) মেবাশিষ মিয়াক সভাপতি হিসেবে নির্বাচিত করা হয়। সিএ অনিকেত সুনীল তালাভিকে সহ-সভাপতি হিসেবে নির্বাচিত করা হয়েছে। আইসিএআই-এর কাউন্সিলে তৃতীয় বারের জন্য তিনি যোগ দিতে চলেছেন। তিনি অ্যাকাউন্টিং পেশায় ৬৪ বছর ধরে কান্ধ করেছেন। তিনি আইনে দ্বাতক, বাশিজ শাধার ছাতকোন্ডর, কোম্পানী সেরেন্টারি, কস্ট আকাউটেন্ট পাশ করেছেন। শিক্ষা সক্রোন্ড গবেষণায় তার বিপুল আগ্রহ রয়েছে। 'এ ক্রিটিকাল স্টাভি অফ সিলেই ইন্ডিয়ান গ্যাপ, ইউএস গ্যাপ e আইএএস/আইএফআবএস নিয়ে পিএইচডি করেছেন। তিনি

বোর্ড অফ চাটার্ড আক্ষরিটেলের সদস্য। এছাড়াও দক্ষিণ এশিয়া ফেডারেশন অফ অ্যাকাউটেন্সের সদস্য তিনি। আইসিএআই -এর বিভিন্ন ভরত্বপূর্ণ কমিটির সলস্য তিনি। এই কমিটিগুলি তৈরি করেছে কেন্দ্রীর সরকার। ডিনি আইআরডিএ ৬ ইনসুরেপ আডভাইসরি কমিটির সদস্য। এডাডাও সেবির প্রাইয়ারি মার্বেট আভভাইসরি বমিটির সদস্য िक्षी

BusinessLine New Delhi, February 7, 2022

'ICAI will explore use of blockchain tech in auditing'

PRESS TRUST OF INDIA

olkata, February 17 The Institute of Chartered Accountants of India will explore the use of blockchain technology in auditing, said its new president Debashis Mitra. "Artificial intelligence and

blockchain technology will be the focus among the emerging technologies. We will explore how blockchain can be used in auditing," Mitra told PII.

'Peer review

He said the ICAI's decision to mandate a peer review for certain categories of firms rendering assurance services to specific classes of entities will go a long way in enhancing audit quality.

The implementation will be-gin in a phased manner from April I with practice units that have undertaken a statutory audit of enterprises, having equity or debt securities listed in India.

Over the next three years, the roll out will steadily cover firms providing assurance services to unlisted companies.

Mitra said the institute's recently-launched Audit Quality Maturity Model – Version 1.0 (AQMM v1.0) will help sole proprietors and audit firms to selfevaluate audit maturity, identify areas where competidentily areas where compet-encies are lacking and develop a roadmap for achieving a higher level of maturity. "ICAI is committed to being a partner in achieving the UN Sustainable Development

Goals (SDGs) 2030 Agenda and strengthen the sustainability reporting ecosystem in the country," he said.

Meanwhile, ICAI has de-cided to waive 75 per cent fees for the students of Jammu and Kashmir, Ladakh and the eight North-Eastern States for all levels of CA course including Foundation, Intermediate and Final till March 31, 2025.

The Sentinel 2

ICAI elected new president, vice-president

GUWAHATI, Feb 13: The Council of the Institute of Chartered Accountants of India (ICAI) has elected its new president and vice-president for the term 2022-23, stated a press release. Chartered Accountant (CA) Debashis Mitra has

been elected as the presi-dent and CA Aniket Sunil Talati has been elected as the vice-president of the ICAI with effect from Feb-ruary 12. The ICAI, estab-lished by an Act of Parlia-ment in 1949, has proven its mark as an elite, worldclass institution devoted to upholding the values of transparency, accountabil-ity and integrity. With over 3.40 lakh members and over 7 lakh students, ICAI is the world's second-largest accounting body. Through its 5 Regional Councils, 164

www.icai.org

Branches, 44 Overseas Chapters & 29 Representative Offices, the Institute is taking forward its agenda of inclusive growth and con-tinues to add glory to the profession.

The affairs of the ICAI are managed by a Council in accordance with the provisions of the Chartered Accountants Act, 1949 and the Chartered Accountants Regulations, 1988. The Council consists of 40 members, of whom 32 are elected by the Chartered Accountants and the remaining 8 are nominated by the Central Government, generally representing the Comptroller and Auditor General of India, Ministry of Corporate Affairs, Min-istry of Finance, Securities and Exchange Board of India and other stakeholders.

ICAI in Media

प्रभात खबर

लेखांकन में ब्लॉकचेन तकनीक के इस्तेमाल की संभावनाएं तलाशेगी आइसीएआइ

Eastern Indi

e Institut

- मुख्य जोर प्रौद्योगिकी पर होगा, इससे नये अवसर पैदा होंगे
- आइसीएआइ के फैसले से लेखांकन की गुणवता को बढ़ाने में मदद मिलेगी

संवाददाता, कौलकाता

आइसोएआइ के नवनियुक्त अध्यक्ष हॉ देवाशीय मित्र ने कहा कि चर्द्र हं एकउटेंट की शीर्ष संस्था लेखांकन में ब्लॉकचेन तकनीफ़ के इस्तेमाल की संभावनाएं तलागेगी, उन्तीने कहा कि भारतीय वार्ट्र एकाउटेंट संस्थान (अइसीएआइ) का मुख्य जोर प्रोधोनिकी पर तेण, क्योंकि इससे नये अयसर पैय होंग, क्योंनि इससे नये अयसर पैय होंग, उन्तोंने कहा, कुडिंम मेधा और ब्लॉकचेन टेक्नोलॉजी जैसो उभलो प्रीयोनिकियो पर जोस

