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THE CHARTERED ACCOUNTANT

JOURNAL OF THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

Building Foundation for **Financially Resilient India**

Building Foundation for Financially Resilient India

In a rapidly transitioning global economy, financial literacy is imperative for a nation's inclusive growth and holistic development. India has a growing population and a significant segment of it is youth and financial literacy is paramount for building foundation for financially resilient India. It is envisaged that currently the financial literacy in our country is around 27% and it is consistently rising due to various factors including improved level of education, advancements in technology, media awareness and initiatives being undertaken by the government and regulators. Financial literacy and education propagation amongst the youth especially at school and college level has the potential to further enhance the economic growth by channelising the savings and investments into economy. Our aim and aspirations is to build a financially resilient India, but also improve the financial wellbeing of individual and society. Financial literacy is an effective tool for the development of the society as it empowers the citizens to make savings, improves their quality of life.

Financial education and literacy is vital for India's essential agenda of strengthening inclusive growth. The Government and various regulatory bodies such as RBI, IRDAI, SEBI, PFRDA are undertaking numerous initiatives to propagate financial literacy amongst students, small businesses, professionals and society as a whole. In fact, over the last few years India has fully harnessed the potential of technology to augment financial inclusive through JAM i.e., Jan Dhan, Aadhar and mobile banking across the country mainly the rural India. Financial literacy in our context is very important as it will lead to development of rural economy, ease of doing business and transactions, facilitating growth of MSMEs, which will further galvanise the growth of our economy.

As a partner in nation building, ICAI understands its role in propagating financial literacy with its skills, knowledge and reach among the masses. With this, the motive of enhancing financial literacy is highlighted in initiatives such as, ICAI's website VitiyaGyan Abhiyaan (https://vitiyagyan.icai.org/) whose focus is to raise awareness of the areas that an individual should be aware of in order to manage his own finances in the best way whose impact on the nation's economy is also consequently significant. ICAI, understands the diversity of India and to extend its reach amongst the masses - VitiyaGyan Abhiyan is made available in 12 regional languages.

The ICAI is working in a holistic and integrative manner to propagate financial and tax literacy and investor awareness programs amongst various strata of society such as students, professionals, women and social volunteers in building their competence and capability so that they can carry the knowledge forward. These programs were aimed at *Enabling Rural India* - to build a way for economic development, *Smart Generation* - promoting investor education at early stage of life and *She Can* - inspiring, empowering and uplifting women through financial inclusion. Over the last many years the ICAI in association with IEPFA is nurturing resource persons with various workshops and training programs to further the mission of financial literacy through investor awareness programs and focussed workshops for young investors. Moving ahead, the ICAI would be working with various educational institutions to conduct 'Investor Awareness Programs' in order to inculcate financial literacy among children at a young age.

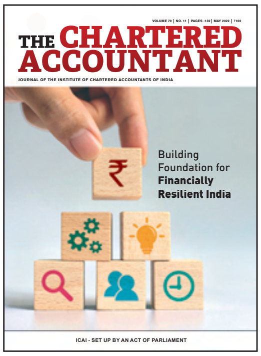
Financial and Tax literacy once increased will improve inclusiveness in the society. Though small, these initiatives to make individuals aware about financial and tax information will enable to enhance and improve our tax compliance and which will eventually lead to increase in tax collection.

Our role as an institution is to work towards building a cohesive ecosystem by bringing together all constituents. Our aspiration is to use our knowledge and skills to promote financial literacy in the society, so as to build foundation for a financially resilient and inclusive India.

-Editorial Board ICAI: Partner in Nation Building

Contents

MAY 2022
IN THIS ISSUE...



Azadi Ka Amrit Mahotsav

Contents

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From the President

CA. (Dr.) Debashis Mitra
President, ICAI

My Dear Professional Colleagues,

The Institute and the Accountancy profession in India have been playing a pivotal and proactive role as an important pillar in the Nation's development and economic growth. With resolute efforts the profession has earned the trust of all the stakeholders. The Institute has led by example in being at the forefront of promoting excellence by *suo moto* adopting and introducing best financial reporting and auditing global practices in India to take the profession to newer heights of excellence and creating a trustworthy investment climate in India. We as dedicated professionals of this noble profession have raised the bar with the evolving times to contribute meaningfully to protect the public interest.

The Chartered Accountants, The Cost and Works Accountants and The Company Secretaries (Amendment) Act, 2022

The Chartered Accountants, the Cost and Works Accountants and the Company Secretaries (Amendment) Bill, 2022 was introduced in the Lok Sabha on 17th December, 2021 and thereafter referred to the Parliamentary Standing Committee on Finance. The Bill was considered by both the Houses and passed by Lok Sabha on 30th March, 2022 and Rajya Sabha on 5th April, 2022 without any amendment. The same has received the assent of the Hon'ble President of India on 18th April, 2022. Some of the important provisions included in the Amendment Act are relating to the change in the composition of Board of Discipline and Disciplinary Committee including fixation of timelines for various disciplinary processes, formation of a Coordination Committee of the three professional institutes, and power to take actions against firms. I would like to inform that many of the provisions including power to take actions against firms, enhanced penalty for falsely claiming to be a member, maintenance of Register of Firms, duration of the Council term were earlier recommended by the Institute only. The Act makes no mention of the Indian Institute of Accountants (IIA). The Hon'ble Finance Minister stated in the Parliament during the course of debate that "*I recognise the importance of the three pillars, the Chartered Accountants, the Cost Accountants and Company Secretaries in the corporate governance structure.* The Hon'ble Minister also said *the objective is also to strengthen all the three of them without, in any way, affecting the autonomy that they enjoy*".

Our reputation as an institution and as profession is built by sheer determination, continuous knowledge enrichment, readiness to lead the change and adapting to the evolving environment. The way our profession has adopted technology and transformed itself to support the economy during the pandemic is a testimony to its commitment, ethos and excellence.

From the President

In this dynamic scenario, we will continue to take all necessary steps and leave no stone unturned to further enhance the quality of the profession and work towards converting the challenges into opportunities. Let us have a look at some of the Institute's recent activities:

Strategy Meeting and Meeting with Past Presidents

In view of the recent developments, a full day Strategy meeting of the Council members was held on 5th April to brainstorm and delve deeply to develop a strategy for positioning the profession in the right perspective amongst the stakeholders, capacity building of the profession for sunrise sectors and augmenting digital capabilities of the profession. Further, a meeting of Past Presidents was also held the next day to gain from their valuable wisdom and experience to take necessary steps for betterment of the profession as a partner in nation building. Participation of a record number of Past Presidents in the meeting is a reflection of their continued commitment for the wellbeing of the profession.

Meeting with SEBI Chairperson

Recently, I alongwith Vice President CA. Aniket Sunil Talati met Chairperson, SEBI, Ms. Madhabi Puri Buch. ICAI is partnering with SEBI in its initiative of having *Social Stock Exchange* and is in the process of formulating the Standards for Social Audit, framework and Code of Conduct for Social Auditors who would function under the regulatory framework of Social Stock Exchange and conduct Social Audits. The meeting also discussed the importance of Digital Assurance and the need for the two regulators to join hands in the interest of the nation.

Meeting with NFRA Chairperson

Accompanied by Vice-President ICAI CA. Aniket Sunil Talati, CA.(Dr.) Sanjeev Kumar Singhal Chairman, AASB, CA. Pramod Jain, Chairman, ASB and I also had the occasion to meet the new Chairperson of the National Financial Reporting Authority (NFRA), Dr. Ajay Bhushan Prasad Pandey who recently assumed office. We discussed about the matters of professional interest relevant to both the Regulators and how both can cohesively work for better corporate governance.

Update on New Scheme for Education and Training

As you are aware, the ICAI is in the process of introducing a *New Scheme for Education and Training.* The new Scheme will be in conformity with the international best practices, aligned to National Education Policy 2020, expectations of the industry and technological advancements. The new Scheme was submitted for in-principle approval of the Ministry of Corporate Affairs, and recently on 8th April, 2022 detailed deliberations on the same were held with the Ministry.

Bharat Ratna Dr. B R Ambedkar, principal architect of Indian Constitution, who fought for the betterment of the poor and oppressed classes, a man with a vision for an inclusive India and who believed in enterprise and education as tools to transform society has stated *"Humans are mortal. So are ideas. An idea needs propagation as much as a plant needs watering. Otherwise both will wither and die."* I am sure the idea of the new Scheme of Education and Training, will bring transformative changes in the profession.

State Level Conference on Investor Education and Awareness at Guwahati

Building a foundation for a financially resilient India is a monumental and noteworthy task for the accountancy profession. I alongwith my Council colleague CA. Anuj Goyal attended the State Level Conference for Investor Education and Awareness, hosted by the Guwahati

Branch of ICAI. The event was inaugurated by the Hon'ble Governor of Assam, Prof. Jagdish Mukhi who emphasised the importance of capital markets education and financial inclusion. He applauded the efforts of the Institute of Chartered Accountants India and Investor Education and Protection Fund Authority (IEPFA) for increasing investor awareness and financial literacy in the state of Assam by organising such programs. The various initiatives of the ICAI including the Financial and Tax Literacy drive for developing a financially literate society were presented in the Conference.

ICAI's Research initiative on Cryptocurrencies

As we all know, the Budget 2022 has brought Digital Assets under the gambit of taxation. This necessitates additional clarity on this emerging area which must be addressed swiftly with clarity. The Digital Accounting and Assurance Board of our Institute is working on bringing out a research paper on the Accounts, Audit, Taxation & Technological aspects of Cryptocurrencies.

Online Process for Formation of Networking of CA Firms Launched

Networking is generally considered as the most effective platform for capacity building. It facilitates multi-locational presence of the firm, strengthening partnerships and enhanced functioning. To inspire and motivate Indian CA firms to form network, grow and move towards the vision of building leading CA firms from India, the new networking guidelines were approved by the Council last year. To further smoothen and expedite registrations, online process for formation of Network of CA firms has been launched. The networking feature is available under Firm Module in Self Service Portal (SSP) and members can now directly apply through the Portal for approval and registration of Network.

Mentorship Programme to join Civil Services

To motivate our members and students to be agents of change and more actively contribute in the growth of the society by joining different Civil services, I am happy to inform that the Committee for Members in Entrepreneurship and Public Service of the ICAI has launched a weekend online programme namely '*Civil Services Orientation & Mentorship Programme*' for Chartered Accountants and CA Students aspiring to join Civil Services. The Orientation Programme was inaugurated by CA. Suresh Prabhu, Hon'ble Member of Parliament who appreciated the initiative of the ICAI. The objective is to provide an overview of the topics covered in the civil services examination and to provide basic information on the course content. I sincerely believe that chartered accountants with their education and training are very well equipped to serve the society through these services.

Global Initiatives

Promoting WCOA 2022

To promote the World Congress of Accountants (WCOA) 2022, being hosted by the ICAI from 18^{th} – 21^{st} November 2022 at Jio World Centre, Mumbai, I had addressed about 5000 ICAI members and other stakeholders from the India Pavilion in Expo 2020 in Dubai. Expo 2020 was an apt opportunity to create awareness regarding the WCOA 2022, being hosted by the ICAI.

Meeting with Former Australian Prime Minister

I and Vice President CA. Aniket Sunil Talati had the pleasure of meeting Mr. Tony Abbott, Former Prime Minister of Australia and currently Australian Prime Minister's special trade envoy. You will be pleased to know that Mr. Abbott had played vital a role in finalizing of Indo-Australian Free Trade agreement and

From the President

he was appreciative of the fact that ICAI had MRAs with both the accountancy bodies in Australia and how Indian Chartered Accountancy professionals are contributing to the economy by having leadership or advisory positions in many Australian companies.

Meeting with Pan African Federation of Accountants (PAFA)

CA. Aniket Sunil Talati, Vice President, ICAI had visited Uganda to attend the meeting of Pan African Federation of Accountants (PAFA) wherein discussions were held with the leaders of accounting bodies in Africa for furthering ICAI's initiatives. He also made a presentation to PAFA board on WCOA 2022 and requested the accounting bodies for maximum participation at the World Congress.

Meeting with CPA Australia

It is our persistent endeavour to expand the CA brand globally. Recently a virtual meeting was held with Mr. Andrew Hunter, Chief Executive Officer of CPA Australia to further strengthen the relationship by way of conducting Joint Studies and Publications on topics of mutual interest of both the Institutes, as well as work towards deriving best advantage from MRA for our respective membership. During the meeting discussions were held about collaborating to make 21st World Congress of Accountants a grand success.

Convocations at Delhi, Jaipur and Indore

To felicitate and welcome the newly qualified Chartered Accountants into the professional community, the long awaited ICAI Convocation 2021-22, which was postponed in January 2022 due to Covid-19, were held at Indore, Jaipur and New Delhi.

The Convocation recognises the grit and determination of our rank holders and is a moment to cherish for all newly qualified Chartered Accountants. I am very happy to see the young brigade attending the Convocations in large numbers with much enthusiasm.

Signing of MoU with Directorate of School Education, Kashmir

The Institute entered into a Memorandum of Understanding (MoU) with the Directorate of School Education, Kashmir (DSEK), Government of Jammu & Kashmir for promoting Commerce Education amongst Government and Government aided Secondary and Higher / Senior Secondary school students. The prime objective of this MoU is to bring out the true potential of students belonging to Kashmir Valley.

In Conclusion

With profound grief I would like to inform that our Past President (1976-77) CA. B.R. Maheswari expired on 2nd April, 2022. Our heartfelt condolences to his family and may the departed soul rest in peace.

As we equip ourselves with innovations and new advancements, I assure you all that we will continue to work towards expanding our legacy as valued trustees of public interest. The activities of the Institute will continue to grow in significance in the changing and challenging scenario.

I would urge my colleagues to continue to remain committed to Excellence, Independence & Integrity.

With all good wishes,

Debashis Mitra

CA. (Dr.) Debashis Mitra
President, ICAI
Delhi, 26th April, 2022

FROM THE PRESIDENT

Photographs

ICAI President CA. (Dr.) Debashis Mitra and Vice President CA. Aniket Sunil Talati alongwith the ICAI Past Presidents at the Past President's meet held at Mumbai.

ICAI President CA. (Dr.) Debashis Mitra and CA. Anuj Goyal, Central Council Member with Chief Guest Prof. Jagdish Mukhi, Hon'ble Governor of Assam at the State Level Conference on Investor Education and Awareness at Guwahati.

ICAI President CA. (Dr.) Debashis Mitra and ICAI Vice President CA. Aniket Sunil Talati during their meeting with Ms. Madhabi Puri Buch, Chairperson - Securities and Exchange Board of India (SEBI) at Mumbai.

ICAI President CA.(Dr.) Debashis Mitra and ICAI Vice President CA. Aniket Sunil Talati meeting Dr. Ajay Bhushan Prasad Pandey, Chairperson, NFRA . Also seen in the picture are Central Council Members CA.(Dr.) Sanjeev Kumar Singhal and CA. Pramod Jain.

ICAI President CA.(Dr.) Debashis Mitra & ICAI Vice President CA. Aniket Sunil Talati in a meeting with Mr. Tony Abbott, former Prime Minister of Australia & currently Australian PM's Special Trade Envoy for India. Also seen in the picture past Central Council Member, ICAI CA. Rajesh Sharma.

ICAI President CA. (Dr.) Debashis Mitra with the members of the ICAI Abu Dhabi Chapter at the event "Digital economy – Reshaping Global Business Landscape " organized by ICAI Abu Dhabi Chapter.

ICAI President CA. (Dr.) Debashis Mitra meeting His Excellency Saud Salim Al Mazrouei, Director and Mr. Ramesh TV CFO, Hamriyah Free Zone Authority, UAE and extending invitation for WCOA 2022. Also seen in the picture are representatives of the ICAI Dubai Chapter.

ICAI President CA. (Dr.) Debashis Mitra meeting Mr. Dhaher Bin Dhaher Al Mheiri, CEO & Mr. Bharath Shivappa Asia Sector Head - Markets of Abu Dhabi Global Market and extending invitation for WCOA 2022. Also seen in the picture are the representatives of the ICAI Abu Dhabi Chapter.

ICAI President CA. (Dr.) Debashis Mitra at the India Pavilion@ Expo 2020 Dubai promoting WCOA 2022. Also seen in the picture are the members of the ICAI Dubai Chapter.

ICAI President CA. (Dr.) Debashis Mitra, ICAI Vice President CA. Aniket Sunil Talati and CA. (Dr.) Jai Kumar Batra, Secretary, ICAI with Regional Council Chairmen CA. Atul Mehrotra Chairman, CIRC, CA. China Masthan Talakayala, Chairman, SIRC, CA . Ravi Kumar Patwa, Chairman, EIRC and CA. Naveen Garg, Chairman, NIRC, CA.Murtuza Kachwala, Chairman, WIRC (virtually) at the Regional Chairmen Meeting at ICAI, New Delhi.

The Institute of Chartered Accountants of India (ICAI) has signed a Memorandum of Understanding (MoU) with Directorate of School Education, Kashmir (DSEK) in the presence of Chief Guest Dr. Tassaduq Hussain Mir, Director of School Education, Kashmir and Central Council members CA. Hans Raj Chugh and CA. Raj Chawla.

ICAI President CA. (Dr.) Debashis Mitra alongwith CA. Ranjeet Kumar Agarwal, Central Council Member, ICAI, CA. P R Ramesh, CA. Ravi Kumar Patwa Chairman, EIRC and members of the EIRC of ICAI at the “S Vaidyanath Aiyar Memorial Lecture” organized by EIRC, Kolkata.

ICAI Vice President CA. Aniket Sunil Talati meeting members of ICAI Uganda (Kampala) Chapter, Uganda.

ICAI Vice President CA. Aniket Sunil Talati meeting with Mr. Cosme Goundete, PAFA President at Uganda.

ICAI Central Council Members CA. Prakash Sharma, CA. Rohit Ruwatia Agarwal and CA. Gyan Chandra Misra conferring Certificates to newly qualified CAs at Convocation Ceremony at Jaipur.

ICAI Central Council members CA. Anuj Goyal, CA.(Dr.) Sanjeev Kumar Singhal, CA. Sanjay Kumar Agarwal, CA. Pramod Jain, CA. Hans Raj Chugh, CA. Gyan Chandra Misra and CA. Raj Chawla at Convocation Ceremony to felicitate newly qualified CAs at Delhi.

ICAI Past President CA. Manoj Fadnis and ICAI Central Council Members CA. Kemisha Soni, CA. Anuj Goyal and CA. Abhay Kumar Chhajed conferring Certificates to newly qualified CAs at ICAI Convocation at Indore.

ICAI President CA.(Dr.) Debashis Mitra, CA. Anuj Goyal and CA. Rohit Ruwatia Agarwal Central Council members, ICAI at the CIRC orientation programme at Lucknow.

ICAI Vice President CA. Aniket Sunil Talati and CA. Hans Raj Chugh, Central Council Member meeting Mr. Leslie Leow, General Manager Emerging Markets and delegates from CPA Australia at ICAI, New Delhi.

ICAI President CA. (Dr.) Debashsis Mitra and ICAI Vice President Aniket Sunil Talati at the Orientation programme organized by EIRC of ICAI. Also seen in the picture are CA. Ranjeet Kumar Agarwal and CA. Abhay Kumar Chhajed, Central council members, CA. Ravi Kumar Patwa Chairman EIRC of ICAI and regional council members of the EIRC.

Know Your Ethics

Q. What is the status of a Chartered Accountant who is a salaried employee of a Chartered Accountant in practice or a firm of such Chartered Accountants?

A. An associate or a fellow of the Institute who is a salaried employee of a Chartered Accountant in practice or a firm of such Chartered Accountants shall, notwithstanding such employment, be deemed to be in practice for the limited purpose of the training of articled assistants. He may hold Certificate of Practice but he is not entitled to do attest functions w.e.f. 1.4.2005.

Q. Can a member in practice be Promoter/ Promoter Director of the Company?

A. Yes, there is no bar for a member to be a promoter/signatory to the Memorandum and Articles of Association of any company. There is also no bar for such a promoter/signatory to be a Director Simplicitor of that company irrespective of whether the objects of the company include areas, which fall within the scope of the profession of Chartered Accountants. Therefore, members are not required to obtain specific permission of the Council in such cases. There is also no bar on holding any number/percentage of shares in the company.

Q. Can a member in practice be a sleeping partner in family business concern?

A. Yes, a member in practice can be a sleeping partner in a family business concern provided he takes prior and specific permission from the Council in terms of Regulation 190A of Chartered Accountants Regulations,1988. He will, however, not be entitled to do attest functions.

Q. Can a member who is in part-time/full time employment apply for Certificate of Practice and do attest functions?

A. Yes, he can apply for Certificate of Practice but cannot do attest functions. Please refer Regulation 190A of the Chartered Accountants Regulations,1988.

Q. What should be the size of signboard for the office?

A. With regard to the size of the signboard for his office that a member can put up, it is a matter in which the members should exercise their own discretion and good taste while keeping in mind the appropriate visibility and illumination (limited to the sake of visibility). Use of glow signs or lights on large-sized boards as is used by traders or shopkeepers would not be proper. A member can have a name board at the place of his residence with the designation of a Chartered Accountant, provided it is a name plate or name board of an individual member and not of the firm.

Q. Can a member publish a change in partnership or change in the address of practice and telephone numbers?

A. Yes, a member can publish a change in partnership or change in the address of practice and telephone numbers. Such announcements should be limited to a bare statement of facts and consideration given to the appropriateness of the area of distribution of the newspaper or magazine and number of insertions.

Q. Can a member act as an Insurance Surveyor?

A. As per Appendix (9) of Chartered Accountants Regulations, 1988, a member of the Institute in practice is generally permitted to act as a Surveyor and Loss Assessor under the Insurance Act, 1938, provided he is otherwise eligible. Such a member can perform attest functions.

Q. Whether the members are required to intimate his website address to the Institute?

A. No, members are not required to intimate the Website address to the Institute. However, the Website has to comply with the Guidelines issued by the Institute.

Q. Can a member holding Certificate of Practice is entitled to own Agricultural land and continue agricultural activity?

A. Yes, member holding Certificate of Practice can own and hold agricultural land and continue agricultural activity.

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Q. Whether a member in practice can establish a Tax Information Network - Facilitation Centre (TIN-FC)? Whether he can be franchise for a TIN-FC?

A. A member in practice may establish a TIN-FC and as well establish a TIN-FC under franchise from the other entity which is already a TIN-FC.

Q. Whether there are any Know Your Client (KYC) Norms to be followed by members in practice?

A. Yes, members in practice are required to follow Know Your Client (KYC) Norms, which are mandatory w.e.f 1.1.2017. These are applicable for all attest functions.

"Attest Functions" for this purpose include services pertaining to Audit, Review, Agreed upon Procedures and Compilation of Financial Statements.

The KYC Norms may be assessed in Paragraph R320.3 A6 of Volume-I of Code of Ethics.

Q. Whether a member in practice can engage as GST practitioner?

A. Yes, a member in practice can engage as GST practitioner, as the activities to be performed by GST practitioner mentioned in CGST Act, 2017 read with CGST Rules, 2017 are within the purview of a member in practice as per the provisions of Act and CA Regulations framed thereunder.

Q. Whether a member holding CoP, who is an employee in a CA Firm, can be enrolled as GST practitioner?

A. Yes, he can enrol as GST practitioner (as this is not an attest function), subject to contractual obligations, if any, with the employer.

Q. Whether a member holding CoP on part time basis, working as an employee in an entity other than a CA Firm, can be enrolled as GST practitioner?

A. A member holding CoP on part time basis and working as an employee in an entity other than a CA Firm can enrol as GST practitioner, subject to contractual obligations, if any, with the employer.

Q. Whether it is permissible for a member to mention himself as "GST Consultant"?

A. No, in terms of provisions of Clause (7) of Part-I of First Schedule to Chartered Accountants Act, 1949, it is not permissible for a member to mention himself as GST Consultant.

Q. Whether two or more members can collectively have joint training session for their clients on GST, and share the fees collected from the clients thereof?

A. It is permissible for two or more members can collectively have joint training session for their clients on GST, and share the fees collected from the clients thereof.

Q. Whether it is permissible for a Firm of Chartered Accountants to sponsor an event?

A. It is not permissible for a member in practice or a Firm of Chartered Accountants to sponsor an event. However, such member or Firm may sponsor an event conducted by a Programme Organizing Unit (PoU) of the ICAI, provided such event has the prior approval of Continuing Professional Education (CPE) Directorate of the ICAI.

Q. Can a member in practice hold a kiosk for providing certain Government services in areas where online access is not available?

A. A member in practice can provide such services through kiosk if the services provided are professional services of a practicing Chartered Accountant, permitted under the Chartered Accountants Act, 1949.

Q. Whether a member in service is permitted to take ERI (E-Return Registration) in his/her name?

A. A member in service may take E-Return registration if it does not conflict with employment obligations. However, a return cannot be certified by the member.

Q. Whether partner of a Firm of Chartered Accountants doing audit of an Insurance company can accept the assignment of surveyor of the said Company?

A. No, it is not permissible for a partner of a Firm of Chartered Accountants doing audit of an Insurance company to accept the assignment of surveyor of the said Company, as it is likely to impact independence as auditor.

Q. Whether a member in practice can act as a mediator?

A. Yes, a member in practice can act as a mediator since acting as a 'mediator' would be deemed to be covered within the meaning of 'arbitrator', which is *inter alia* permitted to members in practice as per Regulation 191 of the Chartered Accountants Regulations, 1988.

Classification of business activity as operating activity or investing activity

A. Facts of the Case

1. A Company (hereinafter referred to as 'the Company') is a wholly-owned Government of India company, engaged in providing long-term finance to viable infrastructure projects through the Scheme for Financing Viable Infrastructure Projects through a Special Purpose Vehicle called 'the Company', referred to as SIFTI. The Company enjoys the status of public financial institution and is also registered as a Non-Banking Financial Company - Infrastructure Finance Company (NBFC-IFC) with the Reserve Bank of India. The Company is categorized as Systemically Important Non-Deposit taking company. The Company complies with various elements of RBI Regulations applicable to NBFC-IFC. As per SIFTI (a copy of which has been provided by the querist for the perusal of the Committee), "The Company would raise funds as and when required. The funds so raised may be utilized for on-lending and *surplus funds may be invested in marketable government securities* (G-Sec and T-Bills) and / or Certificates of Deposit, Fixed Deposits and, for Treasury Management purposes, in AAA rated PSU Corporate Bonds." (Emphasis supplied by the querist.)

2. The querist has stated that the Comptroller and Auditor General of India (C&AG) conducts supplementary audit of accounts of the Company under section 143(6)(b) of the Companies Act, 2013. The office of C&AG after completing the supplementary audit of the Company for financial year (F.Y.) ended 31st March 2020 has issued a letter (a copy of which has been separately provided by the querist for the perusal of the Committee) dated 5th January 2021 and informed, inter-alia, the following:

> "Cash Flow Statement is deficient as detailed below:
>
> - Investment of Rs. 5297.60 crore in Government Securities has been shown under Operating Activities instead of Investing Activities which is in contravention to Ind AS 7.
> - Similarly, receipt of Rs. 97.87 crore on account of sale of Government Securities has been shown under Operating Activities instead of Investing Activities.
> - Equity Infusion of Rs. 188.45 crore in ABC (UK) Ltd., (a wholly owned subsidiary of the Company) has been shown under operating activities instead of Investing Activities."

3. In this regard, the querist has submitted as follows:

A. **Investment of Rs. 5297.60 crore in Government Securities:**

a) The Company is operated under the Scheme for Financing Viable Infrastructure Projects (SIFTI) and as per this scheme; *the Company doesn't undertake any investment activities.* Interest/ income on surplus funds is considered as income from operations.

b) The surplus funds are invested in marketable government securities (G-Sec and T-Bills) and/ or certificates of deposit, fixed deposits and, for treasury management purposes, in AAA rated PSU corporate bonds.

c) Government of India, on 30th March 2020 infused equity share capital, by way of Right Issue (Recapitalisation bonds) of Rs. 5,297.60 crore.

d) Consequently, the Government of India issued, vide Notification dated 26th March 2020 (a copy of which has been separately provided by the querist for the perusal of the Committee), Special GoI securities (non-transferable) aggregating Rs. 5,297.60 crore. The special securities shall not be transferable and conversion in any other form of security is not permitted.

As per point 8 of the aforesaid Notification, "The investment in the special securities by the Company would not be considered as an eligible investment which the Company is required to make in Government securities in pursuance of any statutory provisions or directions applicable to the investing bank/company, i.e., the Company."

Considering the fact that the Company cannot undertake the investing activities and parked the surplus funds in Government Securities, which is the part of primary operations of the Company, the *subscription of Special GoI Securities is considered as operating activity* by the Company.

B. **Receipt of Rs. 97.87 crore on account of sale of Government Securities:**

a) *The Company doesn't undertake any investment activities.* The surplus funds are invested in marketable government securities (G-Sec and T-Bills) and/or Certificates of Deposit, Fixed Deposits and, for Treasury Management purposes, in AAA rated PSU Corporate Bonds.

b) The investment in government securities by the Company is considered as an operating activity. *Accordingly, the proceeds from maturity of any government security are treated as operating activity of the Company.*

Further, the querist has clarified that the receipt of Rs. 97.87 crore was on account of redemption of marketable Government Securities, other than special Government Securities.

C. **Equity Infusion of Rs. 188.45 crore in ABC (UK) Ltd.:**

a) ABC (UK) Limited, a 100% owned subsidiary of the Company, was incorporated in February 2008 to lend to Indian companies implementing infrastructure projects in India, or to co-finance their external commercial borrowings for such projects, solely for the capital expenditure outside India. The Company infused capital of Rs. 188.45 crore (USD 25 million) during the financial year 2019-20.

b) In accordance with the Company's plan for business continuance to further supplement financial resources for infrastructure development in India, ABC (UK) Ltd. was set up with the objective of lending in foreign currency to Indian companies implementing infrastructure projects in the Country specifically for import of capital equipment. The Reserve Bank of India (RBI) has extended line of credit of USD 5 billion from foreign exchange reserves for the same.

c) *The Company's equity investment is a part of operating activity in the Cash Flow Statement considering it as an integral part of its operation to fund infrastructure loan.*

It is also submitted by the querist that the Company had received a similar comment on classification of interest on fixed deposits as operating activity from the office of C&AG during the supplementary audit for the financial year ended 31st March 2010 and 31st March 2011. The matter was referred to the Expert Advisory Committee (EAC) of the Institute of Chartered Accountants of India (ICAI). The *EAC opined* (a copy of which has been provided by the querist for the perusal of the Committee) *that "it is appropriate for the company to treat interest on bank deposits as income from operations in its books of account and, accordingly, to consider and disclose interest on bank deposits as income from operations in preparation of financial statements including cash flow statement".*

(Emphasis supplied by the querist.)

B. Query

4. On the basis of the above, the querist has sought the opinion of the EAC regarding classification of investment/redemption of government securities and equity investment in the cash flow statement.

C. Points considered by the Committee

5. The Committee notes that the basic issue raised in the query relates to classification of investment/redemption of government securities and equity investment in the statement of cash flows, presented in accordance with Indian Accounting Standard (Ind AS) 7, 'Statement of Cash Flows'. The Committee has, therefore, examined only this issue and has not examined any other issue that may arise from the Facts of the

Case, such as, accounting treatment of investment in foreign subsidiary in the financial statements of the Company, accounting for equity contribution received from the Government, classification of cash flows arising from investments other than the above-mentioned investments, if any, valuation of investments, etc. Further, the Committee presumes from the Facts of the Case that investments in marketable government securities do not meet the definition of 'cash equivalent' as per Ind AS 7.

6. The Committee notes that the Company in the extant case is a Non-Banking Financial Company - Infrastructure Finance Company and therefore, can be considered as a financial institution under Ind AS 7.

The Committee notes that the following three types of transactions/investments have been referred to in the extant case:

(i) Investment in Special government securities: These special securities shall not be transferable and conversion in any other form of security is not permitted.

(ii) Sale of marketable government securities other than special government securities as referred above.

(iii) Equity infusion in the wholly-owned subsidiary, ABC (UK) Ltd.

7. In the context of the issue raised, the Committee notes the following paragraphs of Ind AS 7, 'Statement of Cash Flows':

"***Operating activities*** **are the principal revenue-producing activities of the entity and other activities that are not investing or financing activities.**

Investing activities **are the acquisition and disposal of long-term assets and other investments not included in cash equivalents.**

Financing activities **are activities that result in changes in the size and composition of the contributed equity and borrowings of the entity.**"

"11 An entity presents its cash flows from operating, investing and financing activities in a manner which is most appropriate to its business. Classification by activity provides information that allows users to assess the impact of those activities on the financial position of the entity and the amount of its cash and cash equivalents. This information may also be used to evaluate the relationships among those activities."

"14 Cash flows from operating activities are primarily derived from the principal revenue-producing activities of the entity. Therefore, they generally result from the transactions and other events that enter into the determination of profit or loss. Examples of cash flows from operating activities are:

(a) cash receipts from the sale of goods and the rendering of services;

(b) cash receipts from royalties, fees, commissions and other revenue;

(c) cash payments to suppliers for goods and services;

(d) cash payments to and on behalf of employees;

(e) cash receipts and cash payments of an insurance entity for premiums and claims, annuities and other policy benefits;

(f) cash payments or refunds of income taxes unless they can be specifically identified with financing and investing activities; and

(g) cash receipts and payments from contracts held for dealing or trading purposes.

Some transactions, such as the sale of an item of plant, may give rise to a gain or loss that is included in recognised profit or loss. The cash flows relating to such transactions are cash flows from investing activities. However, cash payments to manufacture or acquire assets held for rental to others and subsequently held for sale as described in paragraph 68A of Ind AS 16, *Property, Plant and Equipment*, are cash flows from operating activities. The cash receipts from rents and subsequent sales of such assets are also cash flows from operating activities.

15 An entity may hold securities and loans for dealing or trading purposes, in which case they are similar to inventory acquired specifically for resale. Therefore, cash flows arising from the purchase and sale of dealing or trading securities are classified as operating activities. Similarly, cash advances and loans made by financial institutions are usually classified as operating activities since they relate to the main revenue-producing activity of that entity.

Investing Activities

16 The separate disclosure of cash flows arising from investing activities is important because the cash flows represent the extent to which expenditures have been made for resources intended to generate future income and cash flows. Only expenditures that result in a recognized asset in the balance sheet are eligible for classification as investing activities. Examples of cash flows arising from investing activities are:

(a) *cash payments to acquire* property, plant and equipment, intangibles and other *long-term assets.* These payments include those relating to capitalised development costs and self-constructed property, plant and equipment;

(b) cash receipts from sale of property, plant and equipment, intangibles and other long-term assets;

(c) *cash payments to acquire equity or debt instruments of other entities and interests in joint ventures (other than payments for those instruments considered to be cash equivalents or those held for dealing or trading purposes);*

(d) *cash receipts from sales of equity or debt instruments of other entities and interests in joint ventures (other than receipts for those instruments considered to be cash equivalents and those held for dealing or trading purposes);*

(e) cash advances and loans made to other parties (other than advances and loans made by a financial institution);

(f) cash receipts from the repayment of advances and loans made to other parties (other than advances and loans of a financial institution);

(g) cash payments for futures contracts, forward contracts, option contracts and swap contracts except when the contracts are held for dealing or trading purposes, or the payments are classified as financing activities; and

(h) cash receipts from futures contracts, forward contracts, option contracts and swap contracts except when the contracts are held for dealing or trading purposes, or the receipts are classified as financing activities.

When a contract is accounted for as a hedge of an identifiable position the cash flows of the contract are classified in the same manner as the cash flows of the position being hedged."

"33 Interest paid and interest and dividends received are usually classified as operating cash flows for a financial institution. However, there is no consensus on the classification of these cash flows for other entities. Some argue that interest paid and interest and dividends received may be classified as operating cash flows because they enter into the determination of profit or loss. However, it is more appropriate that interest paid and interest and dividends received are classified as financing cash flows and investing cash flows respectively, because they are cost of obtaining financial resources or returns on investments."

"39 The aggregate cash flows arising from obtaining or losing control of subsidiaries or other businesses shall be presented separately and classified as investing activities."

(Emphasis supplied by the Committee.)

8. The Committee notes that in the definition of 'operating activity', reproduced in paragraph 7 above, the term 'principal' qualifies the term 'revenue-producing activity' and not just 'revenue'. Revenue may flow from activities undertaken by an entity or from a resource created or acquired by an entity. For example, in the case of manufacturing enterprises, plant and machinery (which are long-term assets) are resources and, hence, construction/acquisition of the same are investing activities, while purchase of raw materials, manufacturing and sale of finished goods are principal revenue-producing activities. Cash flows arising from such revenue-producing activities are, therefore, cash flows from operating activities. Similarly, investments are resources and, hence, normally, acquisition and disposal of investments (whether or not long-term - see the definition of investing activities, reproduced in paragraph 7 above) are investing activities even for a financial institution (unless held for trading or dealing purposes or which are considered to be cash equivalents), while earning of income, such as interest and dividend, may be the principal revenue-producing activity. Receipts of interest and dividend (for a financial institution) are, therefore, cash flows from operating activities.

Further, the examples cited in Ind AS 7 indicate that irrespective of the nature of an entity, purchase and sale of securities, such as debt and equity instruments, held for trading or dealing purposes or which are considered to be cash equivalents are operating activities, while purchase and sale of securities in other cases are investing activities (see paragraphs 15, 16(c) and 16(d) of Ind AS 7, reproduced in paragraph 7 above). The reason is that in the case of purchase and sale of securities held for trading or dealing purposes, earning of interest and dividend is an incidental activity only, while revenue is principally generated by the trading or dealing activities of the entity, and, consequently, purchase and sale of the securities themselves are principal revenue-producing activities. In fact, shares, debentures and other securities held as stock-in-trade (i.e., for sale in the ordinary course of business) are not long-term assets; rather considered similar to inventories. Hence, purchase and sale of securities held for trading or dealing purposes are not investing activities.

In the case of purchase and sale of securities held not for trading or dealing purposes, earning of interest and dividend is generally considered as the principal revenue-producing activity for a financial institution. In such cases, purchase of the securities is considered as acquisition of a resource for generating future revenue and not as a principal revenue-producing activity. Hence, sale of securities in such cases is also not a principal revenue-producing activity. Thus, it is possible that even for a financial institution, acquisition and disposal of some investments may qualify as investing activities.

This is evident from Illustrative Example B, titled 'Statement of cash flows for a financial institution', contained in International Accounting Standard (IAS) 7, 'Statement of Cash Flows', issued by the International Accounting Standards Board, wherein proceeds from sales of non-dealing securities and purchase of non-dealing securities are exhibited as cash flows from investing activities.

In the extant case, the Committee notes that investments in non-transferrable and non-convertible special government securities are apparently long-term in nature, having a tenure of 10-15 years and therefore, cannot be considered as held for trading or dealing purposes. Accordingly, considering the above discussion, the Committee is of the view that acquisition and disposal of the special government securities are investing activities and therefore cash flows from acquisition and disposal/maturity of such investments are cash flows from investing activities.

With reference to the above discussion, the Committee also notes from the annual report of the Company for F.Y. 2019-20 that in the extant case, the special government securities are carried at amortised cost and not fair value. Therefore, considering the facts of the extant case, the Committee has not examined the situation where investments are managed on a fair value basis and fair value changes are recognised in the Statement of Profit and Loss.

9. With regard to cash flows from redemption of government securities other than special government securities, the Committee is of the view that as discussed above, in the case of purchase and sale of securities, distinction between operating activities and investing activities is not made on the basis of whether an entity is a financial institution or not. Rather cash flows from investments are classified as operating activities when these are held for trading or dealing purposes or are considered to be cash equivalents. Accordingly, in the extant case, the proceeds from redemption of government securities other than special government securities would depend upon whether these can be considered as held for trading or dealing purposes or are long-term resources. If investments in marketable government securities can be considered as held for trading or dealing purposes, cash flows from redemption of these securities should be considered as operating activities, otherwise these should be considered as investing activities.

10. With regard to cash flows from equity infusion in wholly-owned subsidiary, the Committee notes that the requirements of Ind AS 7 relating to investments in subsidiaries do not make distinction in classification due to an entity being a financial institution. Accordingly, considering the requirements of paragraph 39 of Ind AS 7 and the above discussion on investing activities, the Committee is of the view that the cash flows from obtaining control of a subsidiary cannot be considered as cash flows from operating activity and should be classified as cash flows from investing activity.

D. Opinion

11. On the basis of the above, the Committee is of the opinion that in the Cash Flow Statement of the Company, presented in accordance with Ind AS 7, cash flows from purchase of special government securities should be classified as cash flows from investing activities, as explained in paragraph 8 above. With regard to cash flows from redemption of government securities other than special government securities, these can be considered as operating activities only if investments in marketable government securities can be considered as held for trading or dealing purposes; otherwise these should be considered as investing activities, as explained in paragraph 9 above. The cash flows to acquire investment in subsidiary cannot be considered as cash flows from operating activity and should be classified as cash flows from investing activity, as explained in paragraph 10 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 October 27, 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.

Risk and Return Analysis of National Pension Scheme for Retirement Planning

An individual always saves a portion of his earnings for his future and wants to invest his money in a profitable scheme that would fetch good returns to secure his life after retirement as he wants good corpus and regular income to live a smooth life after his retirement. The National Pension Scheme is a retirement planning scheme which is a pension system where the contribution is being made voluntarily by Indian citizens. Read on...



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The main objective of this study is to identify the return and risk involved in investments in NPS and whether it is a safe retirement scheme for Indian citizens? Which is the best mix of investment in NPS to invest in the age group of 40-50? Which is the best fund manager to invest in? Primary data for the analysis was collected from discussions with retirees and young investors who have invested in this scheme, tax consultants, and financial consultants providing NPS service. Secondary data includes Newspapers, Websites, Magazines and journals. Data of the past 10 years shows that NPS has given good returns which are pretty high compared to FD/PPF/EPF because it is linked with equity but then, the risk is also comparatively high with others. But the risk is low as compared to equity and mutual funds investments as it is very well managed and invested in high caps and also the charges are comparatively low/ negligible. It is therefore concluded that NPS is a low-risk investment with high returns. It also provides tax benefits. So, NPS can be considered as a good long-term retirement planning scheme.

Introduction

An individual always saves a portion of his earnings for his future and wants to invest his money in a profitable scheme that would fetch good returns to secure his life after retirement as he wants both good corpus and regular income to live a smooth life after his retirement. So, one requires good retirement planning. An individual always, therefore, prefers a government job that not only gives job security but also a guaranteed pension after retirement. The private companies, therefore, pay handsome salaries and have introduced many retirement benefits to

attract employees. On 1 April 2004, the Government of India stopped the pensions for all its employees who joined the government organisations after 1 April 2004 and initiated NPS which was later made available for all Indian Individual citizens from 2009 onwards. Investors between the ages of 18 years to 75 years can invest in this scheme. National Pension Scheme is a retirement planning scheme which is a pension system where the contribution is being made voluntarily by Indian citizens. Where the contribution towards NPS is mandatory for all government employees, it is optional for other individuals (whether salaried person or self-employed person). Here, an employee and his employer both can contribute to his retirement account. It is regulated by the Pension Fund Regulatory and Development Authority (PFRDA). It can be opened either physical mode through bank or online mode.

The individual can opt for investment either fully or in the mixture in four types of investment schemes which are being offered by the pension fund managers. These are called active choice which is:

> National Pension Scheme is a retirement planning scheme which is a pension system where the contribution is being made voluntarily by Indian citizens.

- Scheme E (Equity) where a maximum of 75% can be invested in stocks and risk is high.
- Scheme C (Corporate debt) where a maximum of 100% can be invested in high-quality corporate bonds and risk is Moderate.
- Scheme G (Government bonds) where a maximum of 100% can be invested and risk is Low.
- Scheme A (Alternative investment like real estates, piece of art) where a maximum of 5% can be invested and risk is very High.

After the age of 50 years, the equity allocation starts to reduce and after the age of 60 years, the subscriber cannot have more than 50% of his portfolio into an equity fund.

Also, the subscriber can choose the default scheme (auto choice), which is classified as follows-:

- **LC75 – Aggressive Lifecycle Fund:** where a maximum of 75% can be invested in stocks up to the maximum age of 35
- **LC50 – Moderate Lifecycle Fund:** where a maximum of 50% can be invested in stocks up to the maximum age of 35
- **LC30 – Conservative Lifecycle Fund:** where a maximum of 25% can be invested in stocks up to the maximum age of 35

After the age of 35, the subscriber's equity and corporate debt allocation start to reduce while allocation to government debt securities increases.

At present, there are 7 pension fund managers in the country out of which anyone can be chosen by the investors.

1. UTI Retirement Solutions Limited.
2. SBI Pension Funds Private Limited.
3. LIC Pension Fund.
4. ICICI Prudential Pension Funds Management Company Limited.
5. Kotak Mahindra Pension Fund limited.
6. Aditya Birla Sun Life Pension Management Limited.
7. HDFC Pension Management Company Limited.

The pension fund manager (only once in a year) and types of investment (four times in a year) can be changed any time in a year.

NPS provides two types of accounts to its subscribers:

- **Tier I:** It is meant for retirement savings. Here, the account opening charge ranges from Rs. 200 (minimum) – Rs. 400 (maximum), and a minimum of one number of contributions must be done in a year which should be at least Rs. 500 per transaction and Rs. 1000 p.a. and there is no upper limit for investment. The lock-in period is 60 years of age. After that, the subscriber can withdraw only up to 60% of the corpus in a lump sum. The remaining amount must be invested into an immediate annuity plan. If the total corpus amount is less than or equal to Rs. 5 lakhs, the subscriber can choose for 100% lump-sum withdrawal. Subscribers can also withdraw partially (20% only) before 60 years of age but only after 10 years of account opening. The remaining amount (80%) must be invested into an immediate annuity plan. However, If the total corpus amount is less than or equal to Rs. 2.5 lakh, subscriber can choose for 100% lump-sum withdrawal. An annuity is a monthly pension which the subscriber will receive from the Annuity Service Provider which is usually an insurance company. There are various types of annuities available in the market like an annuity for life, Annuity payable for life with 100 percent annuity payable to the spouse on the death of the annuitant, etc. All tax benefits apply to this account only.

- **Tier II:** Only Tier 1 members are allowed to invest in this account and investors can choose not to invest any year. There is no lock-in period in this account, so, subscribers can deposit and withdraw the amount as per their desire. It is meant for general investments and is very similar to a mutual fund in characteristics, but there is neither any commission nor any Exit load but good returns. No tax benefit is available in this.

Statement of Problem

Among many retirement schemes available in the market, NPS is one of them. But like any other securities, it has also its own risks and returns. So, the problem lies in whether the individuals should invest or not in this scheme for better returns and a bright future.

Research Objectives

1. The main objective of this study is to identify the Return and risk involved in investments in NPS and whether it is a safe retirement scheme for Indian citizens.
2. To find out the best debt equity mix of investment in NPS in the age group of 40-50.
3. To find out the oldest fund manager.
4. To know which fund manager has maximum subscribers.
5. To find out the fund manager which gives the highest return in the corporate bond scheme, government bond scheme and equity scheme of Tier I.
6. To analyse the best fund manager to invest in.

Literature Review

Aruna Kapoor (2016), conducted a study using primary and secondary data the analysis showed that NPS provides transparency and a reasonable return to the investors. They provided suggestions to investors, assets management companies, and the government. The conclusion of their study shows that NPS is the most low-cost pension plan in India.

> After the age of 50 years, the equity allocation starts to reduce and after the age of 60 years, the subscriber cannot have more than 50% of his portfolio into an equity fund.

Ananth S, Balanaga Gurunathan K. (2016), studied three years of data of NPS scheme for their research study. The Sharpe Index, Treynor Index, and Jensen Alpha are used to measure the comparative performance of the NPS scheme. The comparison of Tier-I and Tier-II of NPS schemes is also done in this study. The result showed that variances are existing in the return of the different schemes of Tier -I and Tier -II. The study suggested more government incentives and minimum pension support for the investors.

Bijaya Kumar Barik (2015) in his paper scrutinized the mutual fund pension schemes with the National Pension Scheme-citizen model. He studied various retirement fund schemes and estimated the returns on mutual fund pension schemes and National Pension Scheme.

Neeti Hooda and Dr. Kuldip Singh Chhikara (2018) in their research paper concluded that the role of NPS in the economy and capital market can be scrutinised in terms of accumulation of institutional capital, support to improve financial market research, development of the capital market through the creation of demand for financial instruments, risk rating standard, corporate governance, etc. which not only gives momentum to growth but also lead towards economic development of the country. It has been perceived from the study that the Indian debt market showed a continued deterioration in terms of investment purpose which was only 3.2% in 2007, in GDP terms but gained a lead with the introduction of pension reforms i.e., NPS.

Sukhen Kali and Subrata Jana (2017) conducted a study to evaluate the old pension scheme and new pension schemes in India. The old pension and new pension periods data were collected for 12 years. They used a t-test to compare the old pension and NPS and concluded that the employee benefited more from the NPS.

Dr. Kamnath Vani and Dr. Patil Roopali (2017) used a case study method for their research paper. A comparison of NPS and other Investment Schemes has been conducted for this study. Various age groups of investors (25-55 years), periods of investment, government taxation policies, and processing fees are used for this study. The finding shows that NPS is an exceptional pension policy that provides multiple benefits and assures market-linked returns to the investors.

Anita and Pankaj Kumar (2014) investigated the important features of this newly declared pension scheme. It also pointed out the difficulties that the scheme is facing.

Subhro Sen Gupta, Neha Gupta and Komal Garg (2017) explored that there is a significant relationship between equities, corporate, and government securities within the New Pension Scheme. In their paper, they used 5 years of secondary data collected from the NPS website. The rank correlation method is used for assessing the relative performance of corporate bonds, equity, and government security within SBIPF, LICPF, and UTRSL in Tier -I and Tier II. The conclusion of the study is investors have more faith in government bonds irrespective of the NPS scheme in Tier I and Tier II.

Dr. Alpa A Thaker, Dr. Mahendra, H Maisuria, and Dr. Prashant T. Jariwala(2018), in their paper, analysed the Tier I-NPS performance by using five years 7 National Pension Schemes. The analytical tools like mean, standard deviation, ANOVA are used in their study. Levene Statistics is used to test homogeneity of variances among the different schemes of Tier-I. It is found that lack of awareness and low commission structure for advisory, many investors keeping them away from investment in NPS. The study recommended that for a long-term period, NPS may offer a 12% to 15% return and it is good among the investment options for early age investors.

Srikrishna (2013), suggested that to provide for various protections against misleading conduct by sales agents, the PFRDA is required to consider the Indian Financial Code16 as a benchmark standard. The suitability study needs to be conducted by the PFRDA before embarking on a full-fledged policy initiative at improving the distribution of the NPS.

Ayanendu Sanyal, K Gayithri, and S Erappa (2011) stated that pension reforms in India in the last decade have seen three major initiatives – a paradigmatic shift in the civil servants' pension scheme, the National Pension Scheme for all citizens, and the New Pension System Lite for the frugally underprivileged sections with small savings. The NPS has seen a lukewarm response so far, with a majority of subscribers being central and state government employees, for whom the scheme is mandatory. An analysis of the auto choice option under the NPS and the demographic transition reveals potential future imbalances in the investment structure among the asset classes. Moreover, the NPS does not even guarantee a minimum pension, thus defeating its "welfare" orientation.

> The percentage of return depends upon the mixture of debt-equity in NPS investments. It is a retirement planning scheme that gives both lump sum amount and monthly pension after retirement with Tax benefits.

Dr. Mahesh Kumar Kurmi, Dr. Baneswar Kapasi, And Mr.Ranjit Kumar Paswan (2020), described in their study the comparative performance of various schemes of NPS form the viewpoint of its risk and return. The study uses secondary data from 2015 to 2020 and discloses that NPS is performing well in comparison to the stock market at least during this study period. Besides, the performance of funds under Tier II is best than funds under Tier-I. However, the performance of various funds and fund managers under the same Tier is closely homogeneous.

Research Methodology

Data Collection Method - the data is collected from primary and secondary sources as cited earlier.

Data Analysis and Results

As per the primary data collected from the young investors who have invested more in equity (50%-75%), the ROI on NPS is negative because currently, Sensex/ Nifty is moving down due to pandemic which is very temporary. Data of the past 10 years shows that NPS has given good returns which are pretty high compared to FD/ PPF/EPF because it is linked with equity but, the risk is also comparatively high with others. But the risk is low as compared to equity and mutual funds as it is very well managed by reputed fund managers and investment is made in high caps and also the charges are comparatively low /negligible. The percentage of return depends upon the mixture of debt-equity in NPS investments. It is a retirement planning scheme that gives both lump sum amount and monthly pension after retirement with Tax benefits. There is a diversification in the portfolio of investors where high risk is mitigated with low risk and the choice remains with the investors to decide the debt-equity mix. The high returns can be reaped only when it is invested for the long term i.e., more than 15-20 years.

Tax benefits of NPS

As per Section 80CCD (1) of the Income-tax Act, 1961, an individual who has contributed any amount in his NPS account during the financial year is allowed a deduction from his gross income which is limited to 10% of basic salary + DA in case of salaried individuals and 20% of gross total income in case of self-employed individuals which cannot exceed the maximum limit of Rs 1.5 lakh (including section 80C) as per Section 80CCE.

Further, Section 80CCD(1B) of the Income-tax Act allows an additional deduction of Rs 50,000 over and above the Rs 1.5 lakh to encourage investment in NPS.

Employer's contribution to National pension scheme is considered as salary income which is taxable in the hands of the employee as per Section 17(1)(viii) of the Income-tax Act. Employer's contribution is available as a deduction for a maximum of up to 10% of basic salary+ Dearness Allowance(DA) for the financial year (enhanced limit of 14% applicable for central govt. employees) under Section 80CCD(2) of the Income-tax Act. But employer's contribution to the National pension Scheme, Provident Fund, and other superannuation funds is taxable in the hands of an employee over Rs 7.5 lakh in a financial year on an aggregate basis from FY 2020-21. This deduction is available under the new tax regime also.

Employer's Contribution towards NPS can be taken as 'Business Expense' from the Profit taxable under the head

> Employer's contribution to National pension scheme is considered as salary income which is taxable in the hands of the employee as per Section 17(1)(viii) of the Income-tax Act.

> Employer's Contribution towards NPS can be taken as 'Business Expense' from the Profit taxable under the head "Profits and gains from business and profession" but maximum up to 10% of salary (Basic + DA).

"Profits and gains from business and profession" but maximum up to 10% of salary (Basic + DA).

NPS is a quasi-EET instrument in India where the investment attracts exemption from taxes, the income accrued on the investment is exempt from taxes and finally, at maturity, 60% of the corpus is tax-exempt, and the remaining 40% which has to be compulsorily used to purchase an annuity is also tax exempt but the annuity **income** earned thereof will be taxable as " Income from other sources" as per income tax slab rates prevailing at the time of retirement. In case of pre-mature exit (before 60 years of age) where you can withdraw only 20% of the corpus, that 20% amount will not be taxable, and the remaining 80% which has to be compulsorily used to purchase an annuity, the annuity **income earned thereof will be taxable**.

Risks/cons attached with NPS

1. The lock-in period is too long which discourages young investors to invest in. It is not possible to withdraw the amount before the age of 60 except in certain emergency conditions where the full amount cannot be withdrawn. So, there is liquidity risk attached with it.

2. The maximum ceiling limit of only 75% investment in equity discourages many aggressive investors to invest in who are ready to take risks.

3. 40% of the maturity amount needs to be compulsorily invested in annuity. So, if one needs a complete 100% lump sum amount, he cannot withdraw the same. Also, in premature exit, one can withdraw only 20%, and the remaining 80% needs to be compulsorily invested in annuity. So, if anyone wants to invest this 40% maturity amount in some other profitable schemes of his/her own choice, he/she can't do so.

4. The annuities are giving very less returns (normally 5%-6%) after retirement and pension income is also taxable. This makes it a less profitable scheme.

5. As it is linked with equity, the returns are not sure. At the time of withdrawal, if the market crashes, then the money invested in equity may ends in a great loss.

6. The decision of choosing the best fund manager and the best mixture of investment is a big challenge.

Table no. 1 shows the Equity scheme (E) of Tier 1 with fund managers

TIER-I - SCHEME E-EQUITY								
Pension Fund	**Aditya Birla Sun Life Pension Management Ltd.**	**HDFC Pension Management Co. Ltd.**	**ICICI Pru. Pension Fund Mgmt Co. Ltd.**	**Kotak Mahindra Pension Fund Ltd.**	**LIC Pension Fund Ltd.**	**SBI Pension Funds Pvt. Ltd**	**UTI Retirement Solutions Ltd.**	**Benchmark Return as on 09/07/2021**
Inception Date	9-May-17	1-Aug-13	18-May-09	15-May-09	23-Jul-13	15-May-09	21-May-09	
AUM (Rs Crs)	135.83	8,282.40	3,415.01	672.89	1,686.02	6,258.54	974.09	
Subscribers	16,410	816,002	365,241	51,922	206,913	832,560	91,015	
NAV	16.7647	31.2529	41.1918	37.9495	26.0821	34.2281	40.7394	
Returns 1 Year	41.41%	48.11%	49.22%	46.18%	49.33%	44.38%	49.58%	48.85%
Returns 3 Years	12.42%	14.19%	13.55%	14.29%	12.78%	12.25%	12.98%	14.31%

Returns 5 Years	NA	15.01%	13.67%	13.70%	12.45%	13.13%	13.52%	14.80%
Returns 7 Years	NA	12.52%	11.66%	11.76%	10.68%	11.33%	12.06%	12.26%
Returns 10 Years	NA	NA	11.88%	11.73%	NA	11.50%	11.62%	11.72%
Returns Inception	13.19%	15.43%	12.36%	11.59%	12.79%	10.65%	12.26%	

(Sources: Published by NPS Trust)

The analysis of the Equity scheme of Tier 1, showed that

- SBI Pension Fund Private Ltd, Kotak Mahindra Pension Fund Ltd., ICICI Prudential Pension Fund Management Co. Ltd. and UTI Retirement Solutions Ltd. are the oldest fund manager since 2009.
- HDFC Pension Management Co. Ltd. Is having the Highest AUM.
- The SBI Pension Funds Pvt. Ltd and HDFC Pension Management Co. Ltd. are having 832560 and 816002 subscribers' inequity compared with other fund managers.
- The 41.1918 is the highest NAV of ICICI Prudential Pension Fund Management Co. Ltd as compared with other fund managers.
- The highest 1-year return of UTI Retirement Solutions Ltd. is 49.58%.
- And ICICI Prudential Pension Fund Management Co. Ltd. is 49.2164 %.
- The maximum 3-year return of Kotak Mahindra Pension Fund Ltd. is 14.29% and HDFC Pension Management Co. Ltd. is 14.19%.
- The 5-year return of HDFC Pension Management Co. Ltd. is 15.01%, the highest of other fund managers.
- The 7-year return of HDFC Pension Management Co. Ltd. is 12.52%, the highest of other fund managers.
- The maximum 10-year return of ICICI Pru. Pension Fund Management Co. Ltd. is 11.88 %.
- HDFC Pension Management Co. Ltd. is having the highest 15.43% returns inception with consistency.

Table no. 2 shows the Corporate Bonds (C) scheme of Tier 1 with fund managers

TIER I-SCHEME C-CORPORATE BONDS								
Pension Fund	**Aditya Birla Sun Life Pension Management Ltd.**	**HDFC Pension Management Co. Ltd.**	**ICICI Pru. Pension Fund Mgmt Co. Ltd.**	**Kotak Mahindra Pension Fund Ltd.**	**LIC Pension Fund Ltd.**	**SBI Pension Funds Pvt. Ltd**	**UTI Retirement Solutions Ltd.**	**Benchmark Return as on 09/07/2021**
Inception Date	9-May-17	1-Aug-13	18-May-09	15-May-09	23-Jul-13	15-May-09	21-May-09	
AUM (Rs Crs)	59.45	3724.96	1780.42	335.09	937.96	3495.67	491.14	
Subscribers	16,211	805,000	363,685	51,195	207,163	829,876	90,186	
NAV	14.2796	21.9007	33.3072	32.0209	21.6255	33.4514	29.7066	
Returns 1 Year	6.24%	7.10%	6.77%	5.68%	6.50%	6.39%	5.41%	8.77%
Returns 3 Years	10.61%	11.16%	10.66%	9.40%	10.91%	10.79%	10.13%	11.66%
Returns 5 Years	NA	9.50%	9.30%	8.52%	9.08%	9.27%	8.78%	9.56%

Returns 7 Years	NA	10.12%	10.11%	9.43%	9.86%	9.89%	9.53%	10.20%
Returns 10 Years	NA	NA	10.47%	9.98%	NA	10.29%	9.95%	10.12%
Returns Inception	8.92%	10.37%	10.41%	10.04%	10.16%	10.44%	9.38%	

(Sources: Published by NPS Trust)

The Corporate bonds scheme of Tier 1 results reflects that

- SBI Pension Funds Pvt. Ltd, Kotak Mahindra Pension Fund Ltd., ICICI Prudential Pension Fund Management Co. Ltd. and UTI Retirement Solutions Ltd. are the oldest fund managers since 2009.
- The maximum AUM of HDFC Pension Management Co. Ltd. is 3724.96.
- SBI Pension Funds Pvt. Ltd is having maximum subscribers of 829876, NAV of 33.4514, and return inception of 10.44% as compared with other fund managers.
- HDFC Pension Management Co. Ltd is having the highest returns than others. The return of 1st year is 7.10%, 3rd year is 11.16%, 5 year is 9.50% and 7 year is 10.12%.
- The maximum 10-year return of ICICI Prudential Pension Fund Management Co. Ltd. is 10.47 %.

Table no. 3 shows the Government Securities (G) scheme of Tier 1 with fund managers

TIER I-SCHEME G-GOVERNMENT SECURITIES								
Pension Fund	**Aditya Birla Sun Life Pension Management Ltd.**	**HDFC Pension Management Co. Ltd.**	**ICICI Pru. Pension Fund Mgmt Co. Ltd.**	**Kotak Mahindra Pension Fund Ltd.**	**LIC Pension Fund Ltd.**	**SBI Pension Funds Pvt. Ltd**	**UTI Retirement Solutions Ltd.**	**Benchmark Return as on 09/07/2021**
Inception Date	9-May-17	1-Aug-13	18-May-09	15-May-09	23-Jul-13	15-May-09	21-May-09	
AUM (Rs Crs)	92.76	6006.96	2849.00	541.72	1621.00	6836.49	873.31	
Subscribers	15,992	803,019	359,965	51,256	211,132	832,241	87,300	
NAV	14.2228	21.3482	28.6270	28.3788	23.0097	30.8435	27.3471	
Returns 1 Year	2.85%	2.84%	3.09%	2.66%	3.05%	2.63%	1.70%	1.59%
Returns 3 Years	11.39%	11.69%	11.34%	11.42%	12.35%	11.37%	10.79%	10.73%
Returns 5 Years	NA	9.15%	9.03%	8.99%	10.17%	9.07%	8.41%	8.32%
Returns 7 Years	NA	10.20%	10.14%	10.11%	10.88%	10.25%	9.64%	9.52%
Returns 10 Years	NA	NA	9.71%	9.59%	NA	9.63%	9.22%	9.04%
Returns Inception	8.81%	10.02%	9.04%	8.96%	11.03%	9.71%	8.64%	

(Sources: Published by NPS Trust)

From the information of Tier, I-Scheme G-Government Securities the result shows that

- SBI Pension Funds Pvt. Ltd is having a maximum AUM of Rs. 6836.49 crores, subscribers 832241, and NAV of 30.8435 as compared with other fund managers.
- LIC Pension Fund Ltd. is having the highest 5th-year return of 10.17%, 7 years is 10.88%, and return inception of 11.03%.

- Kotak Mahindra Pension Fund Ltd. is having a maximum 3 years return of 11.42%
- ICICI Prudential Pension Fund Management Co. Ltd. gives the highest 1-year return of 3.09% and 10 years is 9.71%.

Table no. 4 shows the Alternate Assets scheme of Tier I with fund managers

TIER-I SCHEME A-ALTERNATE ASSETS							
Pension Fund	**Aditya Birla Sun Life Pension Management Ltd.**	**HDFC Pension Management Co. Ltd.**	**ICICI Pru. Pension Fund Mgmt Co. Ltd.**	**Kotak Mahindra Pension Fund Ltd.**	**LIC Pension Fund Ltd.**	**SBI Pension Funds Pvt. Ltd**	**UTI Retirement Solutions Ltd.**
Inception Date	15-May-17	10-Oct-16	21-Nov-16	14-Oct-16	13-Oct-16	13-Oct-16	14-Oct-16
AUM (Rs Crs)	1.43	44.67	10.61	3.63	4.51	20.91	3.57
Subscribers	1,673	59,320	13,318	3,898	10,681	40,691	4,841
NAV	12.6779	14.6505	13.7071	13.9961	14.3454	15.5119	13.3267
Returns 1 Year	4.36%	9.57%	8.48%	5.57%	10.32%	7.74%	4.82%
Returns 3 Years	5.50%	9.22%	7.64%	8.95%	8.71%	11.19%	5.96%
Returns 5 Years	NA	NA	NA	NA	NA	NA	NA
Returns 7 Years	NA	NA	NA	NA	NA	NA	NA
Returns 10 Years	NA	NA	NA	NA	NA	NA	NA
Returns Inception	5.88%	8.38%	7.04%	7.36%	7.91%	9.71%	6.25%

(Sources: Published by NPS Trust)

From the information of Tier-I - Scheme A-Alternate Assets, the result shows that

- HDFC Pension Management Co. Ltd. showed maximum subscribers of 59320, NAV of 14.6505, and AUM of Rs. 44.67crores as compared with other fund managers.
- SBI Pension Funds Pvt. Ltd showed the highest return 3 years 11.19% and inception return of 9.71% as compared with other fund managers.
- The 1-year return of LIC Pension Fund Ltd. is 10.32%

Findings

1. The analysis of 7 fund managers showed that SBI Pension Funds Pvt. Ltd, Kotak Mahindra Pension Fund Ltd., ICICI Prudential Pension Fund Management Co. Ltd. and UTI Retirement Solutions Ltd. are the oldest fund managers since 2009.
2. SBI Pension Funds Pvt. Ltd is having maximum subscribers in all three schemes of Tier I.
3. In the case of the corporate bond scheme of tier 1 HDFC Pension Management Co. Ltd is having the highest returns for 1 year, 3 years, 5 years, and 7 years period compared to other fund managers.
4. In the case of Scheme, A-Alternate assets of Tier I, HDFC Pension Management Co. Ltd. showed maximum subscribers, NAV, and AUM as compared with other fund managers.
5. From the analysis of the 4 schemes, it is found

> NPS is a low-risk investment with high returns compared to other retirement investments schemes as the portfolio is a mixture of various kinds of debt equity investments which are invested in high caps and are managed by some of the best fund managers of India and the charges of managing the fund are very low/negligible.

that though the returns generated by all the fund manager are very close to each other but among all, the best fund manager can be taken as "HDFC Pension Management Company Limited" to invest in as it has given the higher returns on equity (which is the highest return generating asset class) from inception and is also consistent in giving returns since inception.

Conclusion

It can be concluded that NPS is a low-risk investment with high returns compared to other retirement investments schemes as the portfolio is a mixture of various kinds of debt equity investments which are invested in high caps and are managed by some of the best fund managers of India and the charges of managing the fund are very low/negligible. So, it is a low-cost product. As the choice remains with the investor, he can choose less risky assets if he is very conservative and he has the flexibility to change his decisions every year. But as it is said that if there is no risk, then there are no returns, so, high returns can be reaped only if one invests in risky assets like shares which has the ability to defeat inflation and so returns on NPS investments depend upon the amount of investments in equity which can for sure generate a high return as it is a long-term investment. But choosing the right fund manager and right fund allocation is very important. There is a long lock in period here but then NPS is meant for retirement planning only where investors get both lump sum amount and pension every month after retirement till their death. Investor gets 60% of maturity amount and 40% of corpus is utilised in annuity for payment of pension. Returns can be reaped only when there are long term investments only. It also provides tax benefits. So, NPS can be considered as a good long-term retirement planning scheme. The mix of debt-equity in a portfolio depends upon the age of investors and risk-taking capacity. But as per the data collected, it can be concluded that the best debt-equity mix can be taken as Equity-50%, Corporate bonds-25% and Government securities -25% in the age group of 40-50, where high risk is mitigated with low risk. As the returns generated by all the fund manager are very close to each other but among all, the best fund manager can be taken as "HDFC Pension Management Company Limited" as they have generated good returns on equity (which is the highest return generating asset class) and overall funds from inception and consistent in their returns because they used to invest in five holdings of top companies which are Reliance Industries, Infosys, ICICI Bank, Kotak Mahindra Bank, Tata Consultancy Services. The right time to invest the lump sum amount in NPS is when the Sensex is low, if the investment contains a good percentage of equity in it.

Recommendations

1. At the time of retirement, if the market is in a poor situation, the subscriber should extend the withdrawal of the corpus to the next 15 years as he can extend up to 75 years of age and can withdraw anytime, whenever the Sensex is high. He/she can also withdraw in 10 instalments (maximum). Also one can defer the annuity investment for 3 years from retirement age. By this process, one can cover the market risk.
2. The PFRDA should implement policies to invest 40% in some other schemes which give more returns than annuities.
3. The investors should get the option to voluntarily invest in any other profitable schemes instead of a compulsory contribution of 40% of the maturity amount in an annuity.

> There is a long lock in period here but then NPS is meant for retirement planning only where investors get both lump sum amount and pension every month after retirement till their death.

> The investors should get the option to voluntarily invest in any other profitable schemes instead of a compulsory contribution of 40% of the maturity amount in an annuity.

4. The government should increase the limit for 100% withdrawal from 5 lakhs to 10 lakhs and from 2.5 lakhs to 5 lakhs in case of premature exit.
5. If the investors find difficulty in choosing a mixture of investments, they can simply opt for auto mode.
6. The investor must choose such annuity plan where he gets monthly pension with return of purchase price on death of subscriber.

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Decrypting Crypto Tax

The rapidly growing crypto industry is one with an investment of more than $6 billion in India. Around 30 million Indians have invested in such an industry whose assets are in the portfolio of many investors. The Crypto Industry contributes significantly to the country in the form of providing employment, bringing in FDI Investments, GST payments, and Income tax revenues to the government. The government took a huge step by bringing the income generated from Virtual Digital Assets into the ambit of income tax by taxing such income at the rate of 30% in Budget 2022. Read on…

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Introduction of TDS of 1% on consideration paid for purchase of Virtual Digital Assets gives information to the respective authority about a person dealing or holding such assets. Due to this, many people are calling this budget Crypto Budget which gives birth to the Crypto tax. Crypto income was already taxed before Finance Bill, 2022 but there was no clarity on how it should be taxed neither to investor nor to authority. This Crypto Budget provides clarity on taxation of Virtual Digital Assets.

Introduction

As per the report of Crypto.com, In November 2021, around 106 million people are using cryptocurrencies around the world. Around 30 million crypto investors in India are part of the crypto industry. In addition, Indian investors are holding about $6 billion in crypto assets. India has one of highest number of crypto users in the world. As per the budget speech of the Hon'ble Finance Minister Smt. Nirmala Sitharaman "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."

Also the government has proposed to issue a **Digital Rupee**, or Central Bank Digital Currency (CBDC), in the fiscal year 2022-23. To reduce the ambiguity over

taxation of virtual digital assets, government has come up with the scheme of taxation of Virtual Digital Assets in Finance Bill, 2022. Let understand in detail about this scheme.

What is VDA?

First let understand the concept of Virtual Digital Assets. As per Finance Bill 2022, amendment to section 2 clause (47), "virtual digital asset" means

(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;

(c) any other digital asset, as the Central Government may, 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.

Explanation.––For the purposes of this clause,–– (a) "non-fungible token" means such digital asset as the Central Government may, by notification in the Official Gazette, specify; (b) the expressions "currency", "foreign currency" and "Indian currency" shall have the 21 same meanings as respectively assigned to them in clauses (h), (m) and (q) of section 2 of the Foreign Exchange Management Act, 1999.'.

It means cryptocurrencies, DeFi (decentralised finance) and non-fungible tokens (NFTs). Prima facie, this excludes digital gold, central bank digital currency (CBDC) or any other traditional digital assets, and are hence aimed at specifically taxing cryptocurrencies.

Tax Rate on Virtual Digital Assets

As per Finance Bill, 2022, a new section 115BBH would be inserted, as per this section – "Where the total income of an assessee includes any income from the transfer of any virtual digital asset, the income-tax payable shall be the aggregate of–

(a) the amount of income-tax calculated on the income from transfer of such virtual digital asset at the rate of thirty per cent.; and

(b) the amount of income-tax with which the assessee would have been chargeable, had the total income of the assessee been reduced by the income referred to in clause (a)."

This means even a person does not have any other taxable income, even then, a person shall be liable for tax on income from VDA @30%. Health & Education cess also applies on this tax. So the net tax rate would be 31.20 %.

Tax Computation

Income from VDA is considered as Speculative income.

No deduction is allowed, except cost of acquisition. For example, sale proceeds on sale of ETH is INR 3,24,000 and Cost of purchase of ETH is INR 2,10,000. Then Net INR 1,14,000 is considered as income from cryptocurrencies. Tax would be INR 34,200 (30% of 1,14,000). Health & Education Cess will also be applicable on this tax.

The term cost of acquisition has also not been defined in the Finance Bill 2022, which leads to the confusion. Costs such as exchange fees, wallet charges, and so on are commonly incurred while trading / investing in cryptocurrencies. These charges would not be deductible while computing income from VDA.

Set off and Carry forward of Crypto losses

Since this income is considered a speculative income, the losses from crypto can be set off with gains on crypto only and cannot be set off with any other income.

> A person does not have any other taxable income, even then, a person shall be liable for tax on income from VDA @30%. Health & Education cess also applies on this tax. So the net tax rate would be 31.20 %.

Losses from crypto cannot be carried forward to the subsequent year. Since this section is effective from 1st April 2022, a clarification needs to be provided by CBDT whether to carry forward the losses incurred on VDAs on or before 31st March 2022.

TDS on Virtual Digital Assets (VDAs)

In order to capture the transaction details of TDS on payment of consideration for VDA applies.

Clause 59 of Finance Bill 2022 seeks to insert a new section 194S in the Income-tax Act relating to payment on transfer of virtual digital asset. 194S would be effective from 1st July, 2022.

(1) TDS Rate

According to the provisions of section 194S, any person responsible for paying to a resident any sum by way of consideration for transfer of a virtual digital asset shall deduct an amount equal to one per cent. In other words, TDS on payment made in relation to transfer of VDA at the rate of 1 % of such consideration above monetary threshold. So the buyer has to ask for the Permanent Account Number (PAN) and other details of the seller. This may lead to some amount of KYC compliance and curb anonymous transactions. Where the buyer is a non-resident, then this section does not apply to such transactions. Hence no TDS is required to be deducted in such case.

(2) Time of Deduction

Tax has to be deducted at the time of payment of such sum or at the time of credit of such sum to the account of the resident, whichever is earlier.

Where any such sum is credited to any account in the books of account of the person liable to pay such income, such crediting is deemed to be credit of such income to the account of the payee and the tax has to be deducted at source. The account to which such sum is credited may be called "Suspense account" or by any other name.