वा पता लगांवेंगे कि लेखांकन में व्यक्तिंगेन का उपयोग कैसे किया जा सकता है मित्र ने कहा कि कुछ शेणियों को संस्थाओं के लिए एक समकश समीक्षा तंत्र को अनियाय करने के आइसीएआइ के फैसले से लेखांकन को गुणपंत्ता को खड़ाने में मदद मिलेगों, गौरालक है कि महानगर के एक पांच सितारा सेटल में आइसीएआइ के नजानित करवा गया, इस दौरान आइसीएआइ के पूर्ण अध्यक्ष गण भी उपस्थित थे. मैंके पर उपस्थित अध्यक्ष हा देवाशीष मित्र ने काता कि, जाटंर्ड एकउटेंट्स देश भर के कई बड़े संस्थानें से, जुड़े होते हैं. ऐसे में गाना उदेश्य कंपनियों के मुनाफे को बढ़ाने के लिए सब्ध देश हित और पर्वावरण की रक्षा के लिए भी हमें कार्य करना होगा. इसके स्वय ही आदिट के क्षेत्र में आहमीएआइ की वौगवन बढ़े इस विषय पर भी हमें ध्यान रखाना हेगा. क्या है ब्लॉकचेन तकनीक

जिस प्रकार हजारों – लाखों कंप्यूटरों को अग्रस में ओड़कर इंटरनेंट का अवधिवार हुआ, टीक उसी प्रकार देटा लोको (आकड़ों) की लंबी मुंखल को जोड़कर उसे लॉककेन नाम दिख गया है . लॉकवेन तकनीक में तीन अलग-अलग टेकोलॉओका समायोजन है. जिसमें इंटरनेंट, प्रसंतल 'की' (निजी कुजी) की कॉटिग्राफी अर्थत जानकारी को गुप्त 'रखना और प्रेटीकॉल पर निर्वज्ञ रखना शामिल है. लॉकवेन एक ऐसी कवनीक है जिससे बिटकॉइन तथा अन्य क्रटिंगे – करीं सर्वों का संचालन होता है, यदि सरल शाब्दों में कहा जाये तो यह एक डिजिटल ' सार्वज्ञनिक बरी- खात' है, जिसमें प्रत्येक लेन-देन का रिकॉई दर्ज किया जाता है . लॉक्वेन में एक बार किसी भी लेन-देन को दर्ज करने पर इसे न तो वहां ले. हटाया जा सकता है और न ही इसमें संशोधन किया जा सकता है. लॉकवेन के कारण लेन- दन के लिये एक विश्वरमंग्रेय वी सरी परों जैसे-बैक की आवरयकान नहीं पढ़ती.

THE ECONOMIC TIMES ICAI to explore use of blockchain tech in auditing

Synopsis

The implementation will begin in a phased manner from April 1 with practice units that have undertaken a statutory audit of enterprises, having equity or debt securities listed in India.

PTI, Last Updated: Feb 17, 2022

Chartered accountants' apex body ICAI will explore the use of blockchain technology in auditing, its new president Debashis Mitra said. Technology will be a major focus of the Institute of Chartered Accountants of India (ICAI) as it not only disrupts but will also creates opportunities, Mitra told PTI.

"Artificial intelligence and blockchain technology will be the focus among the emerging technologies. We will explore how blockchain can be used in auditing," he said.

Mitra said the ICAI's decision to mandate a peer review mechanism for certain categories of firms rendering assurance services to specific classes of entities will go a long way in enhancing the audit quality.

The implementation will begin in a phased manner from April 1 with practice units that have undertaken a statutory audit of enterprises, having equity or debt securities listed in India.

Over the next three years, the rollout would steadily cover firms providing assurance services to unlisted companies.

Mitra said the institute's recently-launched Audit Quality Maturity Model - Version 1.0 (AQMM v1.0) will help sole proprietors and audit firms to self-evaluate their current level of audit maturity, identify areas where competencies are lacking and develop a roadmap for achieving a higher level of maturity. "ICAI is committed to being a partner in achieving the UN Sustainable Development Goals (SDGs) 2030 Agenda and strengthen the sustainability reporting ecosystem in the country," he said.

Meanwhile, ICAI has decided to waive off 75 per cent fees for the students of Jammu and Kashmir, Ladakh and the eight Northeastern states for all levels of CA course -- Foundation, Intermediate and Final -- till March 31, 2025.



CA. (Dr.) Debashis Mitra President, ICAI आईसीएआई ने वर्ष 2022-23 सीए (डा.) देवाशीष मित्रा को प्रेसीडेंट और सीए अनिकेत तलाटी को वाइस प्रेसीडेंट चुना है। 12 फरवरी 2022 से वे पदभार संभाल लिये हैं।

Invitation to Write Articles

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

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

Please send articles to Journal Section - The Chartered Accountant, The Institute of Chartered Accountants of India, ICAI Bhawan, Indraprastha Marg, New Delhi 110 002. Attach photograph, editable soft copy of file, declaration of originality and assignment of copyright in the prescribed format along with the article. E-mails may be sent to eb@icai.in.

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



The Institute of Chartered Accountants of India

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https://learning.icai.org/





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