(3) Threshold limit under section 194S

Monetary threshold – no tax shall be deducted in case, where consideration is payable to

(i) Specified Person (Individual / HUF not having any Profit & Gains form Business / Profession and Individual / HUF whose Turnover and Gross Receipt does not exceed 1 crore and 50 lakhs respectively in Proceeding FY) – Value or Aggregate value of consideration does not exceed INR 50,000

(ii) Non-Specified Person – Value or aggregate value of consideration does not exceed INR 10,000

(4) Cases where consideration are partly in kind and partly in cash

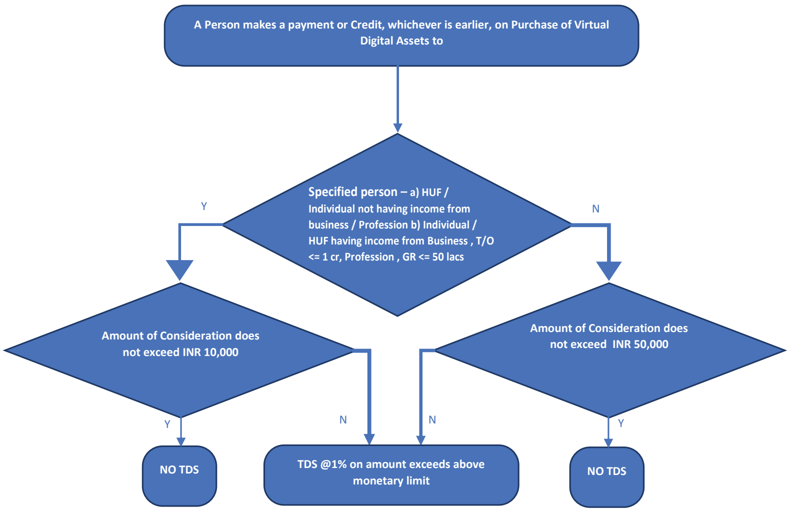
In a case where the considerations are wholly in kind or partly in cash and partly in kind but the part in cash is not sufficient to meet the liability of deduction of tax in respect of whole of the consideration, the person responsible for paying shall, before releasing the consideration, ensure that tax has been paid in respect of the consideration.

Example

1) Mr Maneesh is purchasing SOL (Solana) from Mrs. Anuradha for INR 1,000,000. Mrs Anuradha is an Individual and not having any income from business and profession. So Mrs Anuradha is considered as Specified person u/s 194S of Income-tax Act, 1961. Hence Mr Maneesh has to deduct TDS of 1% on consideration above INR 50,000. So net TDS would be INR 9,500.

2) In the above example, if Mr Maneesh is purchasing SOL from CTS Ltd then TDS would be INR 9,900. Since CTS Ltd is not specified person, the monetary limit would be INR 10,000. So TDS of 1% would be INR 990,000.

Flowchart on TDS



Whether return filing is mandatory

Under Income-tax Act, 1961 section 139(1) "Every person,

(a) being a company or a firm; or

(b) being a person other than a company or a firm, if his total income or the total income of any other person in respect of which he is assessable under this Act during the previous year exceeded the maximum amount which is not chargeable to income-tax,

shall, on or before the due date, furnish a return of his income or the income of such other person during the previous year". Thus, Income-tax Act, 1961 does not specify the person who has any income from VDA and whose total income is less than the mandatory limit to file Income tax returns.

It is expected that the details of VDA would form a part of the Annual Information Statement issued by the tax authorities. We may also expect certain modification in the tax return forms such as to include a specific column for disclosure of income from VDAs and a category of taxation of income on such transactions under special rates will find a place in the tax return forms in future.

> Gift of virtual digital asset is also proposed to be taxed in the hands of the recipient. So the receiver of VDA is liable to pay tax on fair market value of such asset on the date of transfer irrespective of the amount of consideration.

Past Income on VDA

From the above discussion, we know that tax on VDA under section 115BBH would be applicable from 1st April 2022. Now the question would be how the income on VDAs would be treated if it was earned on or before 31st March, 2022. Since no legal provisions apply on such income, such income will be treated as normal income under the head "Income from Other Sources". And if there are any losses, then such losses neither can be setoff nor can be carried forward to the next assessment year.

Crypto Gift Tax

Gift of virtual digital asset is also proposed to be taxed in the hands of the recipient. So the receiver of VDA is liable to pay tax on fair market value of such asset on the date of transfer irrespective of the amount of consideration. Cost of acquisition for recipient would be fair market value on date of transfer. For example, Mr. A transferred BTC worth of INR 1000 to Mr. B on 5th February 2022 then BTC of INR 1000 is taxable in the hands of Mr. B and Mr. B has to pay tax of INR 312 (31.2% of INR 1000).

How is mining of Crypto taxable?

Crypto-mining is the process of earning cryptocurrency by solving cryptographic equations using high-end computers. The highly secured problem-solving process consists of verifying data blocks and these transaction records are added to a public ledger using blockchain technology. In exchange for this work, one may receive payment in new

> Crypto-mining is the process of earning cryptocurrency by solving cryptographic equations using high-end computers. The highly secured problem-solving process consists of verifying data blocks and these transaction records are added to a public ledger using blockchain technology.

crypto. Finance Bill, 2022 does not provide clarity on taxation in hands of Miners. Currently, only the cost of acquisition is considered as deduction while computing income from VDAs. But Miners also need to incur the cost of generating cryptos such as power cost, equipment cost etc. *In case of sale of Crypto by Miners, the cost involved in Mining should be considered for deduction. This controversy whether to consider the cost of mining while computing income from VDAs by miner of VDAs needs to clarified by the Central Board of Direct Taxes (CBDT).*

Crypto Taxation across the globe

There are only few countries which have specified about taxation on Crypto in their tax legislation. In United States, Crypto and other VDA are considered the same as stocks. Hence tax on income from such assets is treated as capital gain. Any gains or losses made from a crypto asset held less than 12 months (short term capital gains) are taxed at the upper marginal tax bracket in which the person's taxable income falls. Any losses can be used to offset income tax by a maximum of $3,000, and any further losses can be carried forward. If the crypto tax was held in excess of 12 months (long term capital gain), the applicable tax rate is much lower – 0%, 15% or 20% – depending on individual or combined marital income. United Kingdom also follows a similar taxation on Crypto assets. UK provides tax free allowance for capital gain tax for GBP 12,300. Whereas Germany treats Crypto as private money. If Crypto is sold after 12 months, then no tax is applied on such income and if sold within 12 months then gains upto EUR 600 is exempt, and if gains exceed this then full gains would be taxable as normal income. Also, Bermuda doesn't impose income, capital gains, withholding, or other taxes on digital assets, or on transactions involving them.

Disclosure under Schedule III of Companies Act, 2013

In order to bring in greater transparency in reporting of financial statements, the Ministry of Corporate Affairs (MCA) vide notification dated 24.03.2021 has amended the Schedule III to the Companies Act, 2013 effective from 01st April 2021 to mandate disclosures on Crypto Currency or Virtual Currency by companies in their financial statements. Where the Company has traded or invested in Crypto currency or Virtual Currency during the financial year, the following shall be disclosed,

a. profit or loss on transactions involving Crypto currency or Virtual Currency

b. amount of currency held as at the reporting date,

c. deposits or advances from any person for the purpose of trading or investing in Crypto Currency/virtual currency.

Is it Legal?

As we know, merely including a provision to tax certain type of income does not make that income legal. Illegal incomes are also taxed. However, Income-tax Act does not specify a tax rate on any illegal activities such as smuggling or extortion, though income earned from these activities is taxable. So whether Crypto currencies are legal or illegal need to be decided by considering other laws as well. On 4th March

> There are only few countries which have specified about taxation on Crypto in their tax legislation. In United States, Crypto and other VDA are considered the same as stocks.

2020, the Supreme Court of India had quashed the ban that RBI had imposed on trading of cryptocurrencies like Bitcoin in April 2018. On 31st May of the same year, the RBI had directed banks not to cite its 2018 ban as a reason to deny banking services to customers dealing in cryptocurrency. As per the interview, Mr Somanathan, Finance Secretary, India will not be making any crypto asset as legal tender. Only the Digital Rupee of the Reserve Bank will be legal tender in India. The Government is still working on legislation to regulate cryptocurrencies and other virtual digital assets.

The Cryptocurrency and Regulation of Official Digital Currency Bill, 2021

According to the Lok Sabha Bulletin, the purpose of the cryptocurrency bill is "to create a facilitative framework for the creation of the official digital currency to be issued by the RBI i.e., Central Bank Digital Currency (CBDC). The bill also seeks to prohibit all private cryptocurrencies in India. However, it allows for certain exceptions to promote the underlying technology of cryptocurrency and its uses." There are currently more than 12,000 crypto currencies in the market. The definition of private cryptocurrencies is not yet clear. More than 99.9% of all cryptocurrencies are created by developers or companies or individuals, and not by the government. Hence these should inherently all be private cryptocurrencies. However, cryptos such as Bitcoin, Ethereum, etc., are not under the ownership of any team or company. So they cannot be directly called private cryptocurrencies. However, the controlling power to implement any changes to either Bitcoin or Ethereum rests with the developers and the miners. Considering controlling power, neither Bitcoin or Ethereum can be called totally public cryptos. In the Budget 2022-23, Finance Minister Nirmala Sitharaman had announced the introduction of India's Central Bank Digital Currency (CBDC) and that the digital rupee would give a 'big boost' to the digital economy. She had indicated that technologies such as blockchain would be used by the Reserve Bank of India to issue the currency, starting 2022-23. The Reserve Bank had, in July 2021, indicated that it would soon begin work on the 'phased implementation' of the CBDC.

> "Introduction of a scheme of taxation of virtual digital assets is a welcome move for the crypto world. A crypto taxation framework will bring clarity and boost investments in cryptocurrency.

Concluding Remark

Introduction of a scheme of taxation of virtual digital assets is a welcome move for the crypto world. A crypto taxation framework will bring clarity and boost investments in cryptocurrency. We need to understand that this income is considered as speculative income by the Government. Hence, they are taxing it in a manner similar to lottery income i.e., at the 31.2% rate. Still, certain developments needed to remove ambiguity for banks so that they can provide financial services to the crypto industry. The government is likely to introduce legislation on cryptocurrencies which provides the required framework on regulating cryptocurrencies and its usages. The Finance Bill, 2022 states that if any difficulties arise in the practical adaptability of Section 194S, the Central Board of Direct Taxes (CBDT) will issue guidelines/clarifications to ameliorate the situation. Along with this, the government also needs to clarify the treatment of crypto and its income from the GST perspective.

> "The Finance Bill, 2022 states that if any difficulties arise in the practical adaptability of Section 194S, the Central Board of Direct Taxes (CBDT) will issue guidelines/clarifications to ameliorate the situation.

References:

1) *Finance Bill, 2022 - https://www.indiabudget.gov.in/doc/Finance_Bill.pdf*
2) *Budget Speech, 2022 - https://www.indiabudget.gov.in/doc/budget_speech.pdf*
3) *MCA Schedule III Amendment Notification - https://www.mca.gov.in/Ministry/pdf/endment Notification_24032021.pdf*

Investor Awareness: Achieving a shield by perception

The spectacular performance of all three major indices, namely the S & P 500, the Dow Jones Industrial Average, and the Nasdaq demonstrated that 2021 was a tremendously beneficial year for stock market investing. But first, let's get some perspective. Read on…

CA. Anuj Goyal
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As the economy returns to full capacity, there is still a lot of uncertainty. First, a new coronavirus strain, the Omicron mutant, has shattered hopes for a global economic recovery. Secondly, high inflation is still on the roll, and finally, the US Fed's interest rate movements are yet to be determined.

The main concern is how these uncertainties will impact future stock markets. What kind of economic environment will we have in 2022? How can investors earn profit from the stock market?

Here are some of the key areas that every investor should consider for the year 2022:

1. ***Impact of high interest rates on the stock market.***
2. ***Slow economic growth in 2022.***
3. ***How to invest in stocks in 2022?***

"Opportunities come infrequently. When it rains gold, put out the bucket, not the thimble" — *Warren Buffett*

1. Impact of high interest rates on the stock market

According to CME FedWatch data for the month of March 2022, the market is 80% likely to begin hiking rates by mid-2022 and 87% likely to have several rate rises by the end of the year. Now that inflation is a concern, the Fed is under pressure to raise interest rates, but the decision will ultimately be determined by the strength of the economic recovery in 2022. The stock market will certainly get affected by an increase in interest rates. It does not, however, inevitably contradict the demand for stock investing. Rather, it may have an impact on the performance of various segments of the market, particularly the mature level that prefers value-oriented brands. The interest rate is a headwind for growth stocks, but not all stocks react the same way. Growth-oriented enterprises are traded as much as high, in relation to income, and require more stress than low, discounting valuable precious items such as property and energy.

The Federal Reserve may also recognise that, while it may decide to raise interest rates from near-zero levels in 2022,

> The interest rate is a headwind for growth stocks, but not all stocks react the same way. Growth-oriented enterprises are traded as much as high, in relation to income, and require more stress than low, discounting valuable precious items such as property and energy.

the scenario due to COVID-19 may call that decision into doubt. Interest rates, on the other hand, might 'take off slowly'. For the time being, interest rates do not appear to be rising immediately, giving the market time to respond. We anticipate market turbulence when the Federal Reserve boosts interest rates.

2. Slow economic growth in 2022

The US economy grew well throughout 2021, with an emphasis on economic recovery following the severe turmoil of 2020. GDP grew at an annual rate of 6.4 % in the first quarter of 2021, and by 6.7 % in the second quarter. However, after a strong first half, growth slowed to 2.1 % in the third quarter. This drop was caused by low consumer spending and supply chain constraints.

The economic situation in 2021 was also shaken by the surge in inflation. Inflation can be triggered by supply chain disruptions, an imminent labour shortage, and sustained demand for goods and services. These combinations put upward pressure on prices.

The fastest economic recovery rate is likely to have already occurred and investors can expect continued economic growth in the United States, but it may not be the same growth rate as in 2021. Many of these challenges that exist today will not disappear quickly in the United States, so investors need to be aware of these challenges in order to navigate the stock market.

Investors will face a triple threat in 2022. The real problem for investors in 2022 is the need to weigh the risks to growth, inflation and interest rates.

US companies are expected to grow this year, but it may not be at the same pace as in 2021. However, given the high expectations of economic growth abroad, investors need to expand their exposure to the global economy. Looking at economic growth forecasts, economies outside the United States will also grow further.

3. How to invest in stocks in 2022?

What does this mean for stocks, and where should investors search for opportunities? According to the experts, investors should seek for long-term companies with good returns and cash flow. These are the businesses who have the greatest tools to deal with the particular risk concerns of 2022.

Investors should align their portfolio with successful companies that can expand profit margins, companies that are highly leveraged, and companies that can pass on price increases to consumers via the supply chain.

Suitable sector for investment in such times include finance, energy and healthcare. Investors need to consider companies with these characteristics, and most importantly, make sure they have a reasonable reputation.

Looking at the 2022 hurdles, diversification is a timeless investment strategy for investors and is more important than ever. It is important for investors to diversify their portfolios to manage market risk and benefit from growth from different areas of the market.

Investors should consider diversifying beyond the S & P 500 as the size and market share

> US companies are expected to grow this year, but it may not be at the same pace as in 2021. However, given the high expectations of economic growth abroad, investors need to expand their exposure to the global economy.

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of the largest US companies are growing rapidly during the economic recovery.

Investors should consider SMEs to manage the risk of making large investments in a small number of selected companies. SMEs tend to be more risky than large companies, but they can provide investors with higher long-term returns.

Non-US stock is another market segment that investors are looking at. US stocks were solid all year, but the S & P 500 surged more than 20%, and US equities outpaced non-US equities. Experts think it is time to enhance their exposure to overseas shares after a decade of gains in equities.

Investing outside the United States stocks not only help diversify your portfolio, but also give you the opportunity to buy at a discounted price. It makes sense to look outside the United States because of its high reputation in the US market.

Non-US equities are valued more attractively and have greater potential for economic growth. Ratings in these markets are discounted by 20% to 30% against US stock counterparts.

The idea of real investment helps us learn a lot about money and investment. The most basic question you need to ask yourself before you start is *'Why do you need to invest?'*

And the very simple answer to that is the process of strategically allocating resources to achieve a particular goal. It is very simple, but it is very difficult to follow. Sometimes people get confused between investment and speculation. Understanding psychology is important for controlling investment behaviour and avoiding speculation. It also helps to understand the behaviour of the crowd, including the market. The market is like a crowd and has a collective mindset. Sometimes it is rewarded to oppose collective thinking. Companies, as well as markets, can experience the wrong expectations.

If you believe in the same thing that everyone believes, your return will be more or less the same as those around you. It needs another way of thinking that allows you to be better. Successful investors always strike a delicate balance between optimism and pessimism. It helps them navigate the whims of the bullish and bearish markets.

What makes an investor successful?

Unlike others, investing requires very different skills, some of which are very counter-intuitive.

There is a simple motto about the same thing. We don't have to be smarter than others. We need to be more disciplined than others. There are three types of benefits when investing i.e., *benefits of information, the benefits of analysis, and the benefits of action*. With the internet and analytics around us, the benefits of information and analytics are mostly products for individual investors. What is important is the behavioural advantage. When the market collapsed in 2008, the Indian market collapsed 60% in a year. Most investment trusts and stocks had fallen drastically. Investors invested across the stage will achieve significant benefits in the coming years. It is necessary to return the risk, but it is more important to understand it. Money does not have to be used only to enjoy life. As Buffett says,

> Investors should consider SMEs to manage the risk of making large investments in a small number of selected companies. SMEs tend to be more risky than large companies, but they can provide investors with higher long-term returns.

"Note that the stock market is manic-depressive." This is true for consumers of daily financial news. Every day, the stock market sways with the smallest news, gathering emotions and plunging, celebrating and blaming the stupidest data points. It is important not to get caught up in madness. Instead, stick to your homework.

Always consider the Four M's related to Meaning, Moat, Management and safety Margins before investing.

Finding the right investment for yourself always begins with purpose and takes time. Before becoming an expert with prospective investment possibilities, it is always best to learn meticulously. Before making an investment, learn as much as you can about the organisation. Check to discover whether the organisation has a plan for future growth and if management is led by a solid guide.

Did you have a place to invest?

Investing may be challenging at times. Different investors utilise various framework conditions. What you actually need to figure out is which structure will work once each investor has formed their own philosophy. It is great to be inspired by successful investors, but it is not a good idea to immediately imitate them.

> It is necessary to return the risk, but it is more important to understand it. Money does not have to be used only to enjoy life.

Check Before You Invest

Check Before You Invest is an investor awareness initiative designed to improve investor awareness and deliver information using resources supplied by state, federal, and private entities.

It is now more crucial than ever to make educated investing decisions and undertake investigations to prevent fraud.

Investor shortage

Diversification is only required if investors don't know what they are doing. Because the persons participating in the transaction fall into a variety of categories, investors have varying degrees of expectations in terms of percentage returns.

Refrain from trading since we were unable to confirm or anticipate the market's direction. There is also a lack of Trading Consciousness and expertise in the accessible trade function.

In addition, there is a significant absence of knowledge of various types of financial products such as future and options transactions. Market analysis is not something that most investors do on their own; instead, they rely on social media and trust the word of mouth.

In order to properly make investment decisions, a suitable proposal must be made. Investigate the elements that influence the decisions of investors.

Conclusion

It is important to understand that investing in the stock market necessitates knowledge, patience, and discipline. To achieve good returns from the stock market, investors must gain more knowledge of financial products and develop the necessary financial expertise.

Corrigendum

Please read name of the author of the article "Input Tax Credit –Amendments proposed in Finance Bill, 2022" as CA. N K Bharath Kumar in March issue of CA journal.

Please note: At page 84, 4th paragraph, 2nd sentence, the words and expression, ", *which has been removed recently"* be ignored.

Omission is regretted.

Research Committee
The Institute of Chartered Accountants of India
(Set up by an Act of Parliament)

ICAI Awards for Excellence in Financial Reporting 2021-22

Unique opportunity to participate in Competition for the year 2021-22

Last Date for receipt of entries:
October 31, 2022

OBJECTIVE

- To recognise and encourage excellence in preparation and presentation of financial information.

PROCESS FOR DECIDING AWARDEES

Selection of awardees in specified categories are made through a robust three tier process:

- Review by Technical Reviewers
- Review of short-listed Annual Reports by Shield Panel and
- Selection by External Jury consisting of representatives from regulatory bodies, professionals, academicians etc.

PROCEDURE FOR PARTICIPATION

- There is no fee for participation in the competition.
- Annual Report relating to the financial year ending on any day between April 1, 2021 and March 31, 2022 (both days inclusive) is eligible for participation in this competition.
- Decisions of the Panel of Judges in all the matters relating to the Competition will be final.
- An entity awarded 'Hall of Fame' may again participate in the competition after the cooling period of three years of receiving the award of 'Hall of Fame'.
- Fill in the Entry Form and submit with requisite documents on or before October 31,2022 to the Secretary, Research Committee.

Note: The documents submitted by the entities for the competition will not be utilized for any other purpose.

AWARD CATEGORIES

- Hall of Fame awarded to the entity that has been winning the first prize under the same category continuously for five years.
- One Gold Shield in each category for the best entry.
- One Silver Shield in each category for the next best entry.
- Plaques to be awarded to the entities who are following better financial reporting practices as is decided by the Jury.

AWARD CATEGORIES FOR THE YEAR 2021-22

Category I	:	Public Sector Banks
Category II	:	Private Sector Banks (including Foreign Banks)
Category III	:	Co-operative Banks
Category IV	:	Life Insurance
Category V	:	Non-Life Insurance
Category VI	:	Financial Services Sector (Other than Banking and Insurance)
Category VII(a)	:	Manufacturing and Trading Sector (including entities engaged in processing, mining, plantations, oil and gas enterprises) (Turnover equal to ₹ 3000 crores or more)
Category VII(b)	:	Manufacturing and Trading Sector (Turnover equal to and between ₹ 500 crores and ₹ 3000 crores)
Category VII (c)	:	Manufacturing and Trading Sector (Turnover less than ₹ 500 crores)
Category VIII(a)	:	Service Sector (Other than financial services sector) (Turnover equal to or more than ₹ 500 crore)
Category VIII(b	:	Service Sector (Turnover less than ₹ 500 crore)
Category IX	:	Not-for-Profit Sector
Category X (a)	:	Infrastructure and Construction Sector (Turnover equal to or more than ₹ 500 crore)
Category X(b)	:	Infrastructure and Construction Sector (Turnover less than ₹ 500 crore)
Category XI	:	Public Sector Entities
Category XII	:	Municipal Body

For further details please write to:
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SCAN

Non-compliances observed in the Ind AS Financial Statements pertaining to Assets Side in Balance Sheet

Financial Statements are the paramount source in hands of the stakeholders to understand the financial well-being of an enterprise. The users are highly reliant on the information presented in the financial statements and therefore the preparers ought to ensure that it is correct, complete, relevant and adhere to the applicable regulatory requirements. The Financial Reporting Review Board (FRRB) reviews the General Purpose Financial Statements (GPFS) of enterprises with the view to identify the non-compliances with Accounting Standards/ Ind AS and Standards of Auditing, CARO, Companies Act, and other applicable statutory requirements. Read on...

The non-compliances observed by the Financial Reporting Review Board are compiled and published under the name of *Study on Compliance with Financial Reporting Requirement*. Till date, three volumes of the aforesaid publication have been released by the Board. Further, another publication, *Study on Compliance of Financial Reporting Requirements (Ind AS Framework)* has been released for preparers and auditors of the Ind AS financial statements. In addition, the Board publishes such non compliances observed by way of articles in the *Chartered Accountant Journal* of the Institute. This article is in furtherance of the FRRB's endeavour to update the members and other stakeholders in the field of financial reporting. It may be noted that in this article, the observations related to Ind AS framework have been classified on the basis of components of financial statements i.e., Assets, Equity, Liabilities for Balance Sheet and revenue, interest income, employee benefits etc for Statement Profit and Loss and likewise. This article deals with the non-compliances, observed by the Board, with regard to assets side in Balance Sheet which is an important element for Ind AS financial statements.

Observations related to Assets

1. **Capitalisation of Subsequent Expenditure**

   Case

   The accounting policy for Property, Plant and Equipment (PPE) reads as follows:

Contributed by the Financial Reporting Review Board of the ICAI. Comments may be sent to frrb@icai.in and eboard@icai.in

"Subsequent expenditure related to an item of PPE is added to its carrying value only if it increases the future benefits from the existing asset beyond its previously assessed standard of performance."

Principle: Ind AS 16, Property, Plant and Equipment

Paragraph 7 – Recognition

The cost of an item of property, plant and equipment shall be recognized as an asset if, and only if:

(a) it is probable that future economic benefits associated with the item will flow to the entity; and

(b) the cost of the item can be measured reliably.

Paragraph 13 –*Subsequent* Cost

...Under the recognition principle in paragraph 7, an entity recognizes in the carrying amount of an item of property, plant and equipment the cost of replacing part of such an item when that cost is incurred if the recognition criteria are met.

Observation:

As per paragraph 13 of Ind AS 16, subsequent expenditure would be recognized in the carrying amount of PPE when that cost/ expense would meet the recognition criteria given in paragraph 7 of Ind AS 16 i.e., *it is probable that future economic benefits associated with the item will flow to the entity and the cost of the item can be measured reliably.* **There is no criterion that capitalisation should be done only if there is increase of future benefits from the existing asset beyond previously assessed standard of performance'**.

Accordingly, it was viewed that the language of the stated policy is not in line with the component accounting concepts given in Ind AS 16.

2. **Disclosure of Capital Work in Progress**

Case

A company presented Property, Plant and Equipment and Capital Work-in-Progress as separate line items on the face of its balance sheet and there was a movement in the balances of Property, plant and equipment and Capital work-in-progress in the reporting year and the comparative year.

Principle: Ind AS 16, Property, Plant and Equipment

Paragraph 74 – Disclosure

"The financial statements shall also disclose:

(a) ……….

(b) the amount of expenditures recognized in the carrying amount of an item of property, plant and equipment in the course of its construction."

Observation:

It was noted from the notes to the accounts that although the details of various items of property, plant and equipment have been disclosed by the company, no disclosures regarding movement in the capital work-in-progress were given.

It was viewed that since the capital work in progress is also the part of property, plant and equipment therefore, the amount of expenditure recognized in the carrying amount of capital-work-in-progress should have been disclosed by the company in line with the above-stated requirement of paragraph 74(b) of Ind AS 16.

3. **Depreciation on Investment Property**

Case:

In the note to the financial statements of a company on Investment Properties, disclosure of investment properties was given. Depreciation on investment properties was not charged in the reporting year but the depreciation on such investments properties was charged during the comparative year.

Principle: Ind AS 40, Investment Property

Paragraph 79 – Disclosure

"79. In addition to the disclosures required by paragraph 75, an entity shall disclose:

(a) the depreciation methods used;

(b) the useful lives or the depreciation rates used;

(c) the gross carrying amount and the accumulated depreciation (aggregated with accumulated impairment losses) at the beginning and end of the period;

(d) a reconciliation of the carrying amount of investment property at the beginning and end of the period, showing the following:

(i) additions, disclosing separately those additions resulting from acquisitions and those resulting from subsequent expenditure recognised as an asset;

(ii) additions resulting from acquisitions through business combinations;

(iii) assets classified as held for sale or included in a disposal group classified as held for sale in accordance with Ind AS 105 and other disposals;"

Observation:

It was noted that the company has investment properties, but the depreciation has not been charged on these properties during the reporting year.

It was viewed that as per the principles of Ind AS 40, an investment property is measured initially at cost. Under the cost model, investment property is measured at cost less accumulated depreciation and any accumulated impairment losses and fair value is disclosed in notes to accounts. Hence, depreciation should have been charged on these properties and debited to Statement to Profit and Loss.

Accordingly, it was viewed that the requirements of Ind AS 40 have not been complied with in the given case.

4. Incorrect disclosure of Investment in shares

Case:

It was noted that investment in shares of listed and unlisted companies have been shown by the company under 'Inventories' in its financial statements. It was further noted that this company is not an investment company.

Principle: Ind AS 32, Financial Instruments Presentation

Paragraph 11 – Definitions

"The following terms are used in this Standard with the meanings specified:

A financial asset is any asset that is:

a) cash;

b) an equity instrument of another entity;

c) a contractual right:

i. to receive cash or another financial asset from another entity or

ii. to exchange financial assets or financial liabilities with another entity under conditions that are potentially favourable to the entity or

d) a contract that will or may be settled in the entity's own equity instruments and is:

i. a non-derivative for which the entity is or may be obliged to receive a variable number of the entity's own equity instruments; or

ii. a derivative that will or may be settled other than by the exchange of a fixed amount of cash or another financial asset for a fixed number of the entity's own equity instruments. For this purpose the entity's own equity instruments do not include puttable financial instruments classified as equity instruments in accordance with paragraphs 16A and 16B, instruments that impose on the entity an obligation to deliver to another party a rate share of the net assets of the entity only on liquidation and are classified as equity instruments in accordance with paragraphs 16C and 16D, or instruments that are contracts for the future receipt or delivery of the entity's own equity instruments."

Observation:

It was viewed that **investment in shares of other companies are in nature of financial assets and hence they should be shown under the head 'Financial Assets' and should have been accounted for accordingly.**

It was viewed that due to incorrect disclosure of investment in shares, inventories have been overstated and investments have been understated which does not give true picture of financial position of the company.

Accordingly, it was viewed that the requirements of Ind AS 32 have not been complied in preparation and presentation of the financial statements.

5. Accounting Policy of Inventory

Case:

The accounting policy for Inventories read as follows:

"Inventories are stated at lower of cost and fair value ....."

Principle: Ind AS 2, Inventories

Paragraph 9 – Measurement

Inventories shall be measured at the lower of cost and net realisable value.

Paragraph 6–Definition

Net realisable value is the estimated selling price in the ordinary course of business less the estimated costs of completion and the estimated costs necessary to make the sale.

Observation:

Paragraph 9 of Ind AS 2 requires that inventories should be valued at lower of cost and net realisable value. Paragraph 6 of Ind AS 2 gives definition of net realizable value (NRV) and paragraph 9 of Ind AS 113 (Fair value Measurement) defines fair value. The net realizable value is in nature different from the fair value of inventories. The net realizable value is entity-specific value whereas fair value is not entity specific. Hence, they both may not be same.

It was viewed that net realisable value of inventory refers to the net amount (estimated selling price *less* estimated cost of completion and estimated cost of sale) that an entity expects to realise from the sale of inventory in the ordinary course of business whereas the fair value reflects the price at which an orderly transaction to sell the same inventory in the principal (or most advantageous) market for that inventory would take place between market participants at the measurement date.

The inventories ought to be valued at lower of the cost or net realisable value and not the fair value.

Accordingly, it was viewed that the above stated policy on inventory valuation is not in line with the requirements of Ind AS 2.

6. **Incomplete disclosure relating to Investments in equity shares at fair value through OCI**

Case:

In the note to the financial statements of a company on Non-Current Investments, the Company had designated three investments in equity shares at Fair Value Through Other Comprehensive Income (FVTOCI).

Principle: Ind AS 107, Financial Instruments: Disclosures

Paragraph 11A– Investments in equity instruments designated at fair value through other comprehensive income

"If an entity has designated investments in equity instruments to be measured at fair value through other comprehensive income, as permitted by paragraph 5.7.5 of Ind AS 109, it shall disclose:

a) which investments in equity instruments have been designated to be measured at fair value through other comprehensive income.

b) the reasons for using this presentation alternative.

c) ...."

Observation:

It was noted that the Company had designated three investments in equity shares as fair valued through OCI (FVTOCI). However, **the reason for using the FVTOCI alternative was not disclosed which is not in line with the requirement of paragraph 11A(b) of Ind AS 107**.

Accordingly, it was viewed that the requirements of Ind AS 107 have not been complied with.

7. **Disclosure relating to Joint Operations**

Case:

An abstract of a footnote in the note to the financial statements of a company on Non-Current Financial Assets reads as follows:

"Expenses under Joint operation agreement

The Company along with another company has entered into a 'Production Sharing Contract', with a Ministry, Government of India. They executed a 'Joint Operation Agreement' whereby the rights and obligations of either party vis-à-vis the above mentioned 'Production Sharing Contract' was ascertained."

Further in the footnote, the company had disclosed the details of arrangements and share of assets.

Principle: Ind AS 111, Joint Arrangements

Paragraph 20 – Joint Operations

"A joint operator shall recognise in relation to its interest in a joint operation:

(a) its assets, including its share of any assets held jointly;

(b) its liabilities, including its share of any liabilities incurred jointly;

(c) its revenue from the sale of its share of the output arising from the joint operation;

(d) its share of the revenue from the sale of the output by the joint operation; and

(e) its expenses, including its share of any expenses incurred jointly."

Observation:

It was noted from the footnote under note to the financial statements on Non-Current Financial Assets that the company had entered into a joint operation with another company and has disclosed the details of arrangements and share of assets. However, **the company did not recognise the obligation for liabilities, expenses and did not account for revenue pertaining to its joint operations.**

Accordingly, it was viewed that the requirements of Ind AS 111 have not been complied with.

Start-Ups and Indian Income tax laws

A perfect evaluation of any jurisdiction as a business-friendly destination is by evaluating the ease with which the incumbent businesses can do their business and new businesses can be set up. The Government of India has time and again emphasised that they want to bring in 'ease of doing business in India' and have also taken a number of steps towards achieving the same. Some of these steps undertaken have also been acknowledged by the World Bank and accordingly India's ranking improved from 142 to 63 as per the latest report on ease of doing business across the countries of the globe[1]. Read on…

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India is the second most populated country and houses nearly 20 per cent of the world's population. As per the World Bank, the population of India stood at approx. 138 crores in the year 2020[2]. It is estimated that out of this, nearly 65% of India's population is below the age of 35 years which makes it possibly the youngest population in the world. This could become a huge strategic resource for India if this population is skilled and handled carefully. As per a recent report, the unemployment in India was 7.75% in October, 2021[3].

Therefore, to capitalise on this resource, proper planning is very important and the entire ecosystem should be created right from primary education to secondary education and then professional skilling according to needs to the region/ community and country at large. Needless to say, there is also a need to promote industries and entrepreneurs to produce enough jobs to harness true potential of this valuable resource.

There is a need to mobilise and leverage this strategic resource to improve productivity, innovation and

1. https://www.business-standard.com/article/pti-stories/india-jumps-14-places-on-world-bank-s-ease-of-doing-business-list-119102401534_1.html
2. https://data.worldbank.org/indicator/SP.POP.TOTL?locations=IN
3. https://www.bloomberg.com/news/articles/2021-11-01/india-unemployment-rate-rises-in-october-on-rural-joblessness

thereby entrepreneurship and employment generation. But many people out of this target population may lack the necessary resources, to capitalise and commercialise their ideas, techniques, capabilities etc. Acknowledging the same and understanding that the start-ups have a great potential to generate employment, the Government of India announced its flagship initiative for building start-ups and nurturing innovation in the year 2016 (‘**the Scheme**’), with the main objective to boost entrepreneurship, economic growth and employment across India.

Under the Scheme, several benefits were promised to start-ups including simplification of compliances including self-certification, funding support, legal support, fast tracking of patent applications at lower costs, benefits under provisions of Income-tax Act, 1961 (‘the Act’) etc. with a view to provide ease of setting up and doing business and statutory compliances to start-ups. Considering these benefits, a number of start-ups were set-up which subsequently came forward to get themselves registered under the Scheme. As per data available on Start-up India website, as on December 4, 2021, more than 59,730 have been recognised by the Government of India and 405 approx. start-ups have been granted income tax related exemptions[4].

As per Economic Survey 2020-21 (‘**the Survey**’) tabled in Parliament of India, India currently houses 3rd largest start-up ecosystem in the world with 38 firms being valued at over $1 billion or having the coveted ‘Unicorn status’. In 2020 alone, 12 new unicorns were added by India[5]. Further, another 38 start-ups entered the unicorn club in first 11 months of 2021[6]. Just recently, few of the entities which form part of the start-up ecosystem like Zomato, Paytm, Policybazaar, Nykaa etc. approached Indian capital markets and have also got their equity shares listed on National Stock Exchange and Bombay Stock Exchange in India. Further, as per media reports, many others like Ola, Oyo, Flipkart, Byju’s etc. are in process of approaching/ have already approached capital markets regulator (Securities and Exchange Board of India) to obtain approval for floating their IPO’s (Initial Public Offering) and getting their equity shares listed on Indian Stock Exchanges. These companies are testament to the potential that Indian start-ups hold, if among other things, provided with conducive tax and regulatory environment.

In view of the above and their growing importance, start-ups have off late been receiving special attention from governments around the world including in India. In this article, we will focus on the benefits available to start-ups under the Act and what more can be done to make to make life smooth for start-ups and provide them impetus to realise their true potential.

- Under the Act, a start-up has been defined as an entity which
  a) Is a private limited company or registered as a partnership firm or a limited liability partnership;
  b) Has not yet completed a period of ten years from the date of incorporation/ registration;
  c) Has an annual turnover not exceeding Rs. 100 crores for any of the financial years since incorporation/ registration;
  d) Is working towards innovation, development or improvement of products or processes or services, or if it is a scalable business model with a high potential of employment generation or wealth creation; and
  e) It is not formed by splitting up or reconstructing a business already in existence.
- Start-ups have been given several benefits under the Income-tax Act, 1961.

4. *https://www.startupindia.gov.in/content/sih/en/startup-scheme.html*
5. *https://economictimes.indiatimes.com/tech/startups/what-economic-survey-2020-21-says-about-indias-startup-ecosystem/articleshow/80586774.cms?from=mdr*
6. *https://inc42.com/buzz/indian-startups-that-entered-the-unicorn-club-in-2021-in-india/*

These benefits can be broadly clubbed under following heads.

a) **Tax holiday** – 100% profits of a start-up from eligible business are exempt from income-tax provided it is incorporated between 1 April 2016 till 31st March 2022. This exemption can be claimed for any 3 consecutive years out of a period of ten years from date of its incorporation. The option to choose 3 consecutive years out of 10 years has been provided given that generally start-ups take time to turn profitable.

b) **Exemption from Angel Taxation** – Under provisions of the Act, where any company receives any consideration for issuance of shares to resident investors which exceeded its fair market value (FMV) basis the mechanism prescribed under the Act, such excess amount is taxable in hands of such recipient company. These provisions were introduced as anti-abuse provisions to prevent malpractices like money laundering, use and investment of unaccounted money etc.

However, given that during initial phase of their life, the start-ups rarely earn profits commensurate to their size, traditional valuation methods like return on assets, return on capital employed, free cash flow-based models cannot be used and / or have lot of subjectivity around them and generally cannot be used straightaway for valuation of Start-Ups. Eventually hybrid models are generally used for computing their valuation wherein lot of weightage is given to the business idea of the start-up, its scalability and commercial feasibility. Given the same and subjectivity around valuation methodology, it used to be a matter of intense litigation between the taxpayers and Indian tax authorities. Further, since in case of start-ups, these provisions used to impact investments received from angel investors (generally wealthy individuals), it came to be known as 'Angel Tax'.

In the past years, a lot of notices were issued by Indian tax authorities to investigate valuation methodology and/or FMV of shares issued. According to a report, nearly 73 per cent of the start-ups received one or more Angel Tax notices[7]. Therefore, this matter received a lot of media attention and bought unwarranted adverse publicity to India as an investment destination. Accordingly, the matter was taken up at the level of Prime Minister and Finance Minister and it was decided to provide relief to recognised start-ups from the provisions of 'Angel Tax'. As a result of the same, investments received by such start-ups were taken out of the purview of 'Angel Tax' subject to satisfaction of specified conditions.

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c) **Tax exemption to Individual/HUF on**

[7] *https://yourstory.com/2019/02/indian-startups-angel-tax-notice/amp*

investment of long-term capital gains in equity shares of start-ups – 100% tax exemption is available to individuals/ HUF in relation to long term capital gains income on sale of residential property wherein subject to prescribed conditions, the net consideration received on sale is invested in equity shares of a start-up. The start-up needs to use the amount invested to purchase assets and should not transfer such assets within 5 years from the date of its purchase. This exemption was provided to channelise and allow young entrepreneurs to utilise proceeds from sale of residential property to fund acquisition and capital needs of the start-up without worrying about income tax related consequences.

d) **Relaxation in relation to set-off and carry forward of losses even in case of change of shareholding** – As stated above, start-ups generally take time to break-even and turn profitable. Majority of the companies from start-up ecosystem that have made it big and have got their shares listed on stock exchanges in India are still not profitable (including Zomato, Paytm, Policybazaar etc.).

In the early phase of their life, start-ups generally incur losses and to carry on, sustain and scale-up their business operations, raise funding by diluting the stake of the promoters. Due to such change in shareholding, the losses incurred in previous years were not available for set-off in subsequent year(s) to start-ups due to application of section 79 of the Act. In view of the same, the Act was amended to allow the start-ups to carry forward and set-off earlier year losses, if all the shareholders of such company who held shares carrying voting power on the last day of the year in which the loss was incurred continue to hold shares on the last day of the previous year in which such loss is to be carried forward/ set-off.

> The start-up needs to use the amount invested to purchase assets and should not transfer such assets within 5 years from the date of its purchase.

> Start-ups have been a focus area for the Government of India and lot of demands of the start-up industry have been considered and also been met. However, there is always scope for more.

As stated above, start-ups have been a focus area for the Government of India and lot of demands of the start-up industry have been considered and also been met. However, there is always scope for more and accordingly, few suggestions in this respect have been stated hereunder.

a) **Provisions of section 194-O** – In the recent years, new provisions in relation to tax deduction have been included under the Act. Under provisions of section 194-O, an e-commerce operator is obliged to withhold tax at 1% on payments to be made to e-commerce participants (vendors) for the sale of goods/provisions of services facilitated through the portal. Such a deduction also needs to be made in cases where the purchaser directly makes payment to the e-commerce participant for sale of goods/ provision of services facilitated through e-commerce platform.

Although the stated objective has been to report the transactions and thus

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increase compliance by the taxpayers, however the same has adversely impacted ease of doing business for start-ups by increasing compliance burden. It has led to increase in administrative costs and puts e-commerce participants/ vendors in a disadvantageous position vis-à-vis traditional business given that TDS to be deducted by e-commerce platform creates working capital issues in terms of blocked TDS credit (which is akin to cash) for such vendors and thus increases cost of doing business. To ease these problems being faced by businesses including start-ups, the Government of India should consider easing the rigours of this section and/ or compliance burden especially for start-up sector.

To provide relief to start-up sector, here are some suggestions:

- Make these provisions applicable only in specified circumstances or with some thresholds in case complete withdrawal of these provisions is not an option *(threshold of INR 500,000 already exists in relation to individuals and HUF and this may be extended to other forms of businesses like partnership, companies as well)*; or
- The section should not be applicable in cases where the buyer makes the payment directly to e-commerce participants/ vendors for the sale of goods/ provisions of services facilitated through the portal given that it involves lot of administrative efforts to track such payments; or
- Alternatively, introduce a reporting mechanism (wherein reporting needs to be made at adequate intervals say quarterly) instead of tax withholding provisions. Such data may be collected and reported in Annual Information Statement (AIS) being provided to taxpayers by the Income tax department. This would serve the purpose of collecting relevant information/ relevant data and at same time not have any working capital issues on the start-ups.

b) **Incentives to channelise resources towards start-ups** – As discussed above, start-ups are generally set-up by the people who possess the ideas, techniques, capabilities etc. but lack the necessary resources, to capitalise and commercialise them. Lack of resources is another factor why lot of people do not want to venture into this area. It is also been seen that lot of start-up entrepreneurs shelve their ideas mid-way for want of resources to fund the same.

To meet the funding requirements of start-ups, the Government of India has set-up various schemes/ funds and also allowed them to raise external commercial borrowings. Further, as already discussed above, provisions have been introduced under the Act whereby the long-term capital gains earned by individuals/ HUF are exempted from income tax on making investment in equity shares of start-ups.

> To meet the funding requirements of start-ups, the Government of India has set-up various schemes/ funds and also allowed them to raise external commercial borrowings.

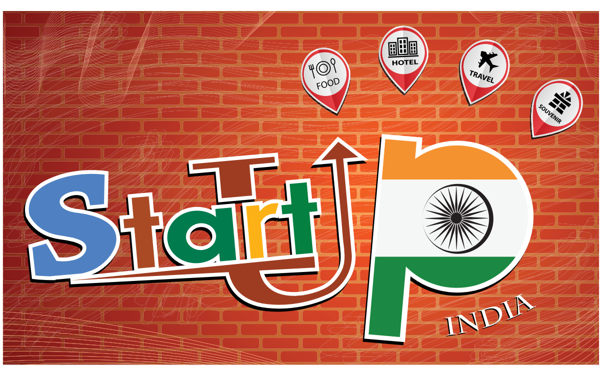
However, more needs to be done specially to channelise resources from general public. In this respect, Government of India may evaluate following propositions to incentivise and channelise resources from general public towards start-ups.

- Providing upfront tax relief on making investments in start-ups directly or through some specialised investment funds set-up to fund start-ups with adequate lock-in period; and/ or
- Taxing the capital gains earned by investors on sale of shares of such start-ups/ units of investment funds investing in start-ups at concessional rate of 5% or 10% like in case of sale of listed shares.

c) Government may also evaluate and create a separate nodal ministry to investigate the issues being faced by start-ups. This would streamline and fasten the process of resolution of issues being faced by the start-ups by reducing the time taken by various government departments.

According to a survey, the Indian start-up ecosystem has the potential to be the engine of growth for India in the medium to long term. The Survey further provides that the start-ups are even coming up in technically complex fields like space and satellite projects. In view of the same and given that the Government of India recognises their potential, it is necessary that every effort should be made to provide conducive and enabling eco-system to help start-ups realise their potential and become front-runners in Indian Growth story.

Start Up India Scheme provides several benefits to start-ups including simplification of compliances, self-certification, funding support, legal support and fast tracking of patent applications at lower costs, benefits under provisions of Income-tax Act, 1961 etc. with a view to provide ease of setting up and doing business. As per data available on Start-up India website, as on December 4, 2021, more than 59,730 start-ups have been recognised by the Government of India and 405 approx. start-ups have been granted income tax related exemptions.



In view of the above and to promote start-ups in India, the Government of India has provided specific benefits to start-ups under the Income-tax Act, 1961 including tax holiday to eligible start-ups, exemption from Angel taxation in specified circumstances, Income tax exemption to Individuals/HUF on investment of long-term capital gains in equity shares of start-ups etc. These have been very well received by start-up community and also reflected in the growing clout of start-ups in India.

> Start Up India Scheme provides several benefits to start-ups including simplification of compliances, self-certification, funding support, legal support and fast tracking of patent applications at lower costs, benefits under provisions of Income-tax Act, 1961 etc.

However, there is always a scope of improvement and certain provisions like introduction of TDS provisions on e-commerce operators are creating compliance and working capital issues. Further, there is also a need to channelise more resources/ open new avenues for start-ups to raise funds easily and at minimum costs. In this article, we have analysed all the above issues in detail from the perspective of start-ups.

Bringing the curtains down on Retrospective Taxation Laws - An Insight

A sigh of relief was heaved by corporates and government sector, when one of the most awaited legislations was passed in the Parliament in the September 2021 session, effectively repealing the retrospective taxation amendment laws. Even before the retrospective taxation was given statutory backing, discontent had begun simmering in the minds of international investors willing to invest in India due to the lack of legal certainty. After much representation in domestic and international dispute resolution avenues, the arbitrary clause is finally buried. The initiation of confiscation proceedings on Indian assets abroad by one of the petitioners was the last straw. As India is on the cusp of another economic recovery process, let us see the measures taken so far to accelerate the same. Read on...

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Introduction

The most closely watched income tax litigations, Vodafone International Holdings v. Union of India (popularly referred to as the 'Vodafone case') and Cairn Energy Plc and Cairn UK Holdings Limited V Union of India (also known as the 'Cairn Energy case') finally seem to have reached the end of the tunnel, thanks to the scrapping of the contentious Retrospective Taxation law in the September 2021 session of the Parliament. A litigation saga which began circa 2007 led to a significant churn within international and domestic business circles alike, will hopefully put to rest the series of legal battles being fought by the Indian Income-tax department and business houses in various courts and tribunals across the world, with the passage of the Taxation Laws (Amendment) Act, 2021 [hereinafter referred to as the TLAA], effectively repealing the amendments introduced via Finance Act 2012 and amendments to Income-tax Act, 1961.

The Vodafone Case imbroglio

When Vodafone Plc decided to acquire controlling stake to the extent of 67% in Hutchison Whampoa back in May of 2007, it probably was clueless on the Pandora's box it was set to open. The transaction was undertaken in Cayman Islands where shares of Hutchison India were acquired beneath a

> The main reason for the tax demands raised was due to the belief that the government of a state has the sovereign right to taxation within its jurisdiction.

facade of multiple intermediary companies. In September the same year, the Indian income-tax department (hereafter referred as 'IT Department') served a tax demand notice worth $2 billion to Vodafone citing non-deduction of tax at source on the capital gains earned on sale of shares. The IT department contended that the shares derived substantial value through underlying assets located in India and had evaded tax by not paying the dues on the multi-million-dollar sale. When the litigation ultimately landed before the Supreme Court, the verdict favoured Vodafone Plc, in line with the tax laws prevalent at that time which did not contain any provisions to impose tax on the given nature of transaction of sale on capital asset deriving substantial value from Indian assets. Consequently, in the Budget of 2012, the Finance Minister introduced the retrospective taxation amendment, giving a legislative backing to IT Department's actions to tax similar sale transactions which would have been undertaken even before the passage of the amendment.

In 2014, Vodafone group challenged the tax amendment and filed an appeal with the Permanent Court of Arbitration in Hague, Netherlands against the ginormous tax demands being raised by the IT department, now with a taxation amendment law in their defence. Vodafone Group approached the Tribunal by invoking the relevant clause (No.9) from the Bilateral Investment Treaty which was signed between India and Netherlands to protect the investments made in each other's jurisdictions. Vodafone contested that by passing arbitrary legislations, India was violating the clause which stated that companies operating in both countries would "at all times be accorded **fair and equitable treatment** and shall enjoy full protection and security in the territory of the other". The Tribunal pronounced a verdict in favour of Vodafone Group after establishing that India had indeed violated the terms of the signed treaty and should thereby put on hold the efforts to demand tax, interest and penalties to the tune of Rs. 22,100 crores from the company. Instead, the IT department got charged with dues to be returned to Vodafone India, inflated with the interest and penalty components.

All efforts at negotiation between the Indian government and Vodafone could not lead to any remarkable breakthroughs. Meanwhile, matters reached fever pitch when Cairn Energy Plc, also stuck in a similar tax demand quagmire and stalemate on negotiations on indirect transfer of Indian assets, obtained an order from the French Tribunal to allow freezing Indian assets located abroad and recover the dues owed by the IT department to the tune of $1.2 billion. The assets allowed to be confiscated included some of the then national carrier Air India's properties located in Paris. This move prompted the Indian government to act on a war-footing and therein, the TLAA was born.

Government's Argument before Tribunals and its validity

The main reason for the tax demands raised was due to the belief that the government of a state has the sovereign right to taxation within its jurisdiction. In fact, this sovereign right to tax has also been recognised by various Investor-State Dispute Settlement (ISDS) tribunals, including in Argentina and Spain, and that it is a 'bona fide exercise of a state's public powers' (*Renta 4 V. Russia*).

However, it has to be noted that this sovereign right to tax is not an absolute one. It has certain concomitant limitations in its application. The limits are based on the notion that the right to tax should not be imposed in a discriminatory manner as well as should not be confiscatory in nature. In short, tax legislations in a country should be not arbitrary, punitive or mala fide in nature. The investors investing men, material and money in a nation would expect a reasonable legal certainty. Punitive actions, if any, should be proportionate to the non-compliance. In the given scenario, the legal amendment made by the Indian government would not fulfil the test of fair and equitable treatment.

Ultimately, the government should aim to strike a balance between its right to introduce tax amendments with the investor's interest. The legal changes must be justifiable in its intent and purpose, especially in the context of retrospective application of any clause because it comes with a question as to why the amendment cannot be implemented with a prospective effect instead.

Corrective measure undertaken

Through the TLAA, the government decided to undo the problematic provisions passed in 2012 and thereby mark a new beginning for all the investors willing to bring in Foreign Direct Investment into India. The retrospective tax provisions had created a furore and India's aim to portray itself as an investor friendly destination, took a tragic hit. Some of the critical amendments made via the TLAA are as follows:

- The Act **nullifies the amendment** made in 2012 wherein shares of companies incorporated in India or outside India would be deemed to have been always situated in India if they derive substantial value from India and as a result, sale of such shares of foreign companies became liable to be taxed in India.
- The TLAA also provides for a refund of the principal tax demand collected with the condition that the concerned petitioners should withdraw all the litigations initiated against the Indian tax department.
- The amendment also clarifies that with the acceptance of the offer, a complete closure will have to be accepted on future demands and litigative procedures along with an assurance that no assessment will be reopened for the same transaction in the future by giving an explicit undertaking in that regard.

With this amendment, corporate houses including Vodafone and Cairn have an offer to withdraw all the pending cases and also waive their rights to claim costs or attach Indian assets in return for dropping the tax demands raised against them. Further, they may also have to indemnify the government on costs and liabilities from any action pursued by other interested parties in the future. With this, the Government has agreed to forego approximately 1.1 lakh crore of tax demands arising out of retrospective levy, pending with various companies.

This move was received positively by the multinational companies as was observed when Cairn Energy (now renamed as Capricorn Energy) proceeded with dropping the legal suits filed against India, one foreign court at a time. India has agreed to refund $1.02 billion in return. The most critical lawsuit filed before the French Tribunal was also in the final stages of withdrawal as in December 2021. The other ISDS tribunals where similar law suits were being contested by Cairn Energy included Mauritius, Netherlands, Singapore, Canada and the U.K. Cairn Energy also gave the undertaking to indemnify Indian government against any claims arising in the future with respect to the withdrawn proceedings.

This act of accepting and rectifying a historical wrong is expected to bring significant returns in the Indian investment market.

An unintended consequence

Apart from taxation loopholes and arbitrariness, the Vodafone case along with few other similar law pursuits, also had a ripple effect on another tool in India's trade policies kitty – the Bilateral Investment Treaties (BITs). Due to the success of arguments by corporate houses getting stronger by citing clauses from signed BITs, India was forced to relook into the framing and conclusion of BITs going forward. India happened to realise that in case of an adverse ruling in the international fora, the economic burden to be shouldered by India to close the matter would be too heavy to bear. Thus, India approached the scenario by unilaterally sending notices to nearly 57 countries to terminate the expiring BITs signed until 2016 and by requesting for joint interpretative statements (JIS) to clarify certain clauses in the existing treaties, mainly those clauses which have a possibility for an ambiguous interpretation.

India's BITs with Australia (an award against Coal India Limited), Germany (ruling in favour of Deutsche Telecom) and Russia (ruling in favour of Tenoch Holdings) are just a few to list among the unfavourable litigation pronouncements against India, which also made India's commitments to BITs questionable.

Thereafter, India released a Model Text for Bilateral Investment Treaty in 2016, laying out the broad guidelines to be borne in

> The NSWS is aimed at being a one-stop shop to get all the applications processed from the respective departments digitally.

mind while negotiating future BITs. Some of the key guidelines of the Model BIT are as below:

- The definition of the term 'investment' was to be considered as an 'enterprise based' one wherein an enterprise will be taken together with its assets as opposed to the broad asset-based definition incorporated earlier. This narrow interpretation was intended to bring down the BIT claims against India only to those enterprises which were legally constituted in India
- The Model BIT has excluded the 'Most Favoured Nation' ('MFN') clause which is the most quoted clause by litigators by referring to and comparing with MFN clauses of BITs signed with other countries and arguing an unfavourable treatment meted out to them.
- The Model BIT has excluded the 'Fair and Equitable Treatment' ('FET') provision because it was observed that International Tribunals tend to interpret the clause very broadly. The provision inserted to replace the FET is titled 'Treatment of Investments' wherein a country is prohibited from claiming unfair treatment barring a few specific circumstances like denial of justice, 'fundamental' breach of due process or targeted discrimination.
- The Model BIT has inserted a protective clause with respect to dispute resolution wherein a foreign investor should first exhaust all available local dispute resolution avenues for at least a period of five years before proceeding to appeal before international arbitration tribunals.
- The Model BIT has inserted the clause that the treaty shall not apply to any issue involving taxation including measures to enforce taxation provision and even compulsory licensing.

Through the above model BIT framework, India hopes to significantly reduce the scope for litigation before international courts of law. However, it also might be inferred that these provisions make India look as a protectionist regime, evading fair and reasonable judgements when it comes to its investment environment.

Even today, India is seen dragging its feet while concluding BITs with countries world over due to the same reason. The negotiations are underway to conclude a Broad-based Trade and Investment Agreement ('BTIA') with the UK at the earliest and are yet to see fruition due to inability to give in to certain specific demands raised by both the parties, especially demanding greater market access for automobiles and alcohol and inclusion of environmental and labour regulatory norms in the pact.

Looking ahead and beyond

Tax implications apart, through this almost decade-long experience, India has shown its resilience and flexibility. Above all, it shows India's concern towards its investors and making good the loss, even if it meant retracing a faulty track traversed. During the ongoing litigation saga, fresh arguments were raised against the issue of 'tax terrorism', a euphemism for the arbitrary nature of demands being made by the tax authorities. There is a general view circulating among the common masses that the tax notices served are sometimes adversarial in nature by denying refunds or reopening closed assessments without complete verification of facts. However, with the introduction of faceless tax assessments, the trust is expected to be restored in the revenue administration of the country. The fact was reassured in the Prime Minister's speech on 'shifting from tax terrorism to tax transparency' at the inauguration ceremony of the Income-tax Appellate Tribunal in Cuttack. Digital assessments and online filing will go a long way in seamless and honest proceedings as well as recovery of legit amounts of tax evaded.

Recently, in order to dispel the notions of India becoming an inward-looking economy, the ambitious Production Linked

> "In order to dispose of the pending litigations on a timely basis, the courts are gradually adopting the virtual mode of hearing. This would enable the continuity of the cases stuck in the judicial rigmarole and also give the opportunity for justice to reach the doorsteps of the common man.

Incentive (PLI) scheme was introduced covering 13 sectors wherein domestic and foreign players alike are invited to set up value adding, production units in India and receive incentives based on increase in sales made in comparison to a base year. The incentives could be anywhere between 4% to 8%, provided on a case-to-case basis, based on incremental sales made, which seems to be a more credible incentive for industrial units considering the capital requirements and long-gestation period involved in setting up.

Further, in order to fasten the initiation process for businesses and individuals, the National Single Window System ('NSWS') has been launched to herald ease of doing business, accountability and transparency. This would save the prospective investors time and energy in running from pillar to post for various approvals and grants. The NSWS is aimed at being a one-stop shop to get all the applications processed from the respective departments digitally. The window is expected to usher good returns for an economy recovering from the throes of a relentless pandemic.

Finally, in order to dispose of the pending litigations on a timely basis, the courts are gradually adopting the virtual mode of hearing. This would enable the continuity of the cases stuck in the judicial rigmarole and also give the opportunity for justice to reach the doorsteps of the common man.

India was one of the first countries to voice its acceptance of the proposal for a uniform Global Minimum Tax put forth by the Organisation for Economic Co-operation and Development for the world to curb the evil of base erosion and profit shifting and thereby giving its wholehearted support for a level-playing field for countries world-wide to earn their legit share of taxes.

Through these evolving measures undertaken in various facets, India is striving hard to regain the global confidence in its economy and stability. The impact of the same is yet to be seen in the coming years and is hoped to be act as a booster shot in the recovery process. By bringing a much-needed closure to some pocket-heavy litigations, the opportunities to take advantage of India's demographic dividend, untapped resources, middle-class heavy market and booming start-up ecosystem has been unlocked. India has taken the plunge at the right time when global supply chains are having significant diversification and relocation plans and now India can portray itself to be ready to welcome investors with a stable tax regime.

"India has taken the plunge at the right time when global supply chains are having significant diversification and relocation plans and now India can portray itself to be ready to welcome investors with a stable tax regime.

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Higher rate of TDS for non filer of ITR – All About Section 206AB

Effective from 1-7-2021, Tax deduction at higher rate for non-filers of return of income whose aggregate amount of tax deducted or collected exceeds Rs. 50,000 referred to as 'specified person' in the law. This is provided in section 206AB of the Income-tax Act, 1961 (Act). A similar provision is inserted in the statute as section 206CCA for tax collection at source (TCS) at a higher rate than the prescribed rates of TCS for a 'specified person' who is a non-filer of return of income for the preceding two assessment years and his aggregate amount of TCS exceeds Rs. 50,000 in each of these two assessment years*. It is further provided that in case of non-availability of PAN then the rate of TDS as per section 206AA or rate of TDS as per section 206AB whichever is higher shall prevail.*

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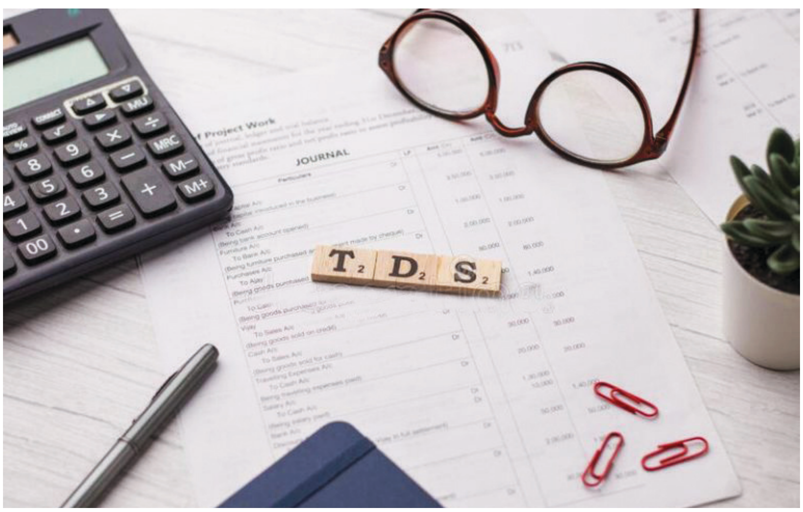
Objectives behind introduction of section 206AB

Finance Act, 2021 had inserted a new provision with an objective of to ensure filing of return of income by those persons, who have suffered a reasonable amount of TDS/TCS.

Section 206AA of the Act provides for a higher rate of TDS for non-furnishing of PAN. Similarly, section 206CC of the Act provides for a higher rate of TCS for non-furnishing of PAN. It is seen that while these provisions have served their purpose in ensuring obtaining and furnishing of PAN by various persons, **there is a need to have similar provisions to ensure filing of return of income by those persons who have suffered a reasonable amount of TDS/TCS**.

Hence, a new **section 206AB** in the Act is inserted in the Finance Act 2021 as **a special provision providing for a higher rate for TDS for the non-filers of the income tax return**. Similarly, section 206CCA is inserted in the Act as a special provision for providing for a higher rate of TCS for non-filers of the income tax returns.



Higher rate of TDS under section 206AB

Rate of TDS under section 206AB shall be the higher of the following three rates-

(a) Twice the specified rate of TDS in the provision

(b) Twice the rate of TDS in force

(c) at the rate of 5%

Illustration: M/s. ABC is a non-filer as per section 206AB and thus any person making any payment which is subject to TDS shall attract a higher rate of TDs as per section 206AB as illustrated below-

Payment under section	Normal rate of TDS	Higher rate of TDS as prescribed in Section 206AB	Applicable Rate
Sec 194C	2%	2 X 2% = 4%, 5%	5%
Sec. 194A	10%	2 X 10% = 20%, 5%	20%
Sec. 194H	5%	2 X 5% = 10%, 5%	10%
Sec. 194J (JB)	10%	2 X 10% = 20%, 5%	20%

Specified Person as per Section 206AB (As amended by Finance Bill 2022)

Finance Bill, 2022 proposes to further *rationalise* the provision and proposed to reduce the condition of two financial years to one FY immediately preceding the FY in which tax is to be deducted or collected for non-filers of income tax returns. Therefore the 2- year time limit is reduced to 1 year. Post amendment, the new provision reads as under:

(i) a person **who has not furnished the return of income for the assessment year relevant to the previous year immediately preceding the financial year in which tax is required to be deducted, for which the time limit for furnishing the return of income under sub-section (1) of section 139 has expired**; and

(ii) **the aggregate of tax deducted at source and tax collected at source in his case is rupees fifty thousand or more in the said previous year.**

The provision is effective from 01.04.2022 and accordingly will apply to credits/payments made after 01.04.2022. As per proposed provisions, return of preceding previous year should be filed before the due date applicable for such assessment year. Or else, the provisions of section 206AB will be applicable.

Exclusion from the applicability of section 206AB

The provisions of section 206AB related to deduction of tax at a higher rate for a non-filer of return of income shall not apply in the following cases (amended by Finance Bill 2022)

Section	Provision
Sec 192	TDS from Salary
Sec. 192A	TDS on premature withdrawal of EPF balance
Sec. 194B	TDS from Winnings from lottery or crossword puzzle
Sec 194 BB	TDS from Winnings from horse race
Sec 194LBC	TDS on Income in respect of investment in securitization trust
Sec 194N	TDS on Cash Withdrawals
Sec 194M	Payment of commission brokerage, contractual fee, professional fee to a resident person by an Individual or a HUF who are not liable to deduct TDS under section 194C, 194H, or 194J.

> Section 206AA of the Act provides for a higher rate of TDS for non-furnishing of PAN. Similarly, section 206CC of the Act provides for a higher rate of TCS for non-furnishing of PAN.

Applicability of section 206AB on Non-residents

Section 206AB nowhere states that the higher rate of TDS shall apply only to a resident non-filer of ITR. In fact, it refers to a specified person which covers both the resident and non-resident person.

However, section 206AB (3) expressly excludes only those non-residents who do not have a permanent establishment in India. Hence, non-residents having a permanent establishment in India are covered by the provisions of section 206AB.

It is further clarified that the expression "permanent establishment" includes a fixed place of business through which the business of the enterprise is wholly or partly carried on. The **provisions of section 206AB don't apply to a non-resident who does not have a PE in India**.

Section 194P and Applicability of section 206AB

Section 194P is inserted in the statute by the Finance Act, 2021 in order to provide relief to senior citizens who are of the age of 75 years or above and to reduce compliance for them.

The new **section 194P provides relaxation from filing the return of income** if the following conditions are satisfied:

(i) The senior citizen is resident in India and of the age of 75 or more during the previous year;

(ii) He has pension income and no other income. However, in addition to such pension income he may also have interest income from the same bank in which he is receiving his pension income;

(iii) This bank is a specified bank. The Government will be notifying a few banks, which are banking company, to be the specified bank; and

(iv) He shall be required to furnish a declaration to the specified bank. The declaration shall be containing such particulars, in such form and verified in such manner, as may be prescribed.

Once the declaration is furnished, the specified bank would be required to compute the income of such senior citizen after giving effect to the deduction allowable under Chapter VI-A and rebate allowable under section 87A of the Act, for the relevant assessment year and deduct income tax on the basis of rates in force. **Once this is done, there will not be any requirement of furnishing return of income by such senior citizens for the assessment year**.

Hence, section 194P expressly provides for exemption from filing of return of income if the conditions mentioned therein are satisfied.

Section 206AB vis-a-vis Section 206AA

Section 206AA provides that any person who is entitled to receive any sum or income or amount on which tax is deductible under Chapter XVIIB of the Act **shall furnish his Permanent Account Number (PAN)** to the person responsible for deducting such tax, **failing which tax shall be deducted at the rate mentioned in the relevant provisions of the Act or at the rate in force or at the rate of twenty per cent, whichever is higher**.

If a person does not provide his PAN to the deductor then it will

> Section 206AB nowhere states that the higher rate of TDS shall apply only to a resident non-filer of ITR. In fact, it refers to a specified person which covers both the resident and non-resident person.

not be possible to know whether he has furnished his return or not. Further, in this case, the rate of TDS shall be 20% under section 206AA. In case, the rate of tax is more than 20%, then such a higher rate will prevail.

Hence when PAN of the deductee is not available or is invalid then the deductor has to compare the rate of TDS under section 206AA and section 206AB and then apply the highest rate of TDS on the amount of payment or credit.

Refer the below illustration assuming PAN is not available

Nature of Payment	Applicable Section	Normal rate of TDS	Rate of TDS as per Section 206AA (PAN is not available)	Rate of TDS as per Section 206AB	Applicable Rate
Contract	194C	2%	20%	2 X 2% = 4% OR 5%, whichever is higher	20%
Commission	194H	5%	20%	2 X 5% = 10% OR 5%, whichever is higher	20%

Applicability of Section 206AB where any payment is below threshold limit (not subject to TDS)

It should be noted that section 206AB is not a provision to cast an obligation to deduct TDS. Rather, this provision only substitutes the rate of TDS with a higher rate in the case of a specified person.

Hence, section 206AB will come into play only when the deductor is required to deduct TDS under any of the provisions contained in Chapter XVIIB of the Act.

For example, if a person makes any payment to a contractor which is subject to TDS under section 194C and the amount of TDS is less than the threshold limit of Rs. 30,000, then no tax is required to be deducted under section 194C and thus the provisions of section 206AB will not apply even if the deductee/contractor is a non-filer in terms of section 206AB.

This is because section 206AB expressly provides that the **provisions of section 206AB shall apply where tax is required to be deducted at source under the provisions of Chapter XVII B**.

Amendments in Quarterly TDS Returns/Statements in Form 26Q/27Q for Section 206AB

CBDT *vide* **Notification No. 71/2021 dated 8.6.2021** and through **Income-tax (17th Amendment) Rules, 2021** has amended Form 26Q and Form 27Q to incorporate the changes introduced by section 206AB for TDS.

In this context, a new tagging code "U" is specified for section 206AB in Form No. 26Q/27Q. Thus, if the deduction is on a higher rate in view of section 206AB for non-filing of return of income (applicable from 1-7-21), the deductor shall tag the record with "U" in the specified column.

As stated earlier, there is no change in the nature of deduction i.e., tax will be deducted under the respective section, but the rate will be applied as per section 206AB if the deductee is a non-filer. However, such a record will be tagged with 'U' in Form 26Q/27Q. In Form 27Q, the

> Section 206AB is not a provision to cast an obligation to deduct TDS. Rather, this provision only substitutes the rate of TDS with a higher rate in the case of a specified person.

> When a certificate is issued under section 197 authorizing a deductor to deduct tax at a rate specified in the certificate, then the deductor is under obligation to apply the lower TDS rate as per the certificate issued under section 197.

equivalent code is 'J' where the TDS rate is applied as per section 206AB.

Applicability of TDS rate as per section 206AB when certificate under section 197 is issued

When a certificate is issued under section 197 authorizing a deductor to deduct tax at a rate specified in the certificate, then the deductor is under obligation to apply the lower TDS rate as per the certificate issued under section 197.

Thus, irrespective of the rate specified in any provision or rates in force, the lower TDS rate as specified in the certificate shall prevail over such prescribed rates.

Section 197 is a special provision that provides relief from a higher tax deduction in case deduction of tax at such higher rates is not justified by the total income of the deductee. But section 206AB is a *non-obstante* provision that has an overriding effect over section 197.

In this, the deductor has to check the status of the deductor as per section 206AB. There is no corresponding amendment in section 197 which prohibits or restricts the income-tax department to issue any lower/Nil TDS certificates under section 197. Thus it is not necessary that if the lower rate of TDS is so authorized the deductee cannot be a non-filer.

Section 206AB is inserted to encourage the voluntary filing of returns in case aggregate TDS is Rs. 50,000/- or more. Thus, if the aggregate amount of TDS of the deductee is Rs. 50,000/- or more even after applying the lower TDS rate and he is a non-filer as per section 206AB, then the provisions of section 206AB shall apply to him. In this case, the higher rate shall be double the lower rate of TDS as specified in the certificate u/s 197 or 5% whichever is higher.

Section 197 overrides the prescribed rate of TDS with the lower rate of TDS as specified in the certificate so issued under section 197.

Hence, a **higher rate of TDS as per section 206AB shall apply to a case where a lower TDS certificate u/s 197** is issued.

Online Functionality to check Compliance u/s 206AB

In order to ensure compliance under section 206AB and section 206CCA, the government has released an **online tool for compliance check under Section 206AB and section 206CCA**.

In this context, CBDT issued an **order u/s 138(1)(a)(i) of the Income-tax Act, 1961 ('Act') on 21.06.2021** for the purposes of the launch of Compliance Check Functionality for Section 206AB and section 206CCA related to deduction/ collection of tax (TDS/TCS) at a higher rate for non-filers of ITR.

Further, on 21st June 2021, CBDT issued **Circular No. 11/2021** regarding the use of the functionality under sections 206AB and 206CCA of the Act.

Thereafter, on 22nd June 2021, the Directorate of Systems notified the procedure for Compliance Check for Section 206AB & 206CCA functionality on the reporting portal.

Features of Online Functionality

Based on PAN of the deductees/ collectees on the portal, a response sheet is generated that

> Section 206AB is inserted to encourage the voluntary filing of returns in case aggregate TDS is Rs. 50,000/- or more.

> Section 206AB of the Income-tax Act is introduced for the collection and deduction of TDS at higher rates in case a sum is payable or paid to a particular individual who didn't file the ITR as required under this section.

shows whether the deductee/ collectee is a 'specified person' or not.

There are two types of search options available on the portal –

1. **Single PAN Search**, where you can check and verify only a single PAN, and
2. **Bulk Search**, where you can search Multiple PANs in one go. All you need to do is upload all the PAN numbers in a CSV file. After this, an output CSV file will be generated containing the list of all the 'specified persons'.

Higher rate of TCS as per Section 206CCA for non-filers of return of income

In line with the provision of section 206AB, similar provisions for the collection of tax at a higher rate are introduced by section 206CCA. Thus, in case of a non-filer of return of income for the last two assessment years where the aggregate amount of TDS or TCS is Rs. 50,000 or more, a higher rate of TCS shall apply. In this case, the following higher rate of TCS shall be applicable-

Rate of TCS under section 206CCA shall be the higher of the following two rates

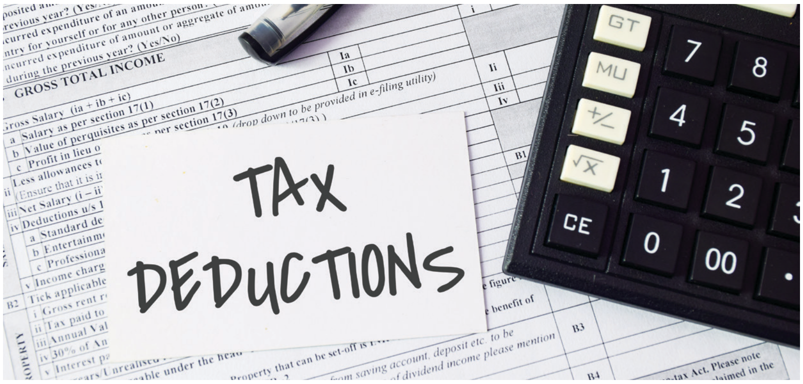
i) Twice the Rate of TCS specified in the relevant provision

ii) 5%

Apart from the above, all the provisions of TDS as per section 206AB shall be applicable for section 206CCA.

Conclusion

After introduction of Section 206AB, Filing of Income tax return is more important to avoid any higher deduction of TDS. Section 206AB of the Income-tax Act is introduced for the collection and deduction of TDS at higher rates in case a sum is payable or paid to a particular individual who didn't file the ITR as required under this section. The online functionality introduced by CBDT helps the TDS deductors in ensuring compliance under the provision of Section 206AB and 206CCA.



References:

- Finance Bill 2022 introduced on 01 Feb 2022.
- Section 206AB of Income-tax Act regarding Special provision for deduction of tax at source for non-filers of income-tax return as introduced by Finance Act 2021.
- Section 206CCA Special provision for collection of tax at source for non-filers of income-tax return as introduced by Finance Act 2021.
- Section 194P of Income-tax Act as introduced by Finance Act 2021.
- CBDT Notification No. 71/2021 dated 8.6.2021.
- Section 206AA of Income-tax Act 1961.
- CBDT order u/s 138(1)(a)(i) of Income-tax Act.
- CBDT Circular 11/2021, dated 21 June 2021.

Research Committee
The Institute of Chartered Accountants of India
(Set up by an Act of Parliament)

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- Age should be less than 40 years on the date of application
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- Candidates shall not avail any other scholarship for the same.

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- Applications are invited through ICAI website, ICAI journal, Mass email to members and should be received before 31st July 2022.
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Last Date for submission of application:
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- Applications are initially scrutinized by the Research Committee Secretariat.
- Thereafter, Shortlisting Committee will short-list region wise meritorious proposals from the eligible applications.
- Such candidates may also be invited for a presentation before Shortlisting Committee.
- The recommendations of the Shortlisting Committee will then be placed before the Research Committee for its final approval

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SCAN

Lunge of Significant Economic Presence

The global economy has been evolving rapidly and digital businesses are predominantly the backbone of this development. Digitalisation is fundamentally reshaping the manner of doing business by shifting the physical businesses to the digital platforms. These changes have brought with them challenges in taxing international business income and have created opportunities for shifting the profits to low tax jurisdictions thereby requiring bold moves by policy makers in order to curb such practices. Read on...

CA. Jaya Krishna Kapoor
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Background

The Finance Bill of 2018 introduced the concept of Significant Economic Presence, "SEP". Significant Economic Presence is a spin-off of the concept of Permanent Establishment under the furtherance of the BEPS Action Plan -1- Tax Challenges Arising from Digitalisation.

The conventional tax laws were framed for a brick and mortar environment, however with the changing times, particularly during the pandemic, these laws seem to be obsolete as the businesses today are being conducted digitally, disregarding the national boundaries and this digitalisation has led to an easy shifting of profits to tax havens.

The Base Erosion and Profit Shifting Action Plan 1 provides for the major concern of taxing the digital transactions and identifying the nexus of these digital transactions.

The concept of Significant Economic Presence was more particularly proposed in the public consultation Document on Addressing the Tax Challenges of the Digitalisation of the Economy. The document highlighted that the digitalisation of the economy and other technological advances has enabled business enterprises to be heavily involved in the economic life of a jurisdiction without a significant physical presence.

Under this proposal, a taxable presence in a jurisdiction would arise when a non-resident enterprise has a significant economic presence on the basis of factors that evidence a purposeful and sustained interaction with the jurisdiction via digital technology and other automated means. As the name suggests, the presence of the

entity should be significant in terms of the revenue it generates through a particular country's economy.

Revenue generated on a sustained basis is the basic factor, but such revenue would not be sufficient in isolation to establish nexus. Only when combined with other factors would this revenue be used to establish nexus in the form of a significant economic presence in the concerned jurisdiction.

India's tryst with SEP

Prior to 2016, the Indian Tax Laws, were predominantly dealing with the physical nexus of the organisations to tax them in India. However, in 2016, the Finance Act, brought the provisions of Equalisation Levy, "EQL 1.0", under Chapter VII of the Finance Act, which introduced a 6% tax on online advertisement services provided by Non-Resident Organisations. Although EQL 1.0, was a step towards taxation of digital transactions, the scope of this provision was very narrow, and it levied a tax as low as 6% on the gross amount received by Non-Residents for advertisement services availed by Residents of India or by Non-Residents that have Permanent Establishment in India.

> "The concept of Significant Economic Presence was more particularly proposed in the public consultation Document on Addressing the Tax Challenges of the Digitalisation of the Economy.

Subsequently, being strongly engaged with OECD in its efforts to help the G-20 countries to enhance jurisdiction of International Taxation, India introduced the provisions of Significant Economic Presence.

Budget 2018 established the position of SEP in the Indian Income-tax Act, 1961 (hereinafter called as "Act") by inserting Explanation 2A to section 9 of the Act which expanded the scope of the term - 'Business Connection' under domestic law to enable taxation of non-residents having a Significant Economic Presence (SEP) in India.

SEP has been defined to mean:

- *A transaction in respect of any goods, services, or property carried out by a non-resident with any person in India, including the provision of download of data or software in India, if the aggregate of payments arising from such transaction or transactions during the previous year exceeds the prescribed amount; or*
- *Systematic and continuous soliciting of business activities or engaging in interaction with such number of users as may be prescribed in India.*

On May 03, 2021, the CBDT finally introduced the threshold limits under Rule 11UD of the Income Tax Rules, 1962, to make the concept of SEP functional from Assessment Year 2022 i.e., April 2021. The threshold limits defined are as follows:

a) **Revenue Linked Condition**: SEP provisions shall be triggered in case the aggregate amount of payments arising to a non-resident exceeds INR 20 million, on transaction with any person in India pertaining to any goods, services, property, provision of download of data or software in India during the previous (financial) year; or

b) **Users Linked Condition**: In case the number of users for systematic and continuous solicitation of business or engaged in interaction are 300,000 or more.

The Memorandum to the Finance Bill 2018 on introduction of concept of SEP, indicated the intention of the legislature to tax only the Digital transactions, however the language of the SEP provisions, appear to cover the transactions involving physical goods and services also. Condition a) does not have a specific mention of digital goods or services and its simple and literal interpretation shall include sale of physical goods and services.

The condition b) involves, *Systematic and Continuous Solicitation of Business*

Activities to the users. The term *solicitation* means the act of asking or trying to obtain something. Accordingly, the condition implies, the act or intention of seeking business by the Non-Resident, which may involve various types of advertisements or campaigns. However, the law has neither defined the term "solicitation" nor clarified as to what kind of activities shall be included within the scope of solicitation. Further, it stresses upon a systematic or regular solicitation, and not occasional or isolated acts of solicitation. The condition also refers to the interaction with the users, however, among other aspects, there lies some moot queries which require clarity in this respect like, who would be considered as a "*user*" and the manner of computing the users. All these questions require clarity for the proper implementation of the law.

It may be noted that the provisions do not specify any other condition to be satisfied and accordingly, the quiddity of the concept of SEP would not be lost even if there is no agreement for such transactions or activities in India, or the non-resident does not have a place of Business or Residence in India or the Non-resident does not render services in India.

Therefore, whether or not these factors are satisfied, the transaction or activity will qualify to constitute SEP, once it satisfies the limits prescribed under Explanation 2A to section 9 read with Rule 11UD.

Applicability of the Provisions

It may be argued that the Business Connection has been exhaustively defined as having a SEP in India vide Explanation 2A to section 9(1)(i) and no other form of business connection shall be considered for the purpose of taxation in India. However, such interpretation is not sustainable and is not consistent with the legislative intent. A non-resident taxpayer who concludes transactions that exceeds either of the above limits shall be considered to have its Significant Economic Presence in India. The limit of INR 20 million must be considered in totality and not customer specific which makes these provisions swingeing for the Multinational Enterprises operating in India.

Another important issue relating to the monetary threshold is whether one should include amounts received as reimbursement to compute this limit. It may be noted that the provisions stress upon "amount paid" and not "income earned" and as such any amount paid in relation any goods or services or property or software shall be covered by the provision of this definition.

Impact of SEP on Double Taxation Avoidance Agreements (DTAA)

It is relevant to note that the Treaties today do not provide for the SEP Test and as such when the Treaties continue to define the conventional concept of permanent establishment for taxing business profits of a Non-Resident, this move of the Government runs contrary to their idea of increasing digitalisation in India.

> The provisions stress upon "amount paid" and not "income earned" and as such any amount paid in relation any goods or services or property or software shall be covered by the provision of this definition.

Further, until the existing Treaties are renegotiated to include a provision similar to SEP, the Non- Residents may continue to rely upon beneficial provisions of the Treaties. However, the Government while introducing these SEP provisions underscored the fact that going forward, these provisions are expected to be included in tax treaties also, resulting in the domestic law becoming favourable to the taxpayer.

Even otherwise, for the countries with which India has entered into Tax Treaties, the beneficial provisions of DTAA would be a paper tiger unless the required documents like Tax Residency Certificate along with Permanent Establishment Declaration are obtained from the Non-Resident Vendors.

In view of the above circumstances, it can be considered that the Non-residents from countries not having treaties entered with India will be directly impacted with the provision.

Compliance Obligations for Non-Resident Taxpayers

In case the income of a Non-Resident Individual or Foreign Company is taxable in India on account of SEP Provisions, the tax liability shall arise @40% plus applicable surcharge and cess for foreign companies and at slab rates for the Non-Residents Individuals.

The tax is payable only on that amount which is attributable to the SEP in India. However, the attribution of profits to the SEP requires clarification and guidance, as currently, the provisions of the Act do not provide a specific methodology for attributing profits to the SEP. Arguably, the manner provided in Explanation 1(a) to section 9(1)(i) of attributing profits to the operations carried out in India by Non-Residents that have PE in India, may be adopted for attributing income in case of SEP also.

> In case the income of a Non-Resident Individual or Foreign Company is taxable in India on account of SEP Provisions, the tax liability shall arise @40% plus applicable surcharge and cess for foreign companies and at slab rates for the Non-Residents Individuals.

It may be noted in this regard, that these general provisions were framed considering Non-resident's physical presence in India. However, the SEP provisions were introduced to tax the profits through digital operation in India and therefore this general method may fail to service the purpose in this case.

With regard to the return filling obligation, as per the provisions of section 139(1) of the Act, every company shall file Income Tax Return irrespective of the fact whether there is any income chargeable to tax or not, and there exists no specific exclusions for Foreign Companies, once there is an established nexus with India. However, the provisions under Chapter XII of the Act *inter-alia* provides that the requirement to file return may be relaxed in certain cases for Non-Residents and foreign companies where the income earned by the Non-Residents is limited to interest or fees for technical services or royalty or dividend etc. provided the specified conditions are satisfied therein. These provisions do not provide relief in case the Non-Residents or Foreign Companies earn business income. Therefore, in case it is concluded that a Non-Resident, including foreign company has SEP established in India, the business income of such Non-Residents shall be taxable in India and as such the assessee may be required to file their Income Tax Returns in India.

It may be pertinent to note that conservatively, such Non-Residents will be required to file the Returns even if they claim exemption under the PE Provisions of the Treaty.

As per section 92 of the Act, the Transfer Pricing provisions shall apply in case of any international transaction between associated enterprises. Accordingly, in case the Non-Resident having SEP in India concludes any transaction with its associated enterprise, the Transfer Provisions shall also apply.

Section 115JB provides for payment of tax on book profits in case the tax computed as per the normal provisions of the Act is less than 15% of the Books profits. As per Explanation 4 to the section, MAT provisions will not be applicable on foreign companies in the following cases:

- Where foreign company is resident of a country with which India has entered into a DTAA and such foreign company does not constitute a PE in India
- Where a foreign company is resident of a country with which India has not entered into a DTAA and such foreign company is not obliged to take registration under the relevant provisions of Companies Act 2013.

The MAT provisions are applied to compute tax on the business profits of a company, being both Domestic and Foreign Companies. As per the Articles of Double Taxation Avoidance Agreement, the business profits are generally taxed in the resident country unless the taxpayer has a Permanent Establishment in India. It can be construed that the aforesaid Explanation to section 115JB provides exemption to foreign companies from MAT provisions, even if these companies do not avail the treaty benefits (for example in case the Tax Residency Certificate is not available), provided they are resident of a country with which India has entered into a DTAA.

In the light of the above, it may be concluded that even in the case the foreign company which is resident of a country with which India has a DTAA, constitutes SEP in India, but does not have a PE in India, then the MAT Provisions shall not be applicable, since the section specifically covers foreign companies who have Permanent Establishment in India. In case of foreign companies, residents of countries with which India has not entered into a DTAA, MAT provisions shall be applicable, if the company triggers the obligation to get registered in India under Companies Act, irrespective of the fact whether the company constitutes SEP in India or not.

Equalisation Levy v. Provisions of SEP

The developments in the form of Equalisation levy (EQL) 1.0 levying tax on advertisement services from non-resident vendors to introducing EQL 2.0 in FY 2020-21, taxing the non-resident e-commerce operators to further extending the scope in Budget 2021 and contemporaneously introducing the SEP thresh hold limits, clarifies that India is acting strenuously to implement BEPS Actions. However, it would be interesting to see how the Government will deal with the interplay of provisions of Equalisation Levy(1.0 or 2.0) and SEP, as there is not much guidance from the Income Tax Department in this regards, except for the introduction of section 10(50), for exempting the income from the levy of Income Tax when Equalisation levy is applicable, except in cases where the income is taxable as royalty or fees for technical services as per the Act.

Fees for Technical Services/ Royalty v. Provisions of SEP

It may be argued that there is an overlap between the provisions of SEP and other provisions of the Act, such as Royalty/Fees for Technical Services, "FTS". The section 9 of the Income Tax Act provides the cases where the income shall be deemed to accrue or arise in India. Clause (i) to sub-section (1) of section 9 considers the income from any business connection in India as income deemed

"Even in the case the foreign company which is resident of a country with which India has a DTAA, constitutes SEP in India, but does not have a PE in India, then the MAT Provisions shall not be applicable, since the section specifically covers foreign companies who have Permanent Establishment in India.

to accrue or arise in India, whereas clause (vi) and (vii) to sub-section (1) of section 9, provides for income by way of royalty and Fees for technical services in India as income deemed to accrue or arise in India. Accordingly, since there is a specific provision in the Act with respect to Royalty/FTS, the specific provision shall over-ride the general provision of SEP, by following the legal maxim "***lex specialis*** derogat legi generali". Further, the taxation of royalty or fees for technical services earned by a Non-Resident or Foreign Company not having a Permanent Establishment in India, is governed by section 115A of the Act, which shall prevail over the general provisions of taxation of an SEP.

Tax with-holding Obligations

The withholding tax obligations in respect of payments to a Non-Resident having SEP in

India will have to be looked into carefully. As per section 195 of the Act, any person responsible for making payment to a Non-Resident will be required to deduct TDS, at the time of credit to the account of the payee or at the time of payment, whichever is earlier, at the applicable rates, if such sum is chargeable to tax in India. A payer may not deduct tax or deduct withholding taxes at rates lower than the rates prescribed under the Act considering the treaty entitlements of the Non-Resident. However, the Non-Resident shall provide the Tax Residency Certificate or other documents which provide information prescribed under Rule 21AB of the Income Tax Rules, in order to avail the Treaty benefits.

Further, in order to withhold taxes for a Non-Resident having SEP in India, the sum chargeable to tax shall be ascertained in order to apply the TDS rates. However, in the absence of profit attribution rules for SEP, the payer will face practical difficulty to determine such amount and may have to apply to the Assessing Officer u/s 195(2). In most of the cases the payers may conservatively, proceed to deduct the tax on the amount actually paid which might cause hardship to the Non-Resident payees. The rate for deduction of TDS in case of a Non-Resident having SEP in India, can be as high as 40%.

It may be noted that the threshold limits for SEP were notified on May 03, 2021, however the provisions of SEP are applicable from April 01, 2021 onwards i.e., for FY 2021-22. Accordingly, the payer may be considered non-compliant in case TDS was short deducted for the period between April 01, 2021 to May 02, 2021, and it may attract consequences such as interest and penalty along with expense disallowance for short-deduction of TDS. Although, relying upon the Hon'ble Supreme Court judgement in the case of Engineering Analysis Centre of Excellence Pvt. Ltd. (LL 2021 SC 124), wherein it was held that a person cannot be compelled to do the impossible and comply with the provisions when they were not in existence, the payer may be able to argue that a higher rate of tax could not applied on the transactions performed prior to the cut-off date of May 03, 2021, considering practical difficulties.

As per section 195 of the Act, any person responsible for making payment to a Non-Resident will be required to deduct TDS, at the time of credit to the account of the payee or at the time of payment, whichever is earlier, at the applicable rates, if such sum is chargeable to tax in India.

Global Minimum Tax and SEP

On 5 June 2021, the G7 Finance ministers agreed on a Global Minimum Tax whereby a minimum 15% income tax will apply on multinationals' profits that are currently not subject to corporate income tax rate or are subject to tax rate lower than 15%. This deal was introduced in line with the aim to discourage multinationals from shifting profits - and tax revenues - to low-tax countries regardless of where their sales are made. Currently, a group of 136 nations, including India have concurred with this deal. As per the OECD plan to implement this deal, the signing countries will be required to remove the prevailing digital services tax and other similar taxes and shall commit not to introduce such measures in the future.

In the backdrop of the above developments, India may have to withdraw these unilateral concepts of Significant Economic presence and Equalisation Levy which were introduced to tax the digital profits of Multinationals in India.

It would be interesting to see how the compliance of these provisions will unfold, and what changes are introduced in law for the successful implementation of the provisions.

Prepaid Payment Instrument replacing cash to digital money in Pocket: New Digital Pocket to All

Prepaid Payment Instrument (PPI) is substitute of physical cash among others. Cash signify the monetary value, as pure form of exchange for transaction. It facilitates the regular and smaller amount of payment for consumption of any goods or services or financial services, remittance etc. Physical cash on paper form or coin, do have risk of loss, theft, damage and so on however by introduction of PPI remove such issue with given security of value stored on such PPI. Read on…

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Various security form is built to protect it from loss or mis-use to the extent possible but threat is universal, do remain. It's just about comparative leverage of secured and safety measures to proceed the transaction fairly across the terminal and PPI has proved fair enough at security and safety point in comparison to other means and modes of financial transaction point.

Highlights & Current Status

Statistically 37 entities are operating as non-bank Payment Service Provider with its unique Prepaid Payment Instrument in forms of Card, Webpage or Mobile App licensed under flagship Payment and Settlement System Act, 2007 read with regulation, 2008 and monitored, managed and guided by Department of Payment and Settlement Systems (secretary office of Board for Regulation and Supervision of Payment and Settlement Systems) under Reserve Bank of India (RBI). Beside this, 57 Banks has license to issue, manage and operate Prepaid Payment Instrument for public at large which include almost all type of Banks available in India like public sector bank, private commercial bank, foreign bank, payments bank, Cooperative Bank, Small Finance Bank.

The early bird license holder and exist till date as Prepaid Payment Instrument license holder are:

S. No	Name of Entity	PPI	Remarks
1	GI Technology Pvt Ltd Chennai	I-Cash (in Card Form)	Prepaid Card used by various individual to consume travel services, mobile re-charge and Utility Bill Payments.
2	Ebix Payment Service Pvt Ltd (formerly Itz Cash Card Pvt Ltd) Mumbai	EBIXCASH	Co-branded prepaid card
3@	Muthoot Vehicle & Asset Finance Ltd Kochi	Muthoot Money (in Wallet Form)	Web and mobile wallet to store money value
4	Sodexo SVC India Pvt Ltd Mumbai	Sodexo Card	Meal Voucher, Gift Card
5	Unimoni Financial Services Limited (formerly UAE Exchange & Financial Services Ltd)	Unimoni (In Mobile Wallet form)	Money Transfer Services via Mobile Wallet Unimoni and other retail payment solution provider

@ Muthoot Vehicle & Asset Finance Ltd, PPI license is ceased by RBI since December 31, 2021 along with Eko India Financial Services Private Limited.

Note:

1. Few early birds in this space as PPI are not included on above table, as these players has now enhanced themselves as Payment Bank. For example, One97 Communication Limited (Paytm), Airtel M Commerce Services Ltd (Airtel Money), Fino Paytech Ltd (Fino Pay), Idea Mobile Commerce Services Ltd (Idea Money), Reliance Payment Solution Limited (Jio Money). Paytm being first entrant in PPI, has also been first Payment Bank in India.
2. ZipCash Card Services Private Limited has received the license in early bird space as per my write up in 2009 though not included on above table due to the company been later on acquired and run by Ola Financial Services Pvt Ltd. Then the product zipcash coupon is replaced by PPI "Ola Money".

Further the latest entry on this segment as non-bank Payment Service Provider as Prepaid Payment Instrument license holder are:

S. No	Name of Entity	PPI License Date	Remarks
1	Bajaj Finance Ltd Pune	04.05.2021	Voluntary surrender on 20th Feb, 2018 and again applied for Authorization for Issuance and Operation of PPIs. Prepaid Card Business for Shopping. The license is approved on perpetual basis without any cut off/renewal date.
2	Eroute Technologies Pvt Ltd Noida	10.05.2021	Prepaid Card business "OmniCard" and offline payment solution provider with "HindPay" – UPI based Solution. The license is approved on perpetual basis without any cut-off or renewal date.
3	Euronet Services India Pvt Ltd Thane	03.08.2021	Wallet business – PPI, working primarily on money transfer business across globe under brand of Euronet Worldwide, as India entity. The license is approved on perpetual basis without any cut-off or renewal date.
4	Razorpay Technologies Private Limited	25.10.2021	PPI

Sources:

a) Non-bank operator list https://www.rbi.org.in/Scripts/PublicationsView.aspx?id=12043

b) Bank operator list (only for knowledge link shared) https://www.rbi.org.in/Scripts/bs_viewcontent.aspx?Id=2491

Moving ahead, as far as market capture and payment service provider leader chart, commonly we can find the following information at market popular, more users and good market capture on this vertical:

Rank	Name of Entity	Brand	Business Lines	Users
1	Phonepe Private India (Formerly FX Mart Pvt Ltd)	PhonePe	Digital Mobile App Wallet for Payment Solution	10 Cr +
2	Amazon Pay (India) Private Limited (Formerly Amazon Online Distribution Services Pvt Ltd)	Amazon Pay Balance: Money	Retail Payment Solution via Mobile App	10 Cr +
3	One Mobikwik Systems Pvt Ltd	Mobikwik Wallet	Retail Payment Solution Mobile App	5 Cr +
4#	PayU Payments Pvt Ltd	PayU	Retail Payment Solution Provider in addition to Gateway	5 L +
5#	Pine Labs Pvt Ltd	Pine Labs	POS Machine/Card Business	1 L +

4# Entity is known for Gateway business; PPI platform is less exploring but popular in users and entity is expanding the PPI slowly gradually in the year to come.

5# Entity is known more for Point of Sale (POS) terminal set up (last mile transaction) with good merchant user base in addition to card business however on presence of digital app users, entity is expanding slowly and gradually.

Regulatory Development of PPI

Before development of policy guidelines by regulator are just brain storming session of all available intellects in country as far as the adoption of technology-based payment facilitation in country or not, participating the various stakeholders to participate and provide the inputs on drafting and development of regulatory framework as far as implantation phases are concerned. So, to harmonized the capitalization of timeline on development of PPI as far as regulatory framework is subject, the cut-off date can be taken off from the first cut of master direction issued dated 29th April, 2009. The implemented direction is named as "Guidelines for issuance and operation of Prepaid Payment Instruments in India" is first stone on the development of PPI segment in Country. The very initial stone on the development of PPI is placed on this day. And over time, via experience and experiment, the first guidelines are been drastically revamped and redrafted altogether and during phase, the Reserve Bank of India on very recent publication issued Master Direction on Prepaid Payment Instruments (PPIs) dated 27th Aug, 2021. The recent direction has drastically changed the entire orientation and approach of PPI in comparison to earlier one. Slowly gradually regulator is making all PPI to participate in main stream of Banking Channel in India, precisely Payment Facilitation is Concern. Over decades timeframe, in light of development in the field of PPI, Digital e-commerce, experience gained and with a view to foster innovation and competition, ensure safety and security, customer protection etc. state has got commendable state of art for payment facilitation as on date.

> If applicant company is already regulated by any existing regulator, then no objection certificate is a must to obtain and attach with the application for authorisation.

Decoding the Fresh Master Direction on PPI

Since 2009 to 2020, been decades above with wide range of experience and experiment, regulator RBI come up with new fresh Master Direction on Prepaid Payment Instrument (PPI) dated 27th Aug, 2021 with immediate effect.

Extract:

a) Definition and category of name with earlier one is changed
b) Widen the scope/function/features of PPI
c) Consolidated till date circular in one master direction for PPI
d) Emphasis on interoperability of PPI
e) Enhance and improvised security, fraud prevention

> As a PPI issuer, it is required to keep a log of all transactions involving PPIs for at least ten years. It would also submit Suspicious Transaction Reports (STRs) to India's Financial Intelligence Unit (FIU-IND).

and risk management framework implementation

f) More focused on customer grievance and its handling on time

g) Know Your Customer (KYC) is centre point

h) Mandate of implementation on interoperability of PPI using NPCI Hero Product UPI Interface

Category of PPI and Definition

a) **Closed PPI**: PPI which does not required approval/ authorization from Reserve Bank of India (RBI). It is instrument issued by an entity or organization for facilitating the purchase of goods and services of that entity or organization only i.e. no involvement of third party in transaction. It does not permit cash withdrawal. For example, Rapido App, Big bazar Card etc.

b) **Small PPI:** It is instrument used for payment or settlement for third party services. It can be issued by banks and non-banks entity after obtaining minimum details of PPI holder, is choice of applicant either to go for Small PPI or Full KYC PPI. It is used only for purchase of goods and services. Fund transfer and cash withdrawal is not permitted from it. For Say, Amazon pay balance.

c) **Full KYC PPI:** It is more advanced PPI in comparison to earlier two, due its more features and speciality. It can be issued by banks and non-bank entity. PPI holder first complete the Know Your Customer (KYC) with minimum details to activate the PPI, only after PPI holder can use such instrument for purchase of goods and services, fund transfer or cash withdrawal.

Scope of PPI

This is not differentiating factor of both PPIs in fact, its scope of PPIs presented in tabular format with similarities and differences altogether.

Small PPI	Full KYC PPI
Use for purchase of Goods and Services	Use for Purchase of Goods and Services, fund transfer or cash withdrawal
Minimum details of PPI holder i.e. mobile number verified with one-time password and self-declaration of name and unique identity number of any officially valid document (OVD)	Video-based Customer Identification Process (V-CIP) with minimum details in addition to OVD is required to open PPI by holder
Small PPI is of two types on the basis of loading facility i.e. Small PPI with cash loading facility (i.e. Bank and Cash, both acceptable) and with no cash loading facility (i.e. Loading/reloading from Bank Account, credit card, full KYC PPI)	No further classification on Full KYC PPI unlike Small PPI. Loading/reloading of PPI is from any source either cash, bank account, credit card etc.
Reloadable in nature and issued only in electronic form	Reloadable in Nature and Issued only in Electronic Form
Amount Loading Cap in this PPI a) It shall not exceed INR 10K during any month and 120k annually in financial year b) Amount outstanding at any point of time in such PPI shall not exceed INR 10K c) Total amount debited from such PPI during any month shall not exceed INR 10K	Amount outstanding shall not exceed INR 200K at any point of time

Small PPI	Full KYC PPI
Such PPI shall be converted into Full KYC PPIs within a period of 24 Months from date of issue. Failure to do so, fail entity to add more users however existing user can use the value stored on PPI	Concept of pre-registered beneficiaries is there with addition of bank account details, details of PPIs of same issuer etc of it in order to facilitate such beneficiaries with fund transfer not exceeding INR 200K per month per beneficiary. In case of other scenario fund transfer limit shall be restricted to INR 10K per month. As special features unlike earlier fund transfer is permitted to other PPIs, Debit and Credit Cards as per limits given above.
PPI shall not be issued to the same user in future using the same mobile number and same minimum details	Talking about cash withdrawal limit then first set to check is either the PPI issued by Bank or Non-Bank. If Bank has issued PPI then on such PPI cash withdrawal at PoS device is subject to limit of INR 2K per transaction within an overall monthly limit of INR 10K across all locations. If in case of non-bank issued PPIs, cash withdrawal shall be permitted up to maximum limit of INR 2K per transaction within an overall monthly limit of INR 10K per PPI across all channels either its agents, ATMs or PoS devices.
Option to close PPI is always available to User and amount shall transfer to source account. In other way closure proceeds, if any can be transferred to Bank Account after complying with KYC requirements of PPI holder	Option to close PPI is always available and balance transfer to pre-designated bank account of PPI holder
Features of PPI shall be communicated to PPI holder by SMS/e-mail at the time of issuance of the PPI before the first loading of funds	Features of PPI shall be communicated to PPI holder before first loading of funds

Over and above, Regulator Reserve Bank of India (RBI) read with Payment and Settlement System Act, 2007 (amended from time to time) acknowledge the other two special category PPI i.e. Gift Card and Mass Transit System.

Authorization Process

Every eligible entity should make an application to Department of Payment and Settlement System (DPSS), Central Office, RBI, Mumbai. If applicant company is already regulated by any existing regulator then no objection certificate is most to obtain and attach with the application for authorization.

Applicant shall be company incorporated in India and registered under the Companies Act, 2013/1956 which is required to maintain net owned fund of INR 5 Cr at the time of application and thereafter within closure of three financial year, the minimum net owned fund has to be INR 15 Cr.

Objective of applicant entity should foster the objectives of PPI issuance.

> "PPIs are not allowed to make or facilitate or transfer any cross-border outward fund under Liberalised Remittances Schemes.

Key Notes for PPIs

Adoption of Know Your Customer (KYC) guidelines under the Anti-Money Laundering (AML)/Combating Financing of Terrorism (CFT) as per the provision of Prevention of Money Laundering Act, 2002 (PMLA) guided by RBI Master Direction on KYC.

As a PPI issuer, it is required to keep a log of all transactions involving PPIs for at least ten years. It would also submit Suspicious Transaction Reports (STRs) to India's Financial Intelligence Unit (FIU-IND)

Non-bank PPI issuer shall seek one-time approval from Department if desirous of issuing co-branded PPIs.

Non-bank PPI issuer shall submit a System Audit Report (SAR), including cyber security audit conducted by Computer Emergency Response Team (CERT)-IN empanelled auditor, within two months of the close of its financial year.

PPIs as Cross Boarder Transaction Instrument

Participation of PPIs on cross boarder transaction is very limited and prohibited. As far as outward transaction is concern, first up all PPI is required to be full KYC and same been issued by Banks having AD-I License permitted only for permissible current account transaction under Foreign Exchange Management Act, 1999 viz. purchase of goods and services. PPI issuer shall enable the facility of cross-boarder outward transaction only on explicit request of PPI holder and shall apply per transaction limit not exceeding INR 10k, while per month limit shall not exceed INR 50K. PPIs are not allowed to make or facilitate or transfer any cross-border outward fund under Liberalised Remittances Schemes. However, under the RBI's Money Transfer Service Scheme (MTSS), banks and non-bank PPI issuers engaged as Indian agents of licenced overseas principals would be permitted to issue complete KYC PPIs to beneficiaries of inbound remittance. Such PPIs will be issued as per MTSS guidelines established by the Foreign Exchange Department (FED) of RBI. Even for inward remittances, only up to INR 50k from an individual can be loaded/reloaded in complete KYC PPIs issued to beneficiaries. Amounts in excess of INR 50k must be credited to the beneficiary's bank account.

> PPI issue has responsibility and prescribed set of reporting and format given on guidelines. Precisely PPI issuer has to submit the Net-worth certificate and PPI statistics.

Reporting Requirements

PPI issue has responsibility and prescribed set of reporting and format given on guidelines. Precisely PPI issuer has to submit the Net-worth certificate and PPI statistics. Further PPI has to submit the auditor certificate on maintenance of balance in Escrow Account. In addition to above, the PPI issuer shall maintain and report PPI customer grievance report. These are RBI's specific reporting requirement on given interval however over and above of it, the entity is required to submit its audited financial statement and auditor report thereon.

Conclusion

PPI has its decades long history with ups and down, complexities, failure and improvisation day in day out to become state of an art for making payment to various vendor on finger tips. In quite advance and appreciated instruments as on date in order to promote with better user experience as far as payment is concern to fulfil the buyer obligation to make payment on

> PPI is making huge presence as far as finger tips payment is concern and making country less cash based and more digital cash carry model with ground base of India's Banking and Financial Service Industry.

purchase of goods and services, remittance and financial services. More appreciated news on PPI segment is altogether inclusion of PPI issuer in Centralized Payment System of India i.e. RTGS and NEFT as well as providing the cash withdrawal facility at location either its from PoS, agents or else. In fact, PPI is making huge presence as far as finger tips payment is concern and making country less cash based and more digital cash carry model with ground base of India's Banking and Financial Service Industry. It is worthy to understand and explore the India's Banking System in your pocket/mobile friendly instrument to leverage the speedy cash deliver unlike any others in earlier scenario. Further new and innovative idea and technology are been working to explore more on more in this segment with supervision of RBI either its retail payments, cross border transaction or MSME lending, the process is ongoing and in near future there will much more enhancing mode of instrument for multiple payment facilitation and so on with an app, web or offline or card based.

Dividend Income under Ind AS 109 – not so simple after all

Dividend income recognition has been an apparently straight forward area in accounting. But with Ind AS 109 permitting certain qualifying investments in equity instruments to be measured at fair value through other comprehensive income the accounting for dividend gets a little complex. This article takes a look at how the discriminatory accounting of dividend income (through profit or loss) and other fair value changes (through OCI) may impact the entity's decision to opt for the FVOCI measurement. There is a need for entities to apply suitable accounting policies to distributions received as dividends based on their economic substance and user needs. Read on...

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Dividend vs Fair value increases

Ind AS 109 permits certain investment in equity instruments to be measured at fair value through OCI by way of an irrevocable election (at the very initial recognition). The two requirements for this election are that the equity instruments should not be either of the following (Ind AS 109.5.7.5):

(a) held for trading; and

(b) contingent consideration arising from a business combination accounted under Ind AS 103.

Any amounts lying in OCI are never to be recycled to PL on disposal of such instruments. This implies they can only be transferred within equity.

It is a choice of accounting policy if an entity opts to irrevocably elect measuring such investments at FVOCI.

Paragraph BC5.25 in the 'Basis of Conclusions' issued as part of IFRS 9 states as below:

"The exposure draft proposed that dividends on equity instruments measured at fair value with changes recognised in other comprehensive income would also be recognised in other comprehensive income.

*Nearly all respondents objected to that proposal. They argued that dividends are a form of income that should be presented in profit or loss in accordance with IAS 18 Revenue[**BC5.25] and noted that those equity investments are sometimes funded with debt instruments whose interest expense is recognised in profit or loss. As a result, presenting dividends in other comprehensive income would create a "mismatch". Some listed investment funds stated that without recognising dividend income in profit or loss their financial statements would become meaningless to their investors. The Board agreed with those arguments."*

The IASB perspective above alludes to a synonymity between fair value changes and dividend relating to investment in equity instrument. For this reason, their accounting treatments were initially proposed to be consistent with each other i.e., recognition in OCI. Apparently, this did not materialise because of the meritorious argument from the perspective of the two types of entities viz. those which had leveraged their investment in equity instruments or are investment entities i.e., whose main operation is to invest in other entities.

As per paragraph 10(a) of Ind AS 8, an accounting policy should result in an information that is relevant for economic decision-making needs of users. In the case of those two types of entities, the combination of FVOCI election of an equity investment and its dividend recognition in profit or loss might still justify the overall context and purpose of these investments to the users of financial statements. But in all other cases, in addition to the mandatory criteria to be fulfilled for FVOCI election, management should also consider how a user would be influenced by such presentation in making any economic decision based on the financial statements. If an entity discloses in its financial statements that such an election has been made, a user is bound to understand that the effects of such an investment do not have significant impact on the entity's statement of profit or loss. But in the backdrop of the synonymity between dividend and fair value increase on an equity share, it is not quite true since the above election does not apply to dividend incomes arising from such investment in equity instruments (AASB 9.5.7.1A). Therefore, management has to be careful in deciding whether this election would result in an outcome that aligns with the user's understanding of the classification of assets held by the entity.

Perhaps this may require also factoring the pattern of expected dividends from the investee in addition to complying with the conditions in paragraph 5.7.5. Since if the entity expects to receive all of the fair value gains on an investment distributed in the form of dividends, then the election becomes pointless. Consider a situation for example in which management determines that cost is the appropriate measure of fair value as per paragraph B5.2.3 of Ind AS 109 for an unlisted investment. This investment will be held for a short period (say two years) and there will be no future indicators in the meantime (as in B5.2.4) that will compel fair value re-measurement of this investment. The investee is however expected to pay a dividend during the holding period. In this case the election may be potentially misleading the users because all the fair value changes will certainly impact the profit or loss in the form of dividends and no changes in OCI (with cost being static measurement). While for such obvious cases, it does not benefit from the perspective of relevance to users to make this election, it is challenging to decide on this election in other cases if there is lack of reliable information regarding the dividends, expected share price movements etc.

Consistent with the objective hinted in paragraph BC5.25 to disclose separately dividends and fair value changes, a best practice would be for entities making such an election to disclose the judgments involved in making such an election that includes the expected dividend from the shares, the holding period etc. that will enable users to understand the possible future impact in profit or loss despite this election. Thankfully, paragraph B5.7.1 of Ind AS 109 permits an entity to make this election for each instrument. Hence management can make judgment based on facts and circumstances relating to each instrument.

Dividends - return on and of the investment

The term 'dividend' has been defined in Ind AS 109 as distributions of **profits** to holders of equity instruments in proportion to their holdings of a particular class of capital. Dividend has been always interpreted as a 'return **on** investment'. Hence the default understanding is that they are recognized immediately in profit or loss. Below are the relevant provisions in Ind ASs that contain this requirement:

- Paragraph 5.7.1A of Ind AS 109 requires dividends to be recognised in profit or loss only when: (a) the entity's right to receive payment of the dividend is established; (b) it is probable that the economic benefits associated with the dividend will flow to the entity; and (c) the amount of the dividend can be measured reliably.
- Paragraph 12 of Ind AS 27: An entity shall recognise a dividend from a subsidiary, a joint venture or an associate in profit or loss in its separate financial statements when its right to receive the dividend is established. It may be noted that in separate financial statements of a parent, there is a choice of accounting policy to measure the investment at cost or as per Ind AS 109.

Yet, the accounting for dividends get complicated due to the requirement in paragraph B5.7.1 of Ind AS 109. This carves out an exception by prohibiting certain dividends that *clearly represents a recovery of part of the cost of the investment.* But unfortunately, this phrase has not been well defined or guided in the Ind AS standards.

The above phrase brings us the challenge of interpreting various elements such that a reasonable accounting outcome emerges.

- Firstly, it is notable that the use of word 'clearly' is explicit that the expected level of understanding on the preparer of financial statement is more or less meaning 'beyond any doubt'. It would be be highly compliant if there are documentary evidences available stating as such but that may not always occur in practice. Hence in some cases it requires a significant judgment and high degree of care.
- The term 'cost' has not been defined in the standard. But in the absence of any clarity, one may look for guidance in other standards for e.g., Ind AS 16. Cost is the amount of cash or cash equivalents paid or the fair value of the other consideration given to acquire an asset at the time of its acquisition or construction or, where applicable, the amount attributed to that asset when initially recognised in accordance with the specific requirements of other Indian Accounting Standards, e.g., Ind AS 102, Share-based Payment.

  However, one may still question the use of the term 'cost' in the context while the standard requires the investment to be initially recognised only at its fair value that is a product of application of Ind AS 113 and may be different from actual cost of acquisition. Hence it appears logical to interpret 'cost' as 'fair value'. Given the inherent dynamics of this measurement attribute, fair value of the investment (i.e., it's carrying amount) on the date of receipt of dividend may be a reasonable choice.
- It would be unfair and illogical taking the meaning of the phase 'part of the cost of investment' to be literally only a portion of the cost of

"Dividend has been always interpreted as a 'return on investment'. Hence the default understanding is that they are recognized immediately in profit or loss.

investment. It should also include the whole part of the cost of the investment.

There is clearly a need to look in to the context and intention of the parties. There may be the following couple of situations where distributions from the investee may be regarded as recovery of cost of the investment.

(i) Pre-acquisition profits distributed:

This is the situation that is popularly agreed in various professional publications as an example for regarding dividend as a recovery of cost of the investment. Any profits distributed from reserves that existed on the date of acquisition is to be treated as a recovery of the investment considering this as subsidising the cost of acquisition. These are amounts received by the entity even before obtaining ownership in the investee. Interestingly, paragraph 12 of AS-13 (not applicable to entities applying Ind AS) contains a requirement on allocation of pre and post-acquisition profits unlike Ind AS 109. It appears an accounting policy along the lines of AS-13 can still be applied by an entity applying Ind AS. (*However, in the separate financial statements of a parent, Ind AS 27 does not prescribe a similar treatment of an investment in subsidiary/associate/JV that are accounted as per Ind AS 109 since paragraph 12 of Ind AS 27 requires all dividends to be recognised in PL of separate financial statements of the parent/venturer/investor. This appears to be an aberration.*)

> Any profits distributed from reserves that existed on the date of acquisition is to be treated as a recovery of the investment considering this as subsidising the cost of acquisition.

(ii) Distributions received during winding up of the investee:

In practice, some entities have taken the view that the capital distributions received as dividends during a winding up of the investee (whose equity instruments are measured at FVOCI by election) are to be subjected to the same accounting treatment as any other regular dividend. Apparently, there appears to be an inherent difficulty/uncertainty in applying the provisions relating to derecognition in paragraph 3.2.3 of Ind AS 109 in the event of a winding up of the investee. This is because there are no 'contractual rights' to cash flows from the investment. The holder may or may not get a dividend depending on the performance of the investee and board's decision. Further, there is no stated/implied 'expiry' for any cash flows that may arise from those equity investments. Hence such investments will only get re-measured on receipt of the distribution, though the final accounting outcome would be same/similar as de-recognition of the investment.

> The holder may or may not get a dividend depending on the performance of the investee and board's decision. Further, there is no stated/implied 'expiry' for any cash flows that may arise from those equity investments.

Given the above uncertainty in applying the de-recognition provisions, it is a tenable alternative view that any distribution received in the course of the winding up of the investee would qualify for this exceptional treatment. Some of the reasons to hold such a view:

(1) The intention of the investor is clearly to recover the investment before exiting its relationship with the investee once for all. Based on the extended interpretation of 'cost' as 'fair value', the understanding is that the investor recovers the fair value of the investment from those distributions and hence they should not be recognised in PL.

(2) The basic tenet of an accounting policy is to present the transaction based on its correct economic substance. Hence a return of investment has to be clearly distinguished from a return on investment; not just by disclosures, but by appropriate presentation in the financial statements.

(3) As per the definition in AASB 132, dividend only refers to

distribution of 'profits' and not the return of capital per se. Hence technically any return of fair value of the investment during winding up do not meet the definition of 'dividend' in Ind AS 109.

(4) Any balance of fair value gains distributed during the winding up are nothing but the accumulated amounts that have not been distributed in the previous years as dividend (i.e., based on the IASB view of synonymity of dividend and fair value gains). If these amounts are recognised in profit or loss, then it does not comply with the FVOCI election as per which no gains in OCI can be reclassified to profit or loss.

What does IASB say on this?

Paragraph BC5.25 in the 'Basis of Conclusions' states further as below:

> "…………… ***The Board noted that structuring opportunities might remain because dividends could represent a return of investment, rather than a return on investment. Therefore, the Board decided that dividends that clearly represent a recovery of part of the cost of the investment are not recognised in profit or loss****. However, in the Board's view, those structuring opportunities would be limited because an entity with the ability to control or significantly influence the dividend policy of the investment would not account for those investments in accordance with IFRS 9[*u]. Furthermore, the Board decided to require disclosures that would allow a user to compare easily the dividends recognised in profit or loss and the other fair value changes."*

The above IASB view clearly distinguishes a '*return of investment*' from '*return on investment*' and clarifies that the raison d'être of paragraph B5.7.1 of Ind AS 109 is also to prescribe the said exceptional accounting treatment to distributions that involve 'return of investment'. Hence that allows room to interpret the meaning of B5.7.1A beyond its literal meaning.

As mentioned above, in practice it has been observed some entities have passed the following entries on receipt of distributions in the nature of return of investment in the course of winding up.

(a) *On receipt of distributions*

Dr Asset/Cash
Cr Dividend income – PL

(b) *Revaluation of investment to their ex-dividend value*

Dr Investment revaluation reserve

Cr Investment in equity shares

Based on the emphasis of recording the economic substance of a capital distribution, it is reasonable to apply paragraph B5.7.1 and pass the following entries instead:

On receipt of distributions

Dr Asset/Cash

Cr Investment in equity shares*

Reclassification of reserve

Dr Investment revaluation reserve

Cr Equity**

*Although, as already mentioned, the provisions regarding de-recognition in Ind AS 109 do not arguably apply to a capital distribution in winding up, it is notable that paragraph B5.7.1 does not mention how otherwise should the dividend be accounted if not recognised in profit or loss. The reasonable interpretation is to be de-recognise the investment.

**Not to be recycled to PL

As the situation stands, IASB had already settled that puttable-instruments accounted as equity as per IAS 32 (paragraphs 16A-16B) are not to be regarded as investment in equity instruments for the purpose of exercise of FVOCI option (IFRIC interpretation May 2017). As such, paragraph B5.7.1 is applicable only to investments in equity instruments that are not puttable financial instruments. The fundamental reasons for the introducing the exceptional accounting treatment of dividends (as per BC 5.25 to Ind AS 109), are common to even such equity-accounted puttable financial instruments. Even to these cases, the provisions regarding de-recognition cannot be applied in the event of their redemption since there are no contractual rights to cash flows that either 'expire' (their equity classification is because the cash flows are based on profit or loss and not contractually fixed). Therefore, it is a moot point whether it would be rational, consistent and more objective to extend the entire requirement in paragraph B5.7.1 to a redemption of puttable financial instruments that are accounted as equity. After all, even the distributions from such instruments are required to be presented as dividends. ■■■

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The Institute of Chartered Accountants of India
(Set up by an Act of Parliament)

ICAI INTERNATIONAL RESEARCH AWARDS 2022

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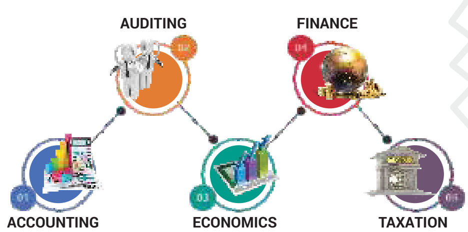

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SCAN

Mastering Your Master Data

Master data in an organisation's systems plays a key role in the efficiency and effectiveness of its processes and has a direct impact on its business outcomes. However, master data management (MDM) has not received due importance for various reasons that are elaborated here. The article reiterates the importance of master data and examines the problems that affect its quality and integrity. It goes on to identify some practical tips for improving and transforming master data and its management to make it a lever for profitable growth. The author provides the rationale for a master data management (MDM) function and studies the impact of emerging trends on the evolution of master data. Read on...

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It is useful to remind ourselves why clean master data is so important

- **A single source of truth**

  Master data is the common thread that binds various functions in an organisation. If it is compromised, the one single source of truth will be affected leading to lack of confidence and individual departments going back to their own data silos to avoid mistakes. On the other hand, one source of master information puts everyone on the same page and ensures business processes operate seamlessly across functions.

- **Foundation for complete, accurate transactional data**

  Transactional data is based on the master data that it draws from. Inaccurate master data will affect the integrity of every single business transaction that depends on it. A stitch in time saves nine is an old adage that is appropriate in these circumstances.

- **Business Impact**

  Imagine a business that doesn't have an accurate database of its customers and their contact details. If reaching out to your business associates is a struggle, how do you expect to do business? Especially in the times that we live in, when everyone is rushing for a share of the customers' attention and wallet. If you don't get there fast, someone else will, thanks

to their accurate customer master data.

This can be the case in every area of your business, vendors, materials, employees and fixed and current assets. Imagine the cascading losses that could arise from multiple errors in master data in every area of your business. The consequences could even include direct cash leakages through erroneous or duplicate payments, non-availing of discounts or rebates, picking of the wrong item codes or price masters and whole gamut of discrepancies.

- **Efficiency**

  The cost of re-work when the foundation is faulty can be colossal. Since master data is the starting point of all transactional activity, it has an adverse effect on every downstream activity. However efficient manual and system processes may be, they will continue to be sub-optimal if the base of the master data is not strong.

> Master data is the common thread that binds various functions in an organisation. If it is compromised, the one single source of truth will be affected leading to lack of confidence and individual departments going back to their own data silos to avoid mistakes.

- **Uniformity**

  Standardisation sets a common understanding for all stakeholders. It is a pre-requisite for all the other benefits of master data to flow through to the business. Master data creates a common vocabulary for the entire business and ensures that there is no misunderstanding due to lack of a standard framework. This facilitates cross-functional interaction and builds synergy within the organisation.

But then, if master data is so crucial for an organisation's processes why is it that it is not in good shape more often than not?

Some of the key reasons for this appear to be:

- **Urgency**

  Transactional activity usually happens in a hurry, an urgent invoice to be raised. A vendor to be paid. In the heat of the moment, there is a tendency to cut corners and save time. Clerical errors, short forms, duplicates, incomplete fields, non-standard terms etc can lead to headaches at a later date. This short time saved now can end up in a lot of time and money lost later.

- **Rigidity**

  Very often masters are

> Master data creates a common vocabulary for the entire business and ensures that there is no misunderstanding due to lack of a standard framework. This facilitates cross-functional interaction and builds synergy within the organisation.

  prepared by people who do not have visibility into the future. Therefore, there could be limiting factors causing rigidity in the structure of the masters which limit their full functionality. For example, if one type of material is only allocated two digits' space, there would a constraint if the number of items were to exceed 99. So, masters need to be structured with an eye on future possibilities.

- **No single owner**

  Till recently, it used to be the responsibility of staff handling transactions to create the master record. This was replete with issues. These individuals were handling routine, time-bound work and did not always have a cross-functional understanding of the implications of their actions on other functions. Of late, organisations have started making a centralised team responsible for master data management. However, just bringing everything under one roof doesn't solve the problem if the mindset and approach remains the same.

- **Different requirements for different stakeholders**

  If the master template is created or updated by a particular function there is always a likelihood that the information contained will be limited to only what is important or relevant for that function. The chances are that the requirements of other stakeholders will be omitted. For example, if the purchase department creates the item master, only the purchasing unit of measure (UOM) may be allotted to that item. If an item is purchased in kilograms but sold by numbers only the former UOM may be allotted to that item instead of both.

- **Creator not aware of the consequences**

  As we can see from the above example, such an omission is not deliberate but arises due to the ignorance of the originator about the consequences of his actions on other functions. Therefore, it is essential that the master creation is centralised with a team that has full visibility and responsibility for all the upstream and downstream effects of the master's contents.

- **Work around to avoid human errors or system limitations**

  Today various systems have to integrate with each other to complete an end-to-end action. For example, a vendor master creation would involve validating the GST number from the government portal or setting up vendor bank account for bank's payment transfers. Certain limitations from external systems or risk of human errors may lead to work arounds in the master creations. For instance, certain ERP systems will not allow more than one bank account for a vendor. So, if the company is dealing with two divisions of the same vendor with different bank accounts, there would be a need to create two vendor codes though the entity is the same. Similarly, some companies create separate codes for the same vendor for services and goods as the former are subject to tax deduction at source. If there is one vendor code for both types of transactions, the selection of type is left to the operator. This leaves a risk of erroneous transactions which is avoided by creating two vendor codes.

- **Low importance to the activity**

  As the repercussions of errors and omissions in the master are not immediately seen, there is a tendency to accord it low priority and treat it casually. This makes the activity prone to careless errors and quick fixes.

How then can a business ensure its master data is comprehensive and complete? To start with, keeping the following set of principles would be helpful in maximising the quality of master data

- **Design with the future in mind**

  While creating the master data strategy and individual contents, the team responsible should have a clear understanding of the business' strategy and critical performance drivers. These should always be central to the master data model. An organisation with multiple branches all dealing in the same products would, for instance, have one material master but location would have a key place in all its masters with an ability to roll up to the corporate level.

  A common flaw with master designs is that they are not future-ready and don't provide the flexibility or space for growth. A simple example is providing only a limited number of digits, say XXXX for a set of codes. Once the number exceeds '9999', even the most sophisticated systems will have no way to fix it. Having one eye on the future while setting the ground rules for master data will help avoid the risk of hitting a dead end later.

- **Make Data Hygiene an ongoing activity**

  One of the mistakes organisations make is to treat master data hygiene as a spring-cleaning activity that operates in short bursts. Such an approach tends to be ad hoc, discretionary and prone to delays. Integrity of the masters should be an ongoing responsibility of the teams owning the master data viz. process/function owner. Allowing slipshod quality with a promise to come back and clean up the mess later should be strictly avoided.

- **Identify Ownership**

  Having a dedicated central Master Data Management (MDM) team attached to the Shared Service Centre or the head office helps to pinpoint responsibility for master integrity. While creation of the masters can be decentralised if needed, the review and confirmation should invariably be with one central entity for accountability to be established.

- **Standardise at point of entry**

  Setting some ground rules at inception will help create a framework which will prevent careless data errors.

> While creating the master data strategy and individual contents, the team responsible should have a clear understanding of the business' strategy and critical performance drivers.

For example, just ensuring that one standardises on prefixes (With or without 'The', 'Mr.' etc.) or spelling conventions and abbreviations (St. or Street?) will go a long way to ensure silly errors are weeded out.

- **Online validation of data entry errors**

  Ensuring that ERP systems or vendor/customer on-boarding platforms have validation rules to prevent typo or rule-flouting errors will ensure elimination of some common mistakes that litter master data. For example, mobile numbers should necessarily be ten digits, Income Tax Permanent Account Number entries without proper sequencing would be rejected i.e., alphabets in the first five spaces, four numeric and one alphabet with a total of length of ten. Reasonableness checks for details like age, date of birth etc. are other means of preventing garbage from seeping into the system.

- **Capture data from source**

  It is obvious that every time data changes hands it runs a risk of unintended corruption. A fool-proof way to ensure that master data doesn't undergo modifications is to draw it right from source. For example, the item master can be linked to the HSN coding system or the Vendor/customer master can obtain tax information directly from the GST/ Income tax portals.

> Having a dedicated central Master Data Management (MDM) team attached to the Shared Service Centre or the head office helps to pinpoint responsibility for master integrity.

A major hurdle that businesses face while creating a central MDM function and implementing an MDM tool is to justify it financially. MDM activity can be clubbed with other roles if volumes are not significant. However, it is important to clearly identify the team members and their individual and collective responsibilities and to communicate this within the organisation.

Given below are some of the compelling reasons for developing a comprehensive master data management function

- **Ease of operations**

  It is apparent that a clean master will enable smooth transactions through the system thus improving customer experience and interface (UI/UX) for all stakeholders.

- **Speed of response**

  When the eco-system is able to communicate faster and seamlessly it leads to quicker decision making and conclusive action.

- **Data integration across the organisation**

  By integrating data throughout the organisation, all players are equally informed and enabled to act responsibly and collectively. This enhances the image of the organisation and prevents inadvertent errors from defective data quality. Cross functional initiatives are dependent on a common platform of master data.

- **Business insights**

  Today, data is everywhere and is the source for a multitude of business insights. Flawed master data can be fatal for an organisation that wants to build a data-driven decision-making culture.

- **Data privacy**

  There is growing emphasis on data privacy from governments and law enforcers. Leakage of data or dissemination of inaccurate data could lead to unfortunate consequences for organisations. Master data in particular contains immense amounts of personal information like mobile numbers and emails. Proper encryption and secure storage and transfer of master data is a prerequisite which can be achieved only by identifying responsibility.

It is evident that in today's increasingly data-driven world, the importance of master data and its management is paramount. Organisations that ignore this fact are destined to do so at their own peril. IBM in a 2016 report estimates that approx. $ 3.1 trillion is the yearly cost of poor quality of data of which a significant element is master data. A stunning figure indeed. A recent survey by Mc Kinsey & Company *("Designing Data Governance that Delivers Value" – by Brian Petzold et al, McKinsey Digital June 26,2020)* reveals that on an average, employees spend approximately 30% of their time in non-value-added tasks due to lack of data quality and availability. In firms that have implemented effective data governance it drops to between 5 and 10% which is a sizable saving.

Emerging Trends and their impact on Master Data Management

Master Data Management initially focussed on governance to ensure data quality and consistency. This primarily took the form of rules and policies that were enforced through a governing team.

Definitions, workflows and roles and responsibilities were created to build a framework for clean and accurate data. However, these frameworks tend to be static and able to cope only with one-dimensional text data that resides in individual silos within on-premise systems.

The changing business trends especially due to the impact of Covid require master data management to transform itself to take them head-on. There

> "Master data in particular contains immense amounts of personal information like mobile numbers and emails. Proper encryption and secure storage and transfer of master data is a prerequisite which can be achieved only by identifying responsibility.

is an increasing dependence on contact-free business and omni-channel sales. These have fuelled hyper-personalisation so that the customer is able to replicate the physical buying experience online. Other established trends are remote work and the Internet of Things (IoT).

Master data management has to shape up by adopting a flexible and customisable structure that is truly multi-domain. This would mean that different masters like employees, vendors, customers and materials are able to make connections and not end up in silos. This will drive innovative actions and enable quick decision-making.

The proliferation of unstructured data is another challenge in today's world. Social media, voice and video calls etc. play a key role in profiling customers, vendors and other subject matter of master data. The system needs to be flexible enough to accommodate not just text data but unstructured data as well to be truly comprehensive.

A trend that cannot be ignored is the shift to the cloud. This brings with it a host of new challenges and a cloud-native MDM platform would become a necessity quite soon to cope with them.

Some of the typical issues that organisations moving to the cloud face with their master data are

Data Privacy and Security

With increasing digitalisation, identity and personal information including biometrics are being stored on virtual machines. This greatly increases the risk of data theft and leaks. Organisations can be crippled, both financially and reputationally, for inadvertently allowing breach of personal information. Therefore, it is essential that the cloud service provider is not only reputed and adequately but is contractually bound to comply with the increasing regulations in this area for example, the EU's General Data Protection Regulation (GDPR) and other similar statutes.

Multiple Data Types

In the past, data necessarily meant text or numerical information systematically placed in a record form with labels and names for each field. Today, data could take any form over the cloud. Images e.g., scanned photos or documents, biometric information like fingerprints and iris scans, confidential medical records etc. Storing these disparate forms of data securely and retrieving them speedily is a challenge that organisations are learning to deal with in the world of virtual infrastructure.

Remote Working

With the trend of remote working getting accelerated, there is an increasing use of mobile devices where the lines between personal and work-related data are increasingly blurred. This results in increased vulnerabilities that need to be managed. Use of security features like traffic monitoring, incident management tools etc. help to prevent, detect and mitigate the possibilities and consequences of a data breach. The growing importance of metadata, or the data that gives information about other data, cannot be ignored in this context.

Software-as-a-Service

Coupled with the shift to cloud, organisations are freeing themselves from the burden of owning, maintaining and upgrading expensive software licenses. The trend towards using "Software-as-a-Service" brings with it the concomitant risk of the service provider's environment. It is essential that the application software complies with stringent security requirements that safeguard confidential master data and the provider is held contractually liable for breaches.

A sensible approach to the risk of managing master data on the cloud is to leverage the power of an MDM solution that is itself based on the cloud.

Some of the benefits of using a cloud-based MDM tool are

Speed and Scale

Virtual infrastructure can be put up at short notice and the features and capacity scaled up quickly to be in line with growth. This crashes the time required to start realising value from the MDM application unlike on-premise solutions.

Enhanced Security

Cloud-based MDM systems come equipped with security features that ensure compliance with the most stringent privacy legislations and are continuously enhanced with advances in technology. The in-house team is freed from the need to continuously monitor for breaches and incidents.

Lower Cost

The total cost of ownership would be significantly lower if the sizing is done to optimise the performance. Inherent cloud features like "Pay-as-You-Go" enable reduced initial investment and spend in line with value realised.

Machine Learning

Machine learning (ML) is another major development that can be leveraged better on the cloud to ensure accurate master data with reduced governance. A typical area where machine learning enhances master data management is in identifying suspect duplicate master records. While traditional systems will identify exact duplicate records, with ML one can use supervised ML techniques to identify potential duplicate records using pre-defined rules. Thus, ML can enable the MDM system to take some decisions which would require human intervention in a traditional system.

The Future of Master Data

So, will master data remain just a housekeeping requirement for organisations to enable their internal processes or will it evolve into a 'single source of truth' not just for individual organisations but an entire end-to-end supply chain ecosystem?

The start has already been made, organisations today can seamlessly interact on platforms that leverage common and publicly available information like a company's CIN number or an individual's national id or mobile number to obtain valuable information that enables informed decision making. Consumers of goods and services get a constant feed of information based on their past behaviours and interests. Individuals are being assigned 'unique' master records across systems that use IP addresses and 'cookies' to track online and offline activity like physical movement on Maps across multiple networks.

As technologies like block-chain get more robust, the time is not far when supply chains will be connected using unique, secure master data available in the public domain and transactions executed and validated in real-time without intermediaries. Master data, in new and diverse forms is taking on a pivotal position in the data strategy of any business. It is time for organisations to think of its management as not just a necessary activity but a powerful source of competitive advantage.

"As technologies like block-chain get more robust, the time is not far when supply chains will be connected using unique, secure master data available in the public domain and transactions executed and validated in real-time without intermediaries.

Blockchain Accounting: Applications and Implications

Blockchain is the technological talk of the decade and being termed as the technological revolution after the internet by the experts. We often hear this term in relation to cryptocurrencies. However, the world of blockchain is far beyond cryptocurrencies and now spreading its wings in changing almost every field. It is expected to be a transformation and would impact various industries like supply chain, health, education, logistics, food, banking, insurance, automobile and many more. However, it is being said that blockchain is going to be the biggest disruptor in the area of traditional accounting practices. This paper aims to give insights about the concept of blockchain technology, understand the application of blockchain in the area of accounting, its advantages and challenges, information about early adopters of blockchain accounting, and the concept of triple entry accounting. Finally, we discuss the potential of including blockchain accounting as a part of academic education curriculum. Read on...


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A Blockchain is a decentralised, distributed and digital public ledger used to record transactions across many computers (participants known as nodes) in an immutable and non-amendable manner such that no record once added can be altered or deleted. As stated in (Dutta, 2020), if the transaction needs to be removed for any legitimate reasons, a new transaction has to be recorded which reverses the previous transaction. Any verified transaction recorded on one computer/ledger is subsequently recorded on all other copies of the ledger i.e., on all the participant computers also. A transaction is requested by any user on the network and then a block is created. Such block is communicated to all the nodes and thereafter upon validation by all the nodes. The block is added to the chain and the transaction gets executed and updated on all the nodes of the network. All the participants in the network can communicate with any other participant by using the seamless and direct peer to peer communication network of blockchain.

Blockchain has the ability to record an infinite number of transactions. The transactions

take place only between the participants of the network. The blockchain will not record any transactions or dealings that a member of the blockchain has with a non-member, since it does not affect the ecosystem (Dutta, 2020).

Some early adopters of Blockchain Accounting

The following industries have started exploring blockchain accounting due to its immense potential:

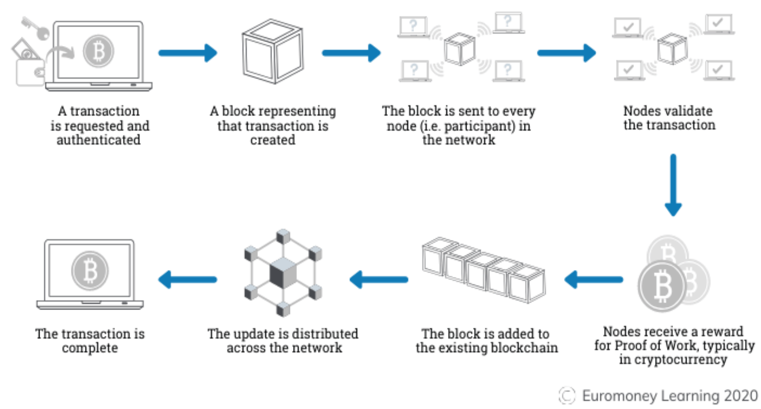
a) **IBM's** secure cloud based platform for companies to test blockchain technology within their own supply chains to track high value items.

b) Ethereum Foundation has developed **Balanc3**, an application solely focused on triple entry accounting.

c) **Tierion** is a blockchain cloud service that allows companies to create digital time-stamped receipts (Sarkar, June 2018).

Factom is also developing a recordkeeping network and using notary chains to create proof-of-existence and proof-of-process layers (Karajovic, Kim, & Lasksowski, 2017). Apart from this, big accounting firms regularly publish surveys and reports on how blockchain will impact accounting and auditing functions and transform and enhance the role of accountants and auditors. Companies like Lukka Tax and Verady are very good companies to follow that are specific to blockchain in accounting and have already proven it is here to stay (Kunselman, 2021)

How does a transaction get into the blockchain?



Source: (www.euromoney.com)

Figure 1 shows how transaction is completed over the Blockchain

Interpretation: This figure depicts the steps how a transaction gets into the Blockchain. A transaction is first requested and authenticated by any party. Thereafter, a block representing that transaction is created. This block is sent to every participant called as node in the network who validates the transaction. Nodes receive rewards for the Proof of work done. Thereafter, the block is added to the existing Blockchain and the network is updated to complete the transaction.

Objectives

The objectives of writing this paper are:

i) to understand the application of blockchain in accounting

ii) to analyse the implications of adoption of blockchain in accounting, and

iii) to discuss the scope of introducing blockchain accounting as a part of accounting education course.

Applications of Blockchain in Accounting

Blockchain alters the traditional techniques for invoicing, recordkeeping, documentation, reconciliation etc. It mechanises the physically performed tasks and assignments as performed in traditional system of accounting. (ICAI, 2018). Thus, blockchain simplifies complex task of book-keeping and helps in maintaining quick and non-amendable records.

Blockchain is a foundational change in how financial transactions are recorded, maintained, and updated. In blockchain, records are shared with all the users on the network rather than having a single owner like in traditional recordkeeping. A single identical and agreed-upon version of the truth propagates to all users as part of a permanent record which highlights the decentralised and distributed feature of blockchain which is also immutable (ICAEW, 2018).

Blockchain technology can be termed as the next step for accounting since transactions can be recorded directly into a joint register by creating a junction of long-lasting accounting records rather than creating separate records. All the transactions are shared and cryptographically sealed, therefore changing or destroying them to conceal any activity is practically not possible (ICAI, 2018).

Blockchain is a transparent, certain and reliable offer about ownership and history of assets and existence of obligations. It will save accountants time and cost of preparing and matching registers resulting in higher efficiency. Moreover, with recordkeeping transferred to the blockchain, more resources will be available for planning and valuation (Pugna & Dutescu, 2020). "In the economic and business fields, arguably the biggest beneficiary of BT will be accountancy service providers, especially large accountancy companies that manage complex, global operations in different currencies while offering confidentiality and total anonymity" (Wang & Kogan, 2018)

"A real time blockchain accounting system should be transparent, stable, accessible" (ALSaqa, Hussein, & Mahmood, 2019).

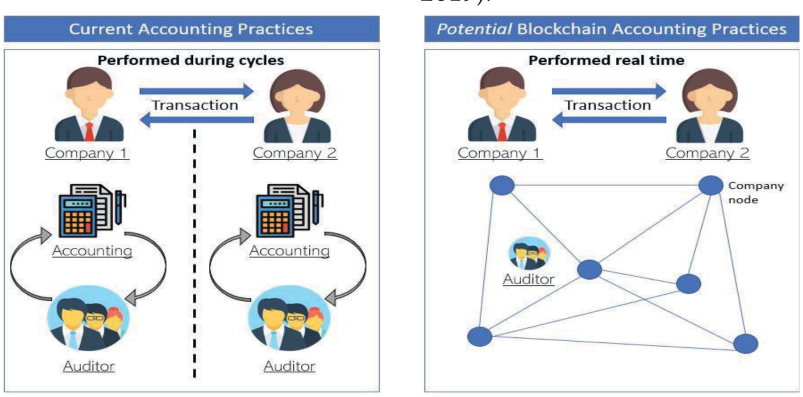


Figure 2 shows the current accounting practices and potential Blockchain accounting practices

Source: https://f.hubspotusercontent00.net/hubfs/190654/Ebook/2020/eBook-Blockchain-in-Accounts-Receivable.pdf

Interpretation: This figure shows the comparison between current and potential accounting practices. In current practices, every company is recording its own transactions and the auditors are examining the books of respective companies. However, with introduction of Blockchain technology, the potential accounting practices depicts that transactions are recorded on real time basis on a shared network and auditors can examine the same from that network.

Triple Entry Accounting

Blockchain technology integrates accounting and business activities instead of separating them. It is done through a triple entry accounting system that, essentially, maintains three ledgers, one each by the seller, the buyer and a public set of (cryptographically authorised) records. The third i.e., the public set represents virtually undeniable evidence of the underlying transactions (Pascal A Bizzaro, 2019).

"The blockchain based "triple entry" model is an expansion of the double entry system where all accounting transactions are registered by the third party in the Blockchain. In comparison to conventional accounting, where trading partners access debit and credit reports separately on their own accounts, blockchain combines shared transaction records with trading group journal entries, which provide extra audit protection" (ALSaqa, Hussein, & Mahmood, 2019), (Wang, Designing Privacy-Preserving Blockchain Based Accounting Information Systems, 2017).

The third entry (blockchain) cryptographically seals the accounting books of the respective parties. As blockchain is transparent in any software change, it is difficult to alter or erase written accounting records. (ALSaqa, Hussein, & Mahmood, 2019) (Potekhina & Riumkin, 2017).

Features of Triple Entry Accounting:

- Tamper proof Record
- Permissioned Distributed Ledger
- Double Entry + Cryptography
- Validated, Secure & Private
- Digital Signed Receipts

(Febrero, 2018) (Vijai, Elayaraja, Suriyalakshmi, & Joyce, 2019)

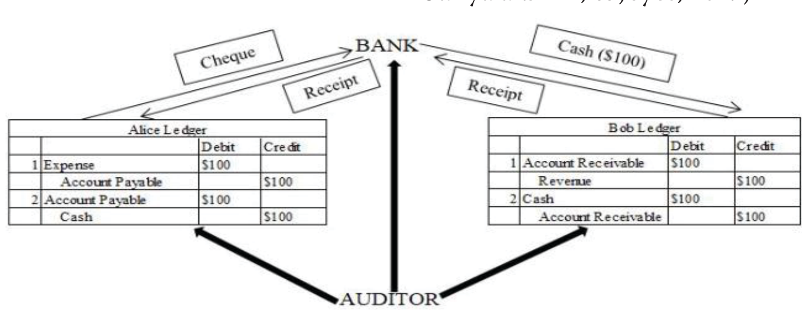


Figure 3: A Payment Transaction between Alice and Bob in a Double Entry Accounting System Source: (Cai, 2019)

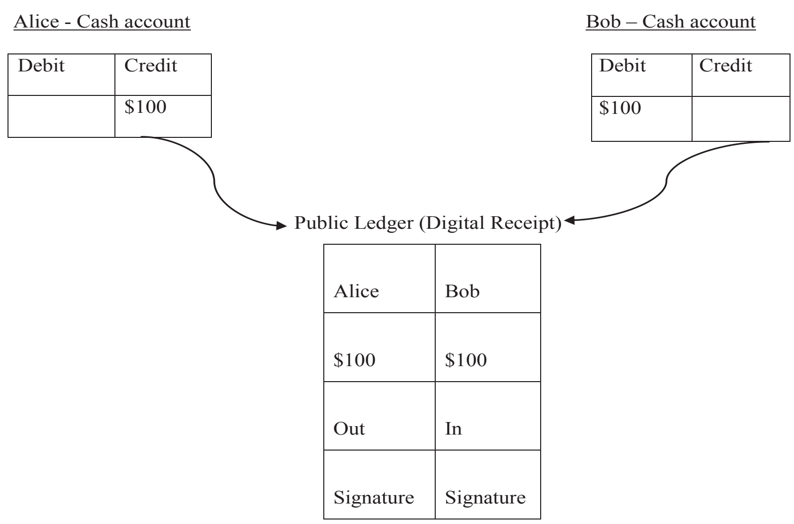


Figure 4: A simple example of Triple Entry Accounting
Source: (Cai, 2019)

Interpretation: This figure explains how the transaction between Alice and Bob is recorded in the public ledger through triple entry accounting. The signature represents that both the parties have validated the transaction and its amount and thereafter it is recorded on the blockchain network. Auditors can very easily check and verify the same transaction.

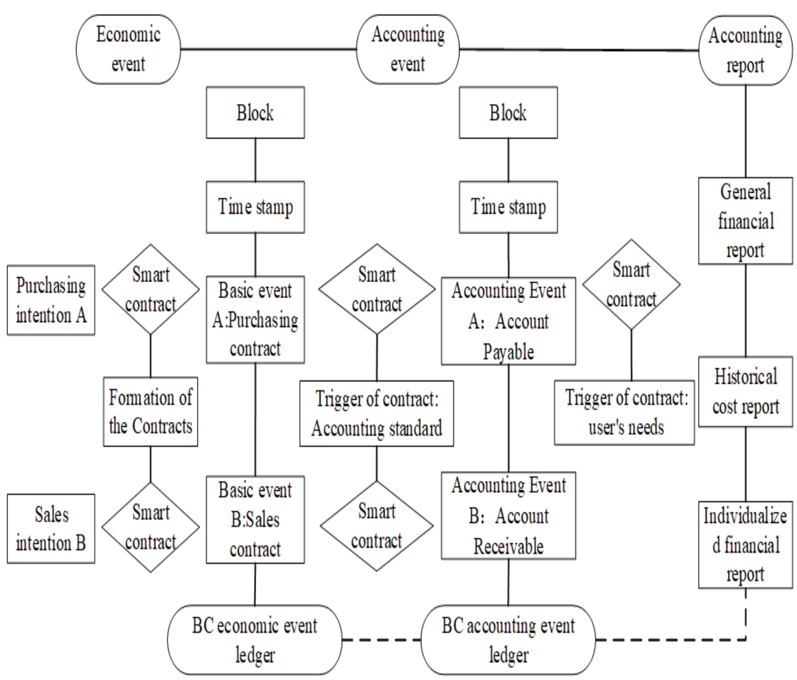


Figure 5: An example of an Accounting Information System (AIS) based on the BC-IoT model

Source: (Wu, Xiong, & Li, Application of Internet of Things and Blockchain Technologies to Improve Accounting Information Quality, 2017)

Interpretation: This figure depicts how an economic event of buying and selling is converted into an accounting event in blockchain through triggering of smart contract on meeting certain conditions and how recording is done through time stamping to generate various financial reports.

Implications of Blockchain in Accounting

- **Advantages of Blockchain Accounting**

i) Increase in available accounting information and reduction of errors.

ii) Financial accountants can focus more on validation of documents and correctness of smart contracts rather than recordkeeping only.

iii) Access to information about an organisation in real time.

iv) Resources can be deployed for other value adding activities of the organisation in blockchain accounting.

v) Easy and real time compilation and organisation of financial reports reduces accounting gaps at the end of the month.

vi) It can improve the performance of accounting profession by reducing the cost of follow-up.

> Blockchain is a foundational change in how financial transactions are recorded, maintained, and updated. In blockchain, records are shared with all the users on the network rather than having a single owner like in traditional recordkeeping.

> Financial accountants can focus more on validation of documents and correctness of smart contracts rather than recordkeeping only.

vii) Accountants can also work as advisers to companies, providing advice on weighing the costs and advantages of the new system.

viii) The **cost and time necessary to conduct an audit would decline** considerably as large portion of the most important data behind the financial statements will be verified automatically.

ix) Blockchain is a transparent system in accounting and would reduce tax related frauds.

- **Challenges of Blockchain Accounting**

i) BC requires and records extensive information; therefore, safety of sensitive information of organisation is a big challenge.

ii) Accounting procedures such as forecasting and valuation still require managerial judgement.

iii) Conventional accountants do not take advantages of blockchain accounting and miss the unique opportunity to participate in the process of designing blockchain solutions for their clients.

iv) Lack of adequate level of IT infrastructure and cyber security.

v) Blockchain technology should be flexible enough to allow the adoption of any new regulation or the adjustment of existing ones on real time basis.

vi) Enterprise blockchain solutions are still in their infant stage and the number of organisations that attempted experimenting with blockchain in accounting is rather small.

vii) Blockchain will not avoid misappropriation of property, calculation mistakes or estimate of legitimate transactions.

viii) Blockchain authentication techniques are **not adequate to verify the payment** from an accounting point of view.

ix) Accountants lack good comprehensive quality. They generally possess bookish knowledge not meeting the demand of highly professional accountants.

Blockchain as a part of Accounting Course Curriculum

"Technology and education can together bring a revolutionary change to the existing education system according to which various educators, educational institutions and companies use to impart knowledge. To support the vision of maintaining trust, efficiency, and transparency in the education sector, Blockchain can allow individuals to share and exchange data into a blockchain based framework. In this regard, institutions nowadays focus on how the data is secure and the improvements to be made using Blockchain Technology (BCT) technology" (Kaur & Oswal, 2020).

Blockchain will be the future of accounting education as triple entry has the potential to replace accounting standards formula (Samaduzzaman, 2020). Since the role of accountants will be enhanced by the blockchain technology, the students now must know about this technology and the changes it is going to bring with it. The students now need to be well versed with resource planning, valuation, forecasting and such other aspects rather than book-keeping and reconciliations.

If the accounting students pursue Chartered Accountancy or such other related professional courses in future, then they will be conducting audits; thus they need to be well aware about the blockchain technology in accounting in order to perform effective and reliable audit of such transactions. Till date, only double entry is being taught as a part of accounting education, but triple entry accounting is the future.

Today's students who are going to be tomorrow's workforce and professionals must be provided with opportunity to learn about the future technologies that are going to be adopted.

Blockchain technology based accounting might bring change in the existing accounting standards being followed; thus the students must learn about such new and modified systems and standards in order to maintain pace with the experts available in market. Diploma courses can also be started to train students about blockchain accounting.

In today's world of dynamic technologies, it is required to create a strong workforce which is technologically and academically sound, thus inclusion of blockchain accounting in

> Blockchain technology should be flexible enough to allow the adoption of any new regulation or the adjustment of existing ones on real time basis.

academic curriculum would be a fruitful decision to make students well versed with the new technology as well as core subject.

Conclusion

Blockchain technology is an innovative technology which has received high responses from various institutions, organisations, government etc. It is an opportunity for future accounting practices, and not a disruptor to the conventional accounting and auditing services. Although the technology is rapidly evolving, but there is some scepticism potential benefits and ease of implementation. However, as of now, the benefits are likely being oversold, while the costs and difficulty of implementation are likely being undersold (Pascal A Bizzaro, 2019). IoT and Blockchain technologies could significantly change the existing accounting information systems, through the provision of transparent, credible, real time accounting information (Wu, Xiong, & Li, Application of Internet of Things and Blockchain Technologies to Improve Accounting Information Quality, 2017). The concept of triple entry accounting considers cryptography and has been introduced in order to maintain transparency in the accounting activities, maintain accounting information easily and to improve reliability in accounting system (Samaduzzaman, 2020).

> If the accounting students pursue Chartered Accountancy or such other related professional courses in future, then they will be conducting audits; thus they need to be well aware about the blockchain technology in accounting in order to perform effective and reliable audit of such transactions.

As the world is changing and technologies are coming in, accountants also need to open their arms to change, hone their analytical skills so that they can focus more on judgemental work rather than recording and reconciliation. Blockchain will not be a disruption for accountants; rather it is a foundational technology which is not going to eliminate anybody. It will prove to be a facilitator in accounting activities. According to (Kunselman, 2021), it will change how accounting is done on a more fundamental level. Since all transactions are recorded on one platform and the transactions can be non-identity based, therefore it reduces the chances of frauds. Triple entry accounting further reduces the chances of frauds as transactions are cryptographically sealed and the ledgers on blockchain network are decentralised and immutable. Despite many challenges in adoption of this technology in accounting, the benefits surpass the number of challenges. It can be said that blockchain will be a revolution in accounting and will transform the role of accountants from **record keepers to critical thinkers.** **"**This technology opens up new opportunities. Accountants and auditors' skills will need to expand to include an understanding principle features, functions and implications of blockchain technology. But sadly, some auditors and accountants who fail to understand and adopt this technology may lose his/her career" (Samaduzzaman, 2020).

Thus, it is very important to include blockchain as a part of accounting syllabus so that

> Blockchain technology is an innovative technology which has received high responses from various institutions, organisations, government etc.

students are aware about how accounting and related activities will be performed in future. They should be confident about using this technology and should not resist in using it. This could be done only if they are taught blockchain accounting as theory as well as practical subject in graduation as well post-graduation level. Diploma courses should be launched to train students about accounting using blockchain technology. Regular conferences, webinars, workshops should be held in school and colleges so that students develop an interest in learning this new system which is the future of accounting.

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SCAN

GST liability on employee recovery: Is it the beginning of the end?

With implementation of Goods and Service Tax ("GST") completing more than four years, it has introduced quite a few new concepts and litigations across industries. One such issue which has been common among all the industries is the applicability of GST on various recoveries made by the business from its employees in lieu of facilities provided in the course of employment. Read on...

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Employers often arrange for various facilities such as transportation, canteen, healthcare, insurance etc. for their employees. Such facilities are usually procured by the employer from third party vendors on payment of tax and made available for use by the employees. These facilities which are supposed to be utilised by the employee during the course or furtherance of employment are provided either free of charge, or employer recovers a very nominal amount from his employees towards the said facility.

The cases in which employer recovers nominal amount (or for that matter even full amount), department has often raised issues on taxability of cost recoveries made by the employer from the employees for providing the said facilities. While the matter is yet to have any official conclusion from GST council, Hon'ble High Courts and advance ruling authorities have provided their views which are discussed in this article.

Notice pay recovery under Service Tax regime: High Court and appeal rulings

While there have been many orders for and against the levy of service tax on notice pay recovery, there have been recent decisions post July 2017 where order against levy of service tax on notice recovery has been pronounced.

Commissioner (Appeals) Ahmedabad in case of M/s **QX KPO Services Private Limited** (Date of order: 29 September 2017) has referred to "education guide" issued by CBEC in June 2012. Para 2.9.3 of the said guide states that *"such amounts paid by employer to employee for premature termination of a contract of employment are treatable as amount paid in relation to services provided by the employee to the employer*

> Employers often arrange for various facilities such as transportation, canteen, healthcare, insurance etc. for their employees. Such facilities are usually procured by the employer from third party vendors on payment of tax and made available for use by the employees.

in the course of employment. Hence, amounts so paid would not be chargeable to service tax". **The learned Commissioner was of the view that any payment made by either of the party to the other would not be chargeable to service tax and hence service tax may not be levied on notice pay recovery.**

Hon'ble Madras High Court in case of **GE T&D India Limited** v. Deputy Commissioner of Central Excise, Chennai (Order dated 7 November 2019) has also referred to above mentioned guide notes. Hon'ble Madras High Court has laid down that the employer cannot be said to have rendered any service per se much less a taxable service and **has merely facilitated the exit of the employee** upon imposition of a cost upon him for the sudden exit and therefore will not attract levy of service tax.

Similarly, CESTAT Allahabad in case of HCL Learning Limited v. CCE, Noida (Order dated 25 November 2019) has passed order against levy of service tax on notice pay recovery.

GST regime: provisions and CBIC press release

Taxpayers have often taken recourse of press release dated 10 July 2017 issued by CBIC while arguing against taxability of employee recoveries. The press release clarified that:

"It is pertinent to point out here that the services by an employee to the employer in the course of or in relation to his employment is outside the scope of GST (neither supply of goods or supply of services). ***It follows therefrom that supply by the employer to the employee in terms of contractual agreement entered into between the employer and the employee, will not be subjected to GST."***

Schedule III to CGST Act, 2017 provides for activities or transactions which shall be treated neither as a supply of goods nor supply of services. Entry 1 of Schedule III covers services by an employee to the employer in the course of or in relation to his employment.

Initial Advance rulings in favour of levying GST on employee recoveries

In light of queries raised by department and lack of complete clarity in the above stated press release, various applicants in different states have sought rulings from Authority of Advance Ruling to get an authoritative ruling. Notable among them are discussed as under:

Caltech Polymers Pvt. Ltd., Kerala, engaged in the business of footwear, provides canteen facility to its employees as the same was mandatory under provisions of Factory Act, 1948. Canteen facility is entirely managed by the company. Company recovers cost of the food items from its employees without making any profit. Authority of Advance Ruling ("AAR") Kerala (Order dated 26 March 2018) laid down that the said activity falls within definition of supply provided in section 7 of the CGST Act, 2017 ("the act") and hence company may be liable to GST on recovery of food expenses from employees. The view was upheld by Appellate Authority of Advance Ruling ("AAAR"), Kerala (Order dated 25 September 2018).

Musashi Auto Parts Private Limited is engaged in the business of manufacturing auto parts. Company under provisions of Factory Act, 1948 provides canteen facility to employees at their factory premises. Company recovers nominal amount from employees as reimbursement of canteen expenses without any commercial objective but to maintain discipline and avoid food wastage. AAR Haryana (Order dated 4 February 2020) has laid down that the transaction will be covered under definition of supply provided in section 7 of the Act and will not fall under entry 1 of Schedule III of the act. Hence, Company may be liable to GST on canteen recovery made from employees.

Similarly, AAR Haryana in case of **M/s Beumer India Private Ltd** in its order decided on 29 October 2020 has laid down that the transport facilities provided by employer to employee either free of cost or upon collection of a nominal amount, would be a taxable service under GST and for valuation of such services, provision under Section 15 shall be applicable.

Recent Advance rulings against levy of GST on employee recoveries

While the above advance rulings favoured levy of GST on employee recoveries, recently there have been quite a few rulings in favour of taxpayers i.e., GST liability is not required to be discharged on various employee recoveries.

One of the early rulings against payment of GST on transport recovery from employees was pronounced in case of **Tata Motors Limited**. AAR Maharashtra in its order dated 25 August 2020, laid down that GST is not applicable on nominal amount recovered by applicant from employees for usage of employee bus transportation facility in non air-conditioned bus. The authority is of the view that transport services provided by employee will be covered under entry I of Schedule III of the act and accordingly GST is not applicable on nominal amount recovered from employees.

> "GST law is comparatively new and is continuously evolving. There have been number of decisions in favour and against payment of GST liability and hence, it may be too early to arrive at any definitive conclusion.

Similarly, AAAR Gujarat in case of **Amneal Pharmaceuticals** (Order dated 8 March 2021) had pronounced order against levy of GST on canteen recovery. The Company has appointed a caterer who provides food to the employees of the company. Partial cost of caterer was borne by the company and partial amount was borne by employees. However, the partial amount borne by employees was paid to the Company who in-turn paid the same to caterer without any profit. The Company had argued that it is collecting the portion of employee cost from salary and paying to third party i.e., canteen service provider. In the view of AAAR and Company, this is nothing but a facility provided to employees without making any profit. Company is working as mediator between employees and contractor / canteen service provider, therefore no Goods and Services Tax would be payable by employees to company on the subsidised value of food.

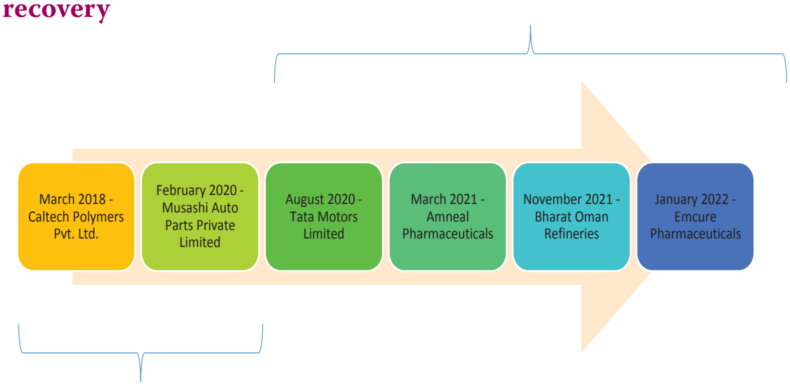
In the above two rulings, only one type of employee recovery has been discussed. However, in the case of **M/s Bharat Oman Refineries Limited and M/s Emcure Pharmaceuticals Limited**, multiple type of employee recoveries were discussed and ruling against levy of GST has been passed. Order for non-levy of GST against below mentioned recoveries has been passed:

M/s Bharat Oman Refineries Limited (Madhya Pradesh AAAR order dated 8-Nov-2021)	**M/s Emcure Pharmaceuticals Limited (Maharashtra AAR order dated 4-Jan-2022)**
✓ Notice pay recovery	✓ Canteen recovery
✓ Insurance recovery	✓ Transport recovery
✓ Canteen recovery	✓ Notice pay recovery
✓ Telephone charges recovery	
In both the orders, reliance has been placed on order of Hon'ble Madras High Court in case of GE T&D India Limited v. Deputy Commissioner of Central Excise, Chennai while allowing non-levy of GST on notice pay recovery.	

What does the above rulings indicate?

The above advance rulings can be plotted on below timeline:

Advance ruling orders against payment of GST on employee recovery



Advance ruling orders in favour of payment of GST on employee recovery

GST law is comparatively new and is continuously evolving. From the above pattern, it can be observed that recently AARs and AAARs are passing order in favour of taxpayers. However, we understand that there have been number of decisions in favour and against payment of GST liability and hence, it may be too early to arrive at any definitive conclusion. While passing the orders, the authorities have analysed various question of facts and laws which are summarised as under:

Question of facts

Whether taxpayer is earning any profit while making recovery from employee?

- What are the conditions stipulated in contract between taxpayer and third-party service provider?

While recent advance rulings have been good news for the taxpayers, the matter is yet to be confirmed by the Apex court.

- Whether taxpayer has documented employee recoveries in employment letter issued to its employees?
- Whether taxpayer is merely acting as agent while collecting amount on behalf of third-party service provider from employees.

Question of law

- Whether amount collected from employees fall within definition of "Consideration" as defined in section 2(31) of CGST Act, 2017
- Whether transaction between employer and employee falls within scope of "Supply" defined in section 7 of CGST Act, 2017
- Whether transaction can fall under entry I of Schedule III to CGST Act, 2017 and thereby consider the activity neither as supply of goods neither as supply of services.

While passing orders in favour of taxpayers, Hon'ble AAR and AAAR have either considered that employee recoveries do not fall within the scope of "Supply" or fall within ambit of entry 1 of Schedule III to CGST Act, 2017, depending upon facts of the case.

Since it may not be possible for all the taxpayers to file advance rulings, CBIC or GST council may provide much needed clarity on the matter to avoid unnecessary litigations on the issue that concerns taxpayers across various industries.

Conclusion

- While recent advance rulings have been good news for the taxpayers, the matter is yet to be confirmed by the Apex court.
- In case of canteen recovery, all the above-mentioned favourable rulings have been passed in case where appellant has appointed a third-party service. In cases where appellant themselves maintain and provide canteen facility (as in case of Caltech Polymers Pvt. Ltd.), author is yet to come across order in favour of taxpayer.
- In case of notice pay recovery, order passed by Hon'ble Madras High Court in case of GE T&D India Limited v. Deputy Commissioner of Central Excise, Chennai under service tax regime may be considered crucial for the taxpayers.
- Since it may not be possible for all the taxpayers to file advance rulings, CBIC or GST council may provide much needed clarity on the matter to avoid unnecessary litigations on the issue that concerns taxpayers across various industries.

PS: There are various other judicial pronouncements / advance rulings related to aforesaid matter. Author has tried to cover key rulings of recent time in the article. All the details mentioned in article are for information only and may not be considered as tax advisory.

Evaluation of Corporate Social Responsibility Performance and Approach of Some Select Indian Firms

The present study endeavours to evaluate the corporate social responsibility performance and approach of a few leading firms belonging to the oil drilling and exploration industry in India. For measuring CSR performance, two parameters based on CSR expenditure of the firms have been used. For finding out the focus areas of CSR practice, the CSR activities of the companies have been categorised under some major expenditure heads. Some parametric and non-parametric tests like ANOVA, Kruskal-Wallis, Mann-Whitney, etc. have been performed to analyse the data. Majority of the sample companies were found to be unable to spend their budgeted amount on CSR. Significant difference was also followed among the companies in respect of their CSR performance. While implementing their CSR projects, the companies did not focus much on the environment sector which is in contrary to the expectation from the companies in the chosen industry. Read on...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Introduction

After the enforcement of CSR Rules 2014, with effect from 1st April 2014, certain Indian companies are under legal compulsion to spend a certain percentage of their profits on CSR activities. Some areas of CSR expenditure have also been proposed in the rules. The companies also need to report on CSR as per the format specified in the rules.

The CSR mandate has explored a new area of research for the researchers in this field. Some of them have been duly consulted (Singh and Verma, 2014; Shyam, 2016; Sai, 2017). These studies explored some important findings in their own way but still some areas remained untouched. In this backdrop, the present study attempts to analyse the CSR performance of some select Indian companies. For the purpose of analysis, five leading firms from the oil drilling and exploration industry have been chosen. CSR performance has been measured based on CSR expenditure only. Two parameters have been selected in this regard. They are — percentage of actual CSR expenditure on budgeted CSR expenditure and percentage

of actual CSR expenditure on PAT. The period of study is from 2014-15 to 2019-20. Next, it has also been attempted to study the major focus areas of the companies while implementing CSR projects. For this purpose, the proposed CSR activities have been categorised under some major expenditure heads. Targeting these objectives, the rest of the study has been divided into four more sections — objectives, data and methodology, analysis and findings, and conclusion.

Objectives of the study

The study has been conducted keeping in mind the following objectives. They are:

(i) To analyse the CSR performance of the sample companies with respect to selected parameters.

(ii) To find out the focus areas of the sample companies in implementing the CSR projects.

Data and methodology

The present study is a secondary data based one. The data source is annual reports of the select companies. The study period is 2014-15 to 2019-20. The oil drilling and exploration industry has been chosen for the study. This industry, being an extractive one, exploits environmental resources heavily. Therefore, it is expected that this industry would emphasise on environment sector as a core area of their CSR initiatives. The CSR Rules 2014 have also given due importance on the environment sector. So, in the present study, the environmental cum social performance of this industry has been evaluated. The leading five companies from this industry have been selected on the basis of their market capitalisation on BSE.

CSR performance has been evaluated in terms of CSR expenditure. Two parameters have been used for this purpose. They are — amount spent on CSR against amount to be spent and CSR expenditure as a percentage of PAT. To find out the focus areas of CSR, the CSR activities of the companies have been grouped under seven major heads — health, education, rural development, women empowerment, environment, other schedule VII activities and capacity building. For the purpose of grouping the activities, content analysis of the CSR projects of the companies has been done. For analysing the data, some parametric as well as non-parametric tests, as the case may be, like ANOVA, Bonferonni, Kruskal-Wallis, Mann-Whitney, etc have been used.

Analysis and findings

- Performance of the companies on the basis of the first parameter: Percentage of amount spent on amount to be spent

Table 1: Ranking on the basis of Percentage of amount spent on amount to be spent

Company	Percentage during the study period from 2014-15 to 2019-20	Ranking
OIL	159.04	I
ONGC	95.08	III
GAIL	118.47	II
IGL	68.72	V
Petronet	71.77	IV

Source: *Authors' computation*

From the above table, it may be observed that there is no parity among the companies in respect of their performance in terms of percentage of amount spent on amount to be spent during the study period. The difference among the companies in this regard is quite notable. Therefore, it is required to know whether this difference is statistically significant. To know this, ANOVA test should be performed. But, before applying ANOVA, we must ensure that the data is normally distributed and there is homogeneity of variance in the data set. In the following table, normality and homogeneity have been tested. Both Kolmogorov-Smirnov and Shapiro-Wilk tests work for assessing normality while Levene's test works for testing homogeneity.

Table 2: Tests of Normality and Homogeneity of Percentage of amount spent on amount to be spent

Name of the Companies	Kolmogorov-Smirnov		Shapiro-Wilk		Levene	
	Statistic	Sig.	Statistic	Sig.	Statistic	Sig.
OIL	.207	.20	.913	.458	2.819	0.05
ONGC	.191	.20	.937	.638		
GAIL	.260	.20	.887	.305		
IGL	.219	.20	.944	.690		
Petronet	.323	.05	.745	.018		

Source: *Authors' computation*

From K-S test statistics, it is evidenced that the data is normal for all the five companies (as the significance level is at least .05). S-W test statistics say that except for Petronet, data for other four companies are normally distributed. Levene's test statistic says that the data set is having homogeneity of variance (as the significance level is at least .05). Therefore, ANOVA test can be performed and the results have been displayed in the following table.

Table 3: ANOVA Results

	Sum of Squares	df	Mean Square	F	Sig.
Between Groups	70388.418	4	17597.104	14.792	.000
Within Groups	29740.747	25	1189.630		
Total	100129.165	29			

Source: *Authors' computation*

From the above table, we may see that the F value is statistically significant. So, it can be claimed that the overall difference among the companies with respect to their CSR performance is statistically significant. There are five companies in the present study. So, we can form ten pairs of companies. In this context, a question naturally arises that among these ten pairs, which suffer(s) from statistically significant difference. To know the answer to this question, Bonferroni post hoc tests have been performed and the results may be presented in the following table.

Table 4: Bonferroni Post Hoc Tests

Name of the Companies	Name of the Companies	Mean Difference	Sig.
OIL	ONGC	71.25333	.015
	GAIL	45.17333	.322
	IGL	106.02500	.000
	Petronet	140.34500	.000
ONGC	GAIL	26.08000	1.000
	IGL	34.77167	.931
	Petronet	69.09167	.019
GAIL	IGL	60.85167	.053
	Petronet	95.17167	.001
IGL	Petronet	34.32000	.972

Source: *Authors' computation*

From the above table, it is clear that out of ten pairs; statistically significant difference exists in five. In the remaining five pairs, the difference is statistically insignificant. It can be concluded that Petronet, being the worst performer, is not comparable to most other companies taken in the sample in respect of CSR responsiveness.

- Performance of the companies on the basis of the second parameter: Percentage of CSR expenditure on PAT

Table 5: Ranking on the basis of Percentage of CSR expenditure on PAT

Company	Percentage during the study period from 2014-15 to 2019-20	Ranking
OIL	4.87	I
ONGC	2.83	II
GAIL	2.16	III
IGL	1.45	IV
Petronet	1.42	V

Source: *Authors' computation*

From the above table, it is clear that the variation among the companies in respect of percentage of CSR expenditure on PAT during the study period is wide. Therefore, ANOVA test may be performed to determine whether this variation is statistically significant. But, before applying ANOVA, we should test whether the data is normally distributed and whether the variance is homogeneous in the sample. In the following table, results of tests of normality and homogeneity have been presented.

Table 6: Tests of Normality and Homogeneity of Percentage of CSR expenditure on PAT

Name of the Companies	Kolmogorov-Smirnov		Shapiro-Wilk		Levene	
	Statistic	Sig.	Statistic	Sig.	Statistic	Sig.
OIL	.230	.200	.915	.469	0.750	0.567
ONGC	.337	.032	.760	.025		
GAIL	.267	.200	.859	.186		
IGL	.264	.200	.867	.214		
Petronet	.440	.001	.574	.000		

Source: *Authors' computation*

From the above table, it is seen that as per both K-S test statistics and S-W test statistics, data is not normally distributed for two companies- ONGC and Petronet. But Levene's test statistic gives the evidence that there is homogeneity of variance in the data set. However, the application of ANOVA technique is not supported here. Instead, non-parametric Kruskal-Wallis test should be performed to serve the purpose.

Table 7: Kruskal-Wallis Test of Percentage of CSR expenditure on PAT

Name of the Companies	Mean Rank	Chi-Square Value	Asymp. Sig.
OIL	26.17	18.839	.001
ONGC	19.50		
GAIL	15.83		
IGL	8.67		
Petronet	7.33		

Source: *Author's computation*

As the Chi-Square value is asymptotically significant, it can be said that the overall difference among the companies in respect of their CSR performance as measured by percentage of CSR expenditure on PAT is statistically significant. As the overall difference is statistically significant, an issue arises as to among which individual pair(s) of companies, the difference in CSR performance is statistically significant. From the above table, it is also observable (from Mean Ranks) that Oil India Ltd. is far ahead of any of the rest companies in respect of discharging social responsibilities. So, pair-wise Mann-Whitney U test has been performed taking Oil India Ltd. in one hand and each of the rest companies on the other hand, and the results are as below.

Table 8: Pair-Wise Mann-Whitney U Test

Pairs		Mean Rank	Mann-Whitney U	Asymp. Sig.
OIL	ONGC	(9.17, 3.83)	2.000	.010
	GAIL	(8.83, 4.17)	4.000	.025
	IGL	(9.50, 3.50)	.000	.004
	Petronet	(9.17, 3.83)	2.000	.010

***Source:** Authors' computation*

It may be found from the above table that Mann-Witney U value for each of the pairs is asymptotically significant. Therefore, it can be stated that no other company in the sample is in a position to challenge Oil India Ltd. in respect of performance regarding discharge of social responsibilities, and it is a statistically supported fact.

• Focus areas of the companies in implementing CSR projects over the study period

Table 9: Ranking of the focus areas

Focus Areas	Percentage of CSR expenditure during the study period from 2014-15 to 2019-20	Ranking
Health & hygiene	18.80	III
Education & skill development	25.93	II
Community & rural development	15.52	IV
Women empowerment & gender equality	3.30	VI
Environment	6.54	V
Other schedule VII expenses	28.51	I
Capacity building	1.40	VII

***Source:** Authors' computation*

It is clear from the above table that as an individual focus area, education has been the first preference of the sample companies during the study period. Education was followed by health, and then by rural development. There is no surprise that capacity building is at the bottom. In fact, this is not a direct CSR activity. But the surprising result is that environment has not been a prime focus sector of the companies. As the companies belong to extractive industry, they are expected to stress more on the environment sector. Bu this is not happening. Moreover, it is also observed from the above table that there is lack of consistency among the major sectors in attracting CSR expenditure. So, it will not be irrelevant to know whether this difference is statistically significant.

> The CSR Rules 2014 have also given due importance on the environment sector. So, in the present study, the environmental cum social performance of this industry has been evaluated.

Table 10: Tests of Normality and Homogeneity of CSR expenditure

CSR expenditure on different major heads	Kolmogorov-Smirnov		Shapiro-Wilk		Levene	
	Statistic	Sig.	Statistic	Sig.	Statistic	Sig.
Health	.241	.200	.877	.296	5.152	0.001
Education	.188	.200	.940	.668		
Rural development	.220	.200	.897	.396		
Women empowerment	.443	.002	.611	.001		
Environment	.303	.149	.872	.276		
Other Schedule VII	.249	.200	.877	.296		
Capacity building	.247	.200	.930	.596		

Source: *Authors' computation*

In absence of homogeneity of variance in the data set, though the data is by and large normal, the non-parametric Kruskal-Wallis test has been performed and the results may be shown in the following table.

Table 11: Kruskal-Wallis Test of CSR expenditure

CSR expenditure on different major heads	Mean Rank	Chi-Square Value	Asymp. Sig.
Health	24.00	19.109	.004
Education	26.40		
Rural development	21.80		
Women empowerment	7.80		
Environment	15.20		
Other Schedule VII	24.20		
Capacity building	6.60		

Source: *Authors' computation*

As the Chi-Square value is asymptotically significant (Table 11), it can be concluded that the overall difference among the sectors in attracting CSR fund is statistically significant. Now, we shall try to find out among which individual pair(s), the difference is statistically significant.

Table 12: Pair-Wise Mann-Whitney U Test

Pairs		Mean Rank	Mann-Whitney U	Asymp. Sig.
Education	Health	(6.00, 5.00)	10.000	.602
	Rural development	(6.60, 4.40)	7.000	.251
	Women empowerment	(7.60, 3.40)	2.000	.028
	Environment	(7.40, 3.60)	3.000	.047
	Other Schedule VII	(5.80, 5.20)	11.000	.754
Health	Women empowerment	(7.60, 3.40)	2.000	.028

Source: *Authors' computation*

The difference between Education and Women empowerment, and that between Education and Environment were found to be statistically significant (Table 12). Therefore, this is the fact that environment is not getting the expected level of attraction from the sample companies in performing their social obligations and this fact is statistically established. This type of result is in contrary to the expectation from an extractive industry like oil drilling and exploration.

Conclusion

One of the objectives of the study was to evaluate the social performance of the selected companies in the oil drilling and exploration industry in India. After analysing the data, it was found that there is no consistency among the companies in respect of their CSR performance. As the companies are supposed to compulsorily spend a certain percentage of their surplus towards CSR, it was expected that parity will be found in their CSR expenditure pattern. Instead, the difference among their CSR performance was found to be statistically significant. Out of the five companies, three were found to be unable to spend their budgeted amount on CSR during the study period of six years. This is an unsatisfactory picture indeed. Moreover, the difference between the top performer and the bottom performer was huge and also statistically significant. On the other hand, the companies tended to give more emphasis on education and health sectors. Environment sector was not found to be a focus sector for the companies. The difference between environment sector and the prime focus sector education in attracting CSR expenditure was huge and statistically significant.

> As the companies are supposed to compulsorily spend a certain percentage of their surplus towards CSR, it was expected that parity will be found in their CSR expenditure pattern. Instead, the difference among their CSR performance was found to be statistically significant.

However, this type of result was not expected. As the companies are depleting environmental resources heavily, the companies are supposed to give back something more in return to the environment. But the study did not find so. However, the reasons behind such type of results were beyond the scope of this small endeavour.

> Environment sector was not found to be a focus sector for the companies. The difference between environment sector and the prime focus sector education in attracting CSR expenditure was huge and statistically significant.

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Tomorrow has already arrived - Digital Economy reshaping Global Business Landscape

ICAI Abu Dhabi Chapter conducted a session on Digital Economy reshaping Global Business Landscape on 31st March 2022. The event was graced by Chief Guest H.E. Sunjay Sudhir, Ambassador of India to UAE and Guest of honour CA. (Dr.) Debashis Mitra, President ICAI.

Panel Discussion was moderated by Mr. Renyl Rauf, CFO - Bayanat G42 along with other panellists., Mr Michael Armstrong, Strategic Advisor for the Middle East – ICAEW and Mr Sumeet Tank- Chief finance and investment officer, Vigilance Group.

Speaking on the occasion, Chief Guest H.E. Sunjay Sudhir, Ambassador of India to UAE expressed how India has been on forefront in terms of adoption and a significant contributor in the growth story of digital payments. Further addressing the forum, Ambassador shared valuable insights on the historical CEPA agreement signed between UAE and India and how CEPA and vision document would help strengthen the relationship between two countries. He acknowledged ICAI Abu Dhabi Chapter's role in supporting the government initiatives and strengthening Indo-UAE business relationship.

In a key note address, Guest of Honour CA. (Dr.) Debashis Mitra, President ICAI, spoke on driving factors of digital economy, the influence of technology, its challenges and ways to mitigate the challenges. The importance for Chartered Accountants to reskill and adapt to the upcoming challenges in the profession and to sustain and lead the future. He mentioned about Independence, excellence and integrity being part of DNA of a Chartered Accountant. Further addressing the chapter, the president shared various initiatives where the efforts of ICAI were being appreciated for providing valuable insights to various government stakeholders.

CA. John, Chairman ICAI Abu Dhabi Chapter, expressed thanks to the Indian Embassy, H.E. Sunjay Sudhir, Ambassador of India and officials for its cooperation to the Chapter and appreciated the efforts by the Indian Embassy towards implementation of CEPA Agreement.

CA. John also thanked the Guest of Honour CA (Dr.) Debashis Mitra, President of ICAI for his guidance and support in translating ICAI's vision in Abu Dhabi.

Vice Chairman, CA. Krishnan N.V expressed sincere thanks to all the speakers for accepting the invite and also thanked all the members and guests for their presence in making the event meaningful.

ACCOUNTANT'S BROWSER

PROFESSIONAL NEWS & VIEWS PUBLISHED ELSEWHERE

Index of some useful articles taken from Periodicals received during March - April 2022 for the reference of Faculty/Students & Members of the Institute.

1. Accountancy

Financial statements: Finding the right balance by Steve Collings. *International Accountant,* January/February 2022, pp.16-19.

2. Auditing

Accelerated evolution of the reporting and auditing landscape by Pallavi Bhadkamkar and Pankaj S Bhauwala. *The Chamber's Journal.* January 2022, pp. 58-63.

Internal control considerations for upcoming audits by Nilanjan Paul. *The Bombay Chartered Accountant Journal,* March 2022, pp. 25-32.

3. Economics

Money Laundering: Complex corporate structures by David Potts. *International Accountant,* January/February 2022, pp. 22-25.

Post-Covid-19 economic recovery and fiscal stance by Pinaki Chakraborty. *Economics & Political Weekly,* March 26, 2022, pp. 13-22.

4. Investment

Digital transformation in the world of securities and capital markets by Arpita Agarwal and Naman Jain. *Chartered Secretary,* March 2022, pp. 104-108.

5. Management

Family Businesses: Changing attitudes by Rebecca Durrant. *International Accountant,* January/February 2022, pp. 14-15.

Operational risk management in outsourcing activities in a particular industry by Aditi Patwardhan. *The Insurance Times,* February 2022, pp. 30-34.

Women and leadership – Horizon and the way beyond by Sanket Jaiswal and Shujath Bin Ali. *Chartered Secretary,* March 2022, pp. 90-94.

6. Taxation and Finance

Digital Transformation in Tax by Kashyap Trivedi and Saili Kulkarni. *The Chamber's Journal.* January 2022, pp. 35-41.

Expectations from union budget 2022-23 for the insurance sector – An economist's perspective by Dr. Tapas Kumar Parida. *The Insurance Times,* February 2022, pp. 35-37.

Recent development in GST by G.G. Goyal and C.B. Thakar. *The Bombay Chartered Accountant Journal,* March 2022, pp. 78-80.

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.

Classifieds

RBI caps lending limits of NBFCs to bring them on a par with those of banks Reserve Bank introduces principles for mid, large NBFCs

Reserve Bank of India (RBI) has introduced certain set of principles, standards and methods for medium to large sized non-banking financial companies. The revised regulatory framework for NBFCs, issued in October 2021, had indicated that such entities in the Upper Layer (NBFC-UL) and Middle Layer (NBFC-ML) would be required to have an independent Compliance Function and a Chief Compliance Officer (CCO). The central bank said that as part of the overall structure for corporate governance, compliance function serves a critical role. RBI said "Accordingly, it has been decided to introduce certain principles, standards and procedures for compliance function in NBFC-UL and NBFC-ML, keeping in view the principles of proportionality.". RBI further said that NBFCs in the upper layer and middle layer should consider the guidelines as mentioned in the circular as a base and formulate their own guidelines as per their corporate governance framework, the scale of operations, risk profile and organisational structure, among other factors.

Read more at: https://www.business-standard.com/article/finance/reserve-bank-introduces-principles-for-mid-large-nbfcs-122041101257_1.html

FDI may touch USD 100 billion in 2022-23: PHD Chamber

Industry chamber PHDCCI has said that India is expected to attract USD 100 billion foreign direct investment (FDI) in 2022-23 on the back of economic reforms and ease of doing business in recent years. It further said the current financial year is expected to attain a GDP growth of more than 8 per cent. According to the Chamber, "India is expected to attract a USD 100 billion FDI inflow in 2022-23 supported by various ground touching economic reforms and significant ease of doing business in recent years." It has suggested a ten-pronged strategy to strengthen the economic growth and achieve the target of becoming a USD 5 trillion economy in next five years. The suggestions include speedy infrastructure investments, inclusion of more sectors under the PLI scheme, increase in public investments in agriculture sector, addressing the high commodity prices and shortages of raw materials.

Read more at: https://economictimes.indiatimes.com/news/economy/finance/fdi-may-touch-usd-100-billion-in-2022-23-phd-chamber/articleshow/90848708.cms

Budget capex to boost Tax, help India become $5-trillion economy: Finance Ministry

The Finance Ministry has said that the capex has become a source to boost the manufacturing and tax revenue collections with an aim to build India – a USD 5 trillion economy. Tax revenues in last fiscal year grew by a record 34 per cent to Rs 27.07 lakh crore which the ministry said is "a remarkable testimony to the rapid recovery" of the economy following successive waves of COVID-19. "The central government's focus on making India a global economic powerhouse and the host of measures adopted towards this commitment has directly reflected in India's GDP growth in recent years. "This has translated into increased revenue collection for the exchequer while keeping India well on the track towards achieving a USD 5 trillion economy...," the ministry said in a statement.

Read more at: https://auto.economictimes.indiatimes.com/news/industry/budget-capex-to-boost-tax-help-india-become-5-trillion-economy-finance-ministry/90863697

RBI expands scope of exemptions for banks to open current, cash credit and overdraft accounts

The Reserve Bank of India (RBI) has expanded the scope of exemptions under its circular for "opening of current accounts and cash credit (CC)/overdraft (OD) accounts" by banks, permitting them to open and operate inter-bank accounts and accounts of All India Financial Institutions (AIFIs), among others. Further, the RBI has brought accounts attached by the orders of Central or State governments, regulatory bodies, courts, investigating agencies etc, wherein the customer cannot undertake any discretionary debits, within the purview of exemptions.

The four AIFIs referred to in the consolidated circular are EXIM Bank, NABARD, NHB and SIDBI. The central bank said if there is a change in exposure of a particular bank or aggregate exposure of the banking system to the borrower which warrants implementation of new banking arrangements, such changes shall be implemented within a period of three months from the date of such monitoring.

Read more at: https://www.thehindubusinessline.com/money-and-banking/rbi-expands-scope-of-exemptions-for-banks-to-open-current-cash-credit-and-overdraft-accounts/article65335873.ece

SEBI inching ahead to set up Social Stock Exchange; here's what we know so far about the proposed bourse

Capital markets regulator SEBI (Securities and Exchange Board of India) now seems closer to setting up a social stock exchange, a move experts say will bring in more transparency to social organisations' fundraising, and will promote impact investing. The proposed Social Stock Exchange will enable social organisations to tap additional sources of fundraising. According to the SEBI's latest bulletin, the market watchdog has approved the broad framework for introducing Social Stock Exchange as a separate segment under the existing stock exchanges.

Read more at: https://www.financialexpress.com/market/sebi-inching-ahead-to-set-up-social-stock-exchange-heres-what-we-know-so-far-about-the-proposed-bourse/2475111/

SEBI issues Operational Guidelines for covenant monitoring with DLT

Market watchdog, SEBI has issued operational guidelines for security and covenant monitoring using Distributed Ledger Technology (DLT). The regulator has given relaxation to issuers who are unable to record details in the system while existing outstanding non-convertible securities issuers need to feed details in their DLT before September end.

With effect from April 1, 2022, the recording of asset details (and their verification), allotment, listing and payment of interest or redemption shall be available in the DLT system. To strengthen the process of security creation and monitoring of security created, asset cover and covenants of the non-convertible securities, the regulator in August 2021, had specified the manner of recording of charges by Issuers and manner of monitoring by Debenture Trustees (DTs), Credit Rating Agencies, etc. and responsibilities thereof. The regulator issued operational guidelines in this regard on March 29, 2022.

Read more at: https://www.moneycontrol.com/news/business/markets/sebi-issues-operational-guidelines-for-covenant-monitoring-with-dlt-8376501.html

FY23 GDP growth estimated at 7.4 pc: FICCI

India's GDP is estimated to grow at 7.4 per cent in the financial year 2022-23 with rising prices triggered by the Russia-Ukraine conflict posing as the biggest challenge to the global economic recovery, Ficci's Economic Outlook Survey released on Sunday said. According to the survey, the Reserve Bank of India (RBI) is likely to start a rate hike cycle in the second half of 2022, while a repo rate hike of 50-75 bps is expected by the end of the current fiscal. The RBI is expected to continue supporting the ongoing economic recovery by keeping the repo rate unchanged in its April policy review, the survey said. According to the the industry body , "The latest round of Ficci's Economic Outlook Survey puts forth an annual median GDP growth forecast for 2022-23 at 7.4 per cent with a minimum and maximum growth estimate of 6 per cent and 7.8 per cent respectively."

Read more at: https://economictimes.indiatimes.com/news/economy/finance/fy23-gdp-growth-estimated-at-7-4-pc-ficci/articleshow/90626334.cms

Sebi brings new norms to evaluate risk value of gold, and related instruments

Capital markets regulator Sebi has come up with a risk management framework for evaluating risk level of commodities - gold and gold- related instruments - in which mutual funds are permitted to invest on risk-o-meter.

"For evaluation of risk value of commodities in which mutual funds are permitted to invest, it has been decided that investment in commodities by mutual fund schemes will be assigned a risk score corresponding to the annualized volatility of the price of the said commodity," Sebi said in a circular.

Read more at: https://www.livemint.com/companies/news/sebi-brings-new-norms-to-evaluate-risk-value-of-gold-and-related-instruments-11649682210483.html

Record number of companies registered in FY22 despite Covid

Showing resilience India has registered 1.67 lakh companies in the financial year 2021-22 (April-March), according to a report by Ministry of Corporate Affairs (MCA)

Various waves of Covid could not sweep off India's growth story completely. Showing resilience India has registered 1.67 lakh companies in the financial year 22-2021 (April-March), according to a report by Ministry of Corporate Affairs (MCA).

The increase is significant considering that number of companies incorporated during Financial Year -2020 21 were the highest in any of the previous years.

The MCA had registered 1.55 lakh companies in -2020 2021. The incorporations during FY 22-2021 are 8 per cent more than the incorporations during FY -2020 21. While MCA had registered 1.24 lakh companies during FY 19-2018 and 1.22 lakh companies in -2019 20 respectively, it had registered 1.55 Lakh companies during FY 21-2020.

Read more at: https://www.business-standard.com/article/companies/record-number-of-companies-registered-in-fy22-despite-covid-122042100067_1.html

International Update

IAASB Modernizes its Standard for Group Audits in Support of Audit Quality

The International Auditing and Assurance Standards Board (IAASB) today released International Standard on Auditing (ISA) 600 (Revised). The revised standard addresses special considerations that apply to audits of group financial statements (group audits). Group audits are often more complex and challenging than single-entity audits because a group may have many entities or business units across multiple jurisdictions, and component auditors may be involved. The revised standard becomes effective for audits of group financial statements for periods beginning on or after December 15, 2023.

"ISA 600 (Revised) is a significant step forward to enhance the consistent performance of quality group audit engagements and thereby supports users' interests and broader financial stability," said Tom Seidenstein, IAASB Chair. "Group audits is an area identified by regulators requiring attention. The changes in the standard build off other recent IAASB revisions, such as the revisions to the quality management standards, and should enhance audit quality by strengthening the accountability of group auditors and clarifying the interactive relationship between group and component auditors."

Read More at: https://www.iaasb.org/news-events/2022-04/iaasb-modernizes-its-standard-group-audits-support-audit-quality

IMA, CalCPA, and IFAC Join Forces with Global Accounting Profession to Provide Actionable DE&I Solutions

IMA® (Institute of Management Accountants), CalCPA (California Society of Certified Public Accountants), and IFAC (International Federation of Accountants) has released its "Diversifying Global Accounting Talent: Actionable Solutions for Progress" report. As a joint effort, the report assesses the deeply rooted issues inhibiting progress in diversity, equity, and inclusion (DE&I) within the accounting profession and offers actionable solutions to close the gap in DE&I. The report generated an inventory of more than 70 actionable DE&I practices, each mapped to relevant United Nations' Sustainable Development Goals, and reflects input from dozens of leaders representing millions of accountants who can implement those practices. It offers recommended steps needed to remedy the lack of equity and inclusion as a path to improving diversity. While expanded efforts have energized DE&I, there is often a disconnect between perceived progress among leaders and progress truly felt and realized by the staff or profession at large.

Read more at: https://www.ifac.org/news-events/2022-04/ima-calcpa-and-ifac-join-forces-global-accounting-profession-provide-actionable-dei-solutions

IFAC Releases New Implementation Tool for Auditors

The International Federation of Accountants (IFAC) today released a new resource, *Auditing Accounting Estimates: ISA 540 (Revised) Implementation Tool*. It will help auditors implement the International Auditing and Assurance Standards Board's International Standard on Auditing 540 (Revised), *Auditing Accounting Estimates and Related Disclosures* by providing an overview of steps practitioners could take and related considerations. For entities of all types and sizes, management has to make accounting estimates, which have estimation uncertainty and may also be complex. Making these estimates involves selecting and applying a method using assumptions and data, which requires judgment. The nature, timing and extent of the audit procedures required will vary in relation to the estimation uncertainty and the assessment of the related risks of material misstatement.

This implementation tool contains "what", "why" and "how" suggestions. These are not all-encompassing and more or different considerations may apply depending on the circumstances of the engagement. The implementation tool also works in conjunction with the IAASB's previously published ISA 540 (Revised) flowcharts showing the requirements flow.

Read More at: https://www.ifac.org/news-events/2022-04/ifac-releases-new-implementation-tool-auditors

IPSASB Seeks Comments on Retirement Benefit Plans Proposals

The International Public Sector Accounting Standards Board (IPSASB) has today released for comment Exposure Draft (ED) 82, Retirement Benefit Plans. This ED is intended to increase the transparency and accountability of public sector entities regarding multi-employer retirement benefit obligations. Stakeholder comments on ED 82 are sought by August 1, 2022.

"Retirement benefit obligations can represent a significant but often hidden liability for the public sector," said IPSASB Chair Ian Carruthers. "The draft Standard requires public sector employee retirement benefit plans to provide a complete view of their financial activities, assets and obligations. This increased transparency is intended to result in stronger public financial management and better-informed decision making."

In developing principles for the public sector, the private sector requirements in IAS 26 were used as the starting point. The IPSASB adapted IAS 26, based on experience from around the world, to ensure the unique characteristics of the public sector are reflected in the ED. In particular, it has reviewed the existing policy choices available in IAS 26 and proposes to remove those that are not appropriate for the public sector or are inconsistent with existing IPSAS.

Comments are requested by August 1, 2022.

Read more at: https://www.ipsasb.org/news-events/2022-04/ipsasb-seeks-comments-retirement-benefit-plans-proposal

IFRS Foundation publishes IFRS Accounting Taxonomy 2022

The IFRS Foundation has today published the IFRS Accounting Taxonomy 2022.

The IFRS Accounting Taxonomy enables electronic reporting of financial information prepared in accordance with IFRS Accounting Standards. Preparers can use the IFRS Accounting Taxonomy to tag disclosures, making them easily accessible to investors who prefer to receive financial information electronically.

The IFRS Accounting Taxonomy 2022 is based on IFRS Accounting Standards as at 1 January 2022, including those issued but not yet effective.

The IFRS Accounting Taxonomy 2022 includes changes to the IFRS Taxonomy 2021 resulting from:

- *Disclosure of Accounting Policies*, which amended IAS 1 *Presentation of Financial Statements* and IFRS Practice Statement 2 *Making Materiality Judgements*, issued by the IASB in February 2021 (IFRS Accounting Taxonomy 2021—Update 1);
- *Definition of Accounting Estimates*, which amended IAS 8 *Accounting Policies, Changes in Accounting Estimates and Errors*, issued by the IASB in February 2021 (IFRS Accounting Taxonomy 2021—Update 1);
- *Initial Application of IFRS 17 and IFRS 9-Comparative Information*, which amended IFRS 17 *Insurance Contracts*, issued by the IASB in December 2021 (IFRS Accounting Taxonomy 2021—Update 3).

The IFRS Accounting Taxonomy 2022 also includes changes to the IFRS Accounting Taxonomy's technology. Those changes are necessary, or beneficial, to reflect developments in standards and practices, and in the usage of the IFRS Accounting Taxonomy or comparable taxonomies in various regulatory environments (IFRS Accounting Taxonomy 2021—Update 2).

Read more at: https://www.ifrs.org/news-and-events/news/2022/03/ifrs-foundation-publishes-ifrs-accounting-taxonomy-2022/

IASB call for research on Making Materiality Judgements

The International Accounting Standards Board (IASB) is looking to partner with a small number of national standard-setters to obtain research evidence about the effects of recent changes and additions to its literature applicable to making materiality judgments.

The objective of the research is to gather enough information to enable the IASB to assess these documents' effects on investors, companies, auditors and regulators:

- *Definition of Material* (Amendments to IAS 1 *Presentation of Financial Statements* and IAS 8 *Accounting Policies, Changes in Accounting Estimates and Errors)*;
- IFRS Practice Statement 2 *Making Materiality Judgements*; and
- *Better Communication in Financial Reporting—Making disclosures more meaningful.*

Judgements about materiality are essential to the application of IFRS Accounting Standards. Information about the effects of the documents already issued by the IASB will help inform its discussions about such judgements.

National standard-setters who would like to participate should email an expression of interest by 31 May 2022.

Read more at: https://www.ifrs.org/news-and-events/news/2022/04/iasb-call-for-research-on-making-materiality-judgements/

The Institute of Chartered Accountants of India
(Set up by an Act of Parliament)

Committee on Career Counselling organizes

ICAI Commerce QUIZ 2022

NO ENTRY FEES

TEST YOUR SKILLS

READY FOR A QUIZ

TAKE ONLINE ICAI QUIZ

Date & Timings
19th June 2022 (Sunday)
10.00 am to 3.00 pm
For details, please visit
icaiquiz.org

Level of Quiz
- Level 1: (Class-IX): Students appeared in class IX & now studying in class X.
- Level 2: (Class-X): Students presently appearing in class X Board Exam.
- Level 3: (Class-XI): Students appeared in class XI & now studying in class XII.
- Level 4: (Class-XII): Students presently appearing in class XII Board Exams.

***In academic session (2021-22)**

Format of Quiz
Multiple Choice Questions (MCQ)

No. of Questions
100 Questions of one Mark each
(No Negative Marking)

Prizes and Recognition
Level 1 (Cash Awards & Certificates to top 128 students)
Level 2 (Cash Awards & Certificates to top 128 students)
Level 3 (Cash Awards & Certificates to top 128 students)
Level 4 (Cash Awards & Certificates to top 128 students)
Certificates to other qualifying Students

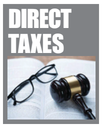
Last Date For Registration
16nd June 2022

For details, please visit
icaiquiz.org
ccg.icai.org

For further queries please write to
ccc.events@icai.in

ICAI Website
icai.org

Legal Decisions



Income Tax

LD/70/135 [ITAT Mumbai: ITA No 1010/Mum/2021] Reliance Payment Solutions Limited Vs. Principal Commissioner of Income Tax; 21/03/2021

ITAT held that non-mentioning of the reasons for accepting Assessee's explanation by the AO, was insufficient reason for invoking revisionary powers under Section 263 by CIT; Assessee was subjected to assessment for AY 15-16 wherein the issue of depreciation was checked ; Subsequently, revision under Section 263 was initiated on the grounds that classifying development expenditure as computers resulted in excess claim for depreciation; CIT observed that the AO accepted Assessee's submission without making any verification or inquiry regarding depreciation despite it being one of the reasons for selecting the case for scrutiny and thus held the assessment to be erroneous and prejudicial to the interest of Revenue; Assessee's detailed submissions on the issue were found to be accepted by the AO.

LD/70/136 [Calcutta High Court: WPA 4090 of 2022] Kasturi Towers Private Limited Vs. Income Tax Officer; 15/03/2021

High Court sets aside order disposing of objections challenging the reassessment proceedings and directed the Revenue to dispose of assessee's representation by a speaking order after granting a hearing to the Assessee; Reassessment notice dated 31.03.2021 was not received by the assessee on its email address nor was it uploaded or displayed on the portal on Apr 1, 2021; assessee's repeated requests for the evidence of issuance of notice prior to Apr 1, 2021 and Audit Log of IT Portal for posting of notice on the portal was never responded to and the order disposing of assessee's objection was silent on all these grievances.

LD/70/137 [Bombay High Court: W P No.954 2015] Hanwant Manbir Singh Vs. The Dy. Commissioner of Income Tax; 11/03/2021

Reassessment notice quashed noting that reasons to believe were contrary to Revenue's stand on taxability of loan transaction in a parallel appellate proceeding; Assessee had substantial interest in both lender and borrower companies and the Revenue, in assessment of the borrower company, made an addition of Rs. 1.07 Cr towards under deemed dividend, which was ruled in favor of borrower company by holding that such deemed dividend was to be taxed in hands of assessee and not borrower company; Since reopening was issued after the expiry of four years, Revenue has to show that there was fault on Assessee's part to truly and fully disclose material facts which was not there in instant case.

LD/70/138 [ITAT Mumbai: ITA No.1870/ Mum/2020] Triumph International Finance India Limited Vs. The Dy. Commissioner of Income Tax; 10/03/2021

Penalty u/s 272A(1)(d) for non-compliance with notice issued u/s 142(1) deleted by noting that the non-appearance of assessee was not deliberate since the notice was issued electronically for the first time when the Income-tax Department was shifting from physical to digital mode; Assessee came to know about the notice only when demand of Rs.10,000/- pursuant to penalty order under Section 272A(1)(d) was raised; It was not the case of absolute non-appearance since the assessee furnished the requisite details on learning about the assessment proceedings.

LD/70/139 [ITAT Delhi: ITA No.5610/Del/2017] The Addl. Commissioner of Income Tax Vs. The Fertilizer Corporation of India Limited; 10/03/2021

ITAT upholds CIT(A) order allowing depreciation on plant and machinery despite it not been put to use during the year; Assessee-PSU, incurred continuous losses and for the AY 2013-14 could

Contributed by CA. Sahil Garud, 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.

not carry out its manufacturing activity, its plant and machinery remained idle; As per ITAT, linking the claim of depreciation to production in the midst of manufacture progression is against the legislative intent; ITAT noted that the depreciation was allowed to the Assessee in earlier years and disallowing depreciation based on lull in the production activity was not correct.

LD/70/140 [ITAT Delhi: ITA No. 1267/Del/2017] Shri Sunil Kumar Vs. The Asst. Commissioner of Income Tax; 09/03/ 2021

ITAT deleted addition made on account of deemed rental income u/s 23 as the determination of annual value of the property was held to be absent of any rational working; For the Assessment Years 2011-12 to 2013-14, Revenue noted that Assessee had not shown any rental income with respect to a vacant property on the ground that the said property was old and partly damaged and not in a not condition to let out, thus remained vacant; ITAT noted that annual value of Rs. 15.97 lacs noted by revenue was not based on any reasonable working and also vacancy allowance was not given to the assessee; ITAT observed that no description of the property as to the area and the market rates prevalent for rentals was brought on record by Revenue.

LD/70/141 [ITAT Bangalore: ITA No. 306/ Bang/2018] Netra Software Technologies P. Ltd. Vs. The Asst. Commissioner of Income Tax; 09/03/2021

ITAT disallowed interest u/s 24 and also rejected the claim for its carry forward on assessee's failure to prove that the construction of the building was complete and it was ready to let out; Assessee paid interest of Rs.1.38 Cr on loan taken for construction of commercial property and claimed it u/s 24, out of which Rs.41,332 was set off against income from other sources and balance was sought to be carried forward; As per Revenue, interest was incurred in pre-commencement stage and thus was liable to be capitalized to the cost of the building; ITAT held that in absence of any evidence with regard to completion of construction and its readiness to let out, such as having the power connection, water connection, etc., the interest on loan bhad to be capitalised to the cost of the building.

LD/70/142 [Bombay High Court: W.P. No 1333 of 2021] Perizad Zorabian Irani Vs. The Prin. Commissioner of Income Tax; 09/03/2021

High Court held that remuneration from the partnership firm cannot be treated as part of gross receipt from profession from the perspective of applicability of tax audit u/s 44AB; Assessee filed return of income declaring Rs.8.45 lakh income from acting profession and Rs. 1.01 Crores as partner's remuneration from two partnership firms; High Court concurred with Assessee's contention that the remuneration from the partnership firms cannot be treated as gross receipt in profession.

LD/70/143 [ITAT Mumbai: ITA No. 6755/ Mum/2019] The Income Tax Officer Vs. Sandeep Dhirajlal Dhakan; 01/03/2021

ITAT held that investment made by non-resident-assessee from his foreign account in an Indian company in AY 09-10 was not taxable as unexplained investment in India where source of the fund is established to be outside India; ITAT observed that the assessee was indisputably an NRI and had business in Dubai, the invested sum was transferred from his account in Dubai to account in India and the assessee had duly discharged his onus which has been duly accepted by the Revenue in the remand report; As per ITAT, taxability of sum in bank account in Dubai was beyond Revenue's jurisdiction as the Assessee was an NRI.

LD/70/144 [ITAT Mumbai: ITA No. 1510/ Mum/2019] Zee Fabrics Inc. Vs. The Asst. Commissioner of Income Tax; 28/02/2021

ITAT deleted disallowance made for interest paid at 18% on unsecured loans borrowed from related persons referred to in section 40A(2)(b), and at 12% p.a. from unrelated parties; Revenue had concluded that interest on the loans taken from the related persons at higher rate was excessive; ITAT observed that Revenue had failed to demonstrate what method was adopted to determine the fair market value and addition was made based on the interest paid on similar loans availed from unrelated persons at a rate of 12%; Nature of business of assessee warrants continuous amount of funds which cannot be always availed from the banks and the only spontaneous availability is from persons known to the assessee to whom a higher interest is payable.

Disciplinary Case

Non-disclosure of outstanding dues by auditor in the financial statements of SMSE company --- Held, Respondent is guilty under Clause (5) and Clause (7) of Part I of the Second Schedule to the Chartered Accountants Act 1949.

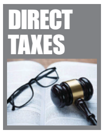
Held:

In the instant case, charge in brief, against the Respondent was that he being auditor of SMSE company failed to show the outstanding amount of Rs.61,42,945/- due to the Complainant Company, in their Audit Report for the year ending on 31st March, 2014. The Respondent, in defence, submitted that though he was aware of the disclosure requirements related to SMSE but the Company did not provide details to him at the time of audit. The Respondent, however, added that at the time of audit, they were not aware as to whether the Complainant Company is a SMSE or not. The Committee noted the documents produced by the Company i.e. copy of bills/invoices for the amounts due from the Company, duly accepted and acknowledged by the authorized signatory. The Committee perused the extract of Annual Report 2013-14 provided by the Complainant wherein Note no. 4B – "Trade Payables" the amount for Sundry Creditors for Micro, Small and Medium Enterprises has been shown as 'Nil' and also in Note no. 29 – "Micro, Small and Medium Enterprise" the amount due has been disclosed as 'Nil'. The Committee further noted that as per requirement of Section 22 of Micro, Small and Medium Enterprises Development (MSMED) Act, 2006, where any buyer is required to get his annual accounts audited under any law for the time being in force, such buyer shall furnish certain additional information in his annual statement of accounts. In the light of the same, the Committee held that the Respondent was grossly negligent in discharge of his professional duties and failed to report about non-disclosure of outstanding dues to the SMSE in the financial statement for the FY 2013-14. Accordingly, the Respondent is held guilty of professional misconduct falling within the meaning of Clause (5) & (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

File No.: PR-/168/2015-DD/179/2015/ DC/714/2017]

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. Government notifies the Faceless Jurisdiction of Income-tax Authorities Scheme, 2022 u/s 130 w.e.f. 28.03.2022 - Notification No. 15/2022, dated 28-03-2022

In exercise of the powers conferred by section 130(1)/(2), the Central Government vide this notification has notified the Faceless Jurisdiction of Income-tax Authorities Scheme, 2022. The scheme entails Scope, Powers and Performance of functions of income-tax authorities in a faceless manner through automated allocation (as defined), in accordance with and to the extent provided in the said notification.

The detailed Notification can be downloaded from the link below:

https://www.incometaxindia.gov.in/communications/notification/notification-15-2022.pdf

2. Government notifies the e-Assessment of Income Escaping Assessment Scheme, 2022 u/s 151A w.e.f. 29.03.2022 - Notification No. 18/2022, dated 29-03-2022

In exercise of the powers conferred by section 151A(1)/(2), the Central Government vide this notification has notified the e-Assessment of Income Escaping Assessment Scheme, 2022. The scope of the scheme specifies that (a) assessment, reassessment or recomputation u/s 147, (b) issuance of notice u/s 148; shall be through automated allocation, in accordance with risk management strategy formulated by the CBDT as referred to in section 148 for issuance of notice, and in a faceless manner, to the extent provided in section 144B with reference to making assessment or reassessment of total income or loss of assessee.

The detailed Notification can be downloaded from the link below:

https://www.incometaxindia.gov.in/communications/notification/notification-18-2022.pdf

3. Government notifies the Faceless Inquiry or Valuation Scheme, 2022 u/s 142B w.e.f. 30.03.2022 - Notification No. 19/2022, dated 30-03-2022

In exercise of the powers conferred by section 142B(1)/(2), the Central Government vide this notification has notified the Faceless Inquiry or Valuation Scheme, 2022. The Scope of the Scheme specifies that (a) issuing notice u/s 142(1), (b) making inquiry before assessment u/s 142(2), (c) directing the assessee to get his accounts audited u/s 142(2A), (d) estimating the value of any asset, property or investment by a Valuation Officer u/s142A; shall be in a faceless manner, through automated allocation, in accordance with and to the extent provided in section 144B with reference to making faceless assessment of total income or loss of assessee.

The detailed Notification can be downloaded from the link below:

https://www.incometaxindia.gov.in/communications/notification/notification-19-2022.pdf

4. Central Government relaxes provisions of TCS u/s 206C(1G) in respect of non-resident individuals visiting India - Notification No. 20/2022, dated 30-03-2022 & Press Release, dated 31-03-2022

In order to remove specified difficulties, the Central Government, in exercise of powers conferred u/s 206C(1G), has specified that the provisions of the said section shall not apply to a buyer being an individual who is not a resident in India in terms of clause (1) and clause (1A) of section 6 and who is visiting India. Hence, a domestic tour operator is not required to collect tax on sale of overseas tour package to non-resident individuals visiting India.

The detailed Notification & Press Release can be downloaded from the link below:

https://www.incometaxindia.gov.in/news/notification-20-2022.pdf

https://incometaxindia.gov.in/Lists/Press%20Releases/Attachments/1066/Press-Release-Central-Government-relaxes-provisions-of-TCS-un-206C-1G-IT-Act-1961-dated-31-03-2022.pdf

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

5. *Income-tax return Forms for AY 2022-23 notified by the CBDT - Notification No. 21&23/2022, dated 30-03-2022&01-04-2022*

Changes necessitated due to amendments in the Income-tax Act, 1961 have been made in the notified ITR Forms apart from certain other changes from last year Forms. Also, there is no change in the manner of filing of ITR Forms as compared to last year. This year ITR 7 has been separately notified on 01.04.2022 whereas other ITR Forms from ITR 1 to ITR 6 and ITR-V and ITR-Ack notified on 30.03.2022.

The detailed Notification(s) can be downloaded from the link below:

https://www.incometaxindia.gov.in/communications/notification/notification-21-2022.pdf

https://www.incometaxindia.gov.in/communications/notification/notification-23-2022.pdf

6. *The Kotak Infrastructure Debt Fund Limited notified u/s 10(47) - Notification No. 22/2022, dated 31-03-2022*

The Central Government vide this notification has notified the infrastructure debt fund namely, the 'the Kotak Infrastructure Debt Fund Limited (PAN: AAACK5920G)' u/s 10(47) for the AY 2018-19 and subsequent years subject to the conditions as specified therein.

The detailed Notification can be downloaded from the link below:

https://www.incometaxindia.gov.in/communications/notification/notification-22-2022.pdf

7. *CBDT specifies Rules for taxation of income from retirement benefit account maintained in a notified country - Notification No. 24/2022, dated 04-04-2022*

In exercise of the powers conferred by section 89A (Relief from taxation in income from retirement benefit account maintained in a notified country), the CBDT has inserted a new Rule 21AAA vide the Income-tax (6th Amendment), Rules, 2022 applicable w.e.f. 04.04.2022. Form No. 10-EE has also been introduced to be filed by the concerned assessee as per Rule 21AAA containing specified particulars.

The detailed Notification can be downloaded from the link below:

https://www.incometaxindia.gov.in/communications/notification/notification-24-2022.pdf

8. *Government specifies "notified country" for the purposes of section 89A - Notification No. 25/2022, dated 04-04-2022*

In exercise of the powers conferred by section 89A, the Central Government vide this notification has notified Canada, United Kingdom of Great Britain and Northern Ireland & United States of America as a notified country u/s 89A w.e.f. 04.04.2022.

The detailed Notification can be downloaded from the link below:

https://www.incometaxindia.gov.in/communications/notification/notification-no-25-2022.pdf

9. *CBDT notifies Rules pertaining to Dispute Resolution Committee (DRC) - Notification No. 26/2022, dated 05-04-2022*

In exercise of the powers conferred by section 245MA(1)/(2), the CBDT vide the Income-tax (Seventh Amendment) Rules, 2022 has notified Rules 44DAA to 44DAD for operationalising Dispute Resolution Committee w.e.f. 05.04.2022. The said Rules are specified under 'PART IX-AA DISPUTE RESOLUTION COMMITTEE' and provides for Constitution of DRC, application to DRC, its Powers and relevant definitions. Also, Application to the DRC shall be made in electronically in Form No. 34BC.

The detailed Notification can be downloaded from the link below:

https://www.incometaxindia.gov.in/communications/notification/notification-no26-2022.pdf

10. *Government notifies the e-Dispute Resolution Scheme, 2022 - Notification No. 27/2022, dated 05-04-2022*

In exercise of the powers conferred by section 245MA(3)/(4), the Central Government has notified the e-Dispute Resolution Scheme, 2022 w.e.f. 05.04.2022. The said Scheme specifies definitions, its scope, procedure, powers to waive penalty/prosecution, appeal or revision, completely electronic scheme, private proceedings etc.

The detailed Notification can be downloaded from the link below:

https://www.incometaxindia.gov.in/communications/notification/notification-no27-2022.pdf

11. *Rule 2F and rule 8B amended and New Form No. 5BA (Certificate of an accountant) notified vide the Income-tax (8th Amendment) Rules, 2022 - Notification No. 28/2022, dated 06-04-2022*

In exercise of the powers conferred by sections 2(48) and 10(47), the CBDT has amended Rule 2F (Guidelines for setting up an Infrastructure Debt Fund (IDF) for the purpose of exemption u/s 10(47)) and rule 8B (Guidelines for notification of zero coupon bond) so as to permit IDF to issue zero coupon bonds in accordance with rule 8B. Further, Form No. 5B (Application for notification of a zero coupon bond u/s 2(48)) is substituted and Form no. 5BA (Certificate of an accountant u/r 8B(6)) is introduced.

The detailed Notification can be downloaded from the link below:

https://www.incometaxindia.gov.in/communications/notification/notification-no28-2022.pdf

12. *"The Somnath Temple managed by Shree Somnath Trust (PAN: AAATS9555Q)" notified u/s 80G(2)(b) - Notification No. 29/2022, dated 11-04-2022*

In exercise of the powers conferred by section 80G(b)(2), the Central Government has notified "The Somnath Temple managed by Shree Somnath Trust (PAN: AAATS9555Q)" to be place of historic importance and a place of public worship of renown.

The detailed Notification can be downloaded from the link below:

https://www.incometaxindia.gov.in/communications/notification/notification-29-2022.pdf

13. *'Rajasthan Electricity Regulatory Commission' (PAN AAABR0296D) notified u/s 10(46) - Notification No. 30/2022, dated 11-04-2022*

In exercise of the powers conferred by section 10(46), the Central Government has notified 'Rajasthan Electricity Regulatory Commission' (PAN AAABR0296D), in respect of the specified income subject to satisfaction of conditions laid therein for the period from 01.06.2020 till FY 2024-25.

The detailed Notification can be downloaded from the link below:

https://www.incometaxindia.gov.in/communications/notification/notification-30-2022.pdf

II. CIRCULARS

1. *Relaxation from the requirement of electronic filing of application in Form No.3CF for seeking approval under section 35(1)(ii)/(iia)/(iii) - Circular No. 05/2022, dated 16-03-2022*

On consideration of difficulties in electronic filing of Form No.3CF as stipulated in Rule 5C(1A) and Rule 5F(2)(aa) w.e.f. 01.04.2021, the CBDT, in exercise of its powers u/s 119(1), provides the following relaxation:

(i) Applicants seeking approval under section 35(1)(ii)/(iia)/(iii) may file the application in Form No.3CF physically during the period from the date of issuance of this Circular till:

   (a) 30.09.2022; or

   (b) the date of availability of Form No. 3CF for electronic filing on the e-filing website, whichever is earlier.

The detailed Circular can be downloaded from the link below:

https://incometaxindia.gov.in/communications/circular/circular-no-5-2022.pdf

2. *Condonation of delay u/s 119(2)(b) in filing of Form 10-IC for AY 2020-21 - Circular No. 06/2022, dated 17-03-2022*

With a view to avoid genuine hardship to the domestic companies in exercising the option u/s115BAA, the CBDT, in exercise of the powers conferred u/s 119(2)(b), vide this Circular, has directed that:-

The delay in filing of Form 10-IC as per Rule 21AE for the PY relevant to AY 2020-21 is condoned in cases where the following conditions are satisfied:

i) The return of income for A Y 2020-21 has been filed on or before the due date specified under section 139(1);

ii) The assessee company has opted for taxation u/s 115BAA in (e) of "Filing Status" in "Part A-GEN" of the Form of Return of Income ITR-6 and

iii) Form 10-IC is filed electronically on or before 30.06.2022 or 3 months from the end of the month in which this Circular is issued, whichever is later.

Readers may note that the DTC of ICAI had in February, 2022 submitted a representation to the

CBDT in this regard which is duly considered vide issuance of this Circular.

The detailed Circular can be downloaded from the link below:

https://incometaxindia.gov.in/Lists/Latest%20News/Attachments/512/173-32-2022-ITA-I-dated-17-03-2022.pdf

3. *CBDT extends last date for filing of Form No.10AB for seeking registration or approval under Section 10(23C), 12A or 80G - Circular No. 08/2022, dated 31-03-2022*

On consideration of difficulties in electronic filing of Form No.10AB as stipulated in Rule 2C or 11AA or 17A, the CBDT, extends the last date for electronic filing of Form No.10AB. The application for registration or approval under Section 10(23C), 12A or 80G in Form No.10AB, for which the last date for filing falls on or before 29.09.2022, is extended to 30.09.2022.

The detailed Circular can be downloaded from the link below:

https://incometaxindia.gov.in/communications/circular/circular-no-8-2022.pdf

https://incometaxindia.gov.in/Lists/Press%20Releases/Attachments/1069/PressRelease-CBDT-extends-last-date-for-filing-of-Form-No-10AB-1-4-22.pdf

III. PRESS RELEASES/INSTRUCTIONS/OFFICE MEMORANDUM/ORDER

1. *More than 6.63 crore Income Tax Returns (ITRs) and 99.27 lakh statutory forms filed on the new e-filing portal of the Income Tax Department (ITD) - Press Release, dated 16-03-2022*

Out of the 6.63 crore ITRs filed for AY 2021-22, 46% are ITR-1 (3.03 crore), 9% are ITR-2 (57.6 lakh), 15% are ITR-3 (1.02 crore), 26% are ITR-4 (1.75 crore), 2% are ITR-5 (15.1 lakh), ITR-6 (9.3 lakh) and ITR-7 (2.18 lakh). This reflects an increase of over 16.7 lakh ITRs over total filing of ITRs for AY 2020-21 till 15.03.2021. The Department expresses gratitude to all tax professionals and taxpayers for the support in timely compliances.

The complete text of the above Press Release can be downloaded from the link below:

https://incometaxindia.gov.in/Lists/Press%20Releases/Attachments/1059/PressRelease-More-than-6-63-crore-IITRs-and-99-27-lakh-statutory-forms-filed-new-e-filing-portal-17-3-22.pdf

2. *Order u/s 119 providing exclusions to section 144B - Cases in which limitation period expires on 31.03.2022 - Order, dated 17-03-2022*

The CBDT in exercise of power u/s 119 vide this Order has directed that in addition to the exceptions as provided in the specified orders, the following exception is added as under :-

"vi. Assessment orders in all cases for which the time limit for completion expires on 31.03.2022 pending with the jurisdictional AO as on 15.03.2022 or thereafter, which cannot be completed as per the procedure laid down u/s 144B due to technical/procedural constraints in the given period of limitation."

The CBDT has further reiterated that the exception above is applicable only to the cases for which the time limit for completion expires on 31.03.2022.

The complete text of the above Order can be downloaded from the link below:

https://incometaxindia.gov.in/Lists/Latest%20News/Attachments/510/187-3-2020-ITA-I-119-Order-dated-17-03-2022.pdf

3. *Net Direct Tax collections for the F.Y. 2021-22 are at Rs. 13,63,038 crore showing a growth of over 48.4% - Press Release, dated 17-03-2022*

Advance Tax collections for the F.Y. 2021-22 (Till 4th Instalment) stand at Rs. 6,62,896.3 crore as on 16.03.2022 which shows a growth of approximately 40.75%. Further, Refunds aggregating to Rs. 1,87,325.9 crore have been issued in the current fiscal year.

The complete text of the above Press Release can be downloaded from the link below:

https://incometaxindia.gov.in/Lists/Press%20Releases/Attachments/1061/Press-Release-Net-DTC-for-the-FY-2021-22-are-at-Rs-1363038-crore-showing-a-growth-of-over-48.4.pdf

4. *ITD conducts searches in Mumbai - Press Release, dated 17-03-2022*

ITD carried out a search operation on 08.03.2022 on a cable operator of Mumbai, a State Government employee and the businesses related to him. A total of 26 premises spread over Mumbai, Pune, Sangli and Ratnagiri were covered.

The complete text of the above Press Release can be downloaded from the link below:

https://incometaxindia.gov.in/Lists/Press%20Releases/Attachments/1060/Press-Release-IT-Department-conducts-searches-in-Mumbai-dated-17-03-2022.pdf

Legal Update

5. *ITD conducts searches on a Pune & Thane based unicorn start-up group - Press Release, dated 20-03-2022*

ITD conducted a Search & Seizure operation on a Pune & Thane based unicorn start-up group, primarily engaged in the business of wholesale and retail of construction material, on 09.03.2022. The group has PanIndia presence having annual turnover exceeding Rs. 6,000 crore. A total of 23 premises were covered in Maharashtra, Karnataka, Andhra Pradesh, Uttar Pradesh and Madhya Pradesh, in the search operation.

The complete text of the above Press Release can be downloaded from the link below:

https://incometaxindia.gov.in/Lists/Press%20Releases/Attachments/1062/PressRelease-ITD-conducts-searches-on-a-Pune-Thane-based-unicorn-start-up-group-21-3-22.pdf

6. *ITD conducts searches in a prominent Real Estate Group of North India & in Maharashtra - Press Release, dated 22-03-2022&24-03-2022*

The ITD carried out search & seizure operations on 14.03.2022 in the case of a leading Real Estate Group active in Northern India. The search action covered more than 45 premises in Delhi & NCR, Chandigarh, Ludhiana, Lucknow and Indore. Further, the ITD carried out a search and seizure operation on 14.03.2022 on a popular chain of educational institutes, running several schools and colleges at multiple locations in India and abroad. The search operation covered more than 25 premises spread over locations in Maharashtra, Karnataka and Tamil Nadu.

The complete text of the above Press Release(s) can be downloaded from the link below:

https://incometaxindia.gov.in/Lists/Press%20Releases/Attachments/1063/PressRelease-ITD-conducts-searches-in-a-prominent-Real-Estate-Group-of-North-India-22-3-22.pdf

https://incometaxindia.gov.in/Lists/Press%20Releases/Attachments/1064/PressRelease-ITD-conducts-searches-in-Maharashtra-24-3-22.pdf

7. *Amendment to the provisions of Income-tax Rules, 1962 for prescribing fees under section 234H of the Income-tax Act, 1961 - Notification No. 17/2022, dated 29-03-2022 & Circular No. 07/2022, Press Release, Order, dated 30-03-2022*

In order to mitigate the inconvenience to the taxpayers, as per Notification No.17/2022 dated 29.03.2022, a window of opportunity has been provided to the taxpayers upto 31.03.2023 to intimate their Aadhaar to the prescribed authority for Aadhaar-PAN linking without facing repercussions. As a result, taxpayers will be required to pay a fee of Rs. 500 up to three months from 01.04.2022 and a fee of Rs.1000 after that, while intimating their Aadhaar. However, till 31.03.2023, the PAN of the assessees who have not intimated their Aadhaar, will continue to be functional for the procedures under the Act, like furnishing of return of income, processing of refunds etc. A detailed Circular No.7/2022 dated 30.03.2022 has also been issued in this regard.

The complete text of the above Releases can be downloaded from the link below:

https://www.incometaxindia.gov.in/communications/notification/notification-17-2022.pdf

https://www.incometaxindia.gov.in/communications/circular/circular-no-7-2022.pdf

https://incometaxindia.gov.in/Lists/Press%20Releases/Attachments/1065/Press-Release-Amendment-to-the-provisions-of-IT-Rules-1962-for-prescribing-fees-un-234H-of-IT-Act-1961-dated-30-03-2022.pdf

https://www.incometaxindia.gov.in/Lists/Latest%20News/Attachments/516/Order-30-03-2022.pdf

8. *ITD conducts searches in Delhi-NCR on Automobile Manufacturing Group, Company Operating Chartered Flights and Real Estate Groups - Press Release, dated 31-03-2022*

The ITD conducted a search and seizure operation on a leading automobile manufacturer group along with a company operating chartered flights and a real estate group of Delhi-NCR covering more than 35 premises across Delhi-NCR, on 23.03.2022.

The complete text of the above Press Release can be downloaded from the link below:

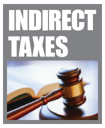
https://incometaxindia.gov.in/Lists/Press%20Releases/Attachments/1067/Press-Release-ITD-Conducts-Searches-In-Delhi-NCR-On-Automobile-Manufacturing-Group-dated-31-03-2022.pdf

9. *Signing of 62 Advance Pricing Agreements by CBDT in FY 2021-22 - Press Release, dated 31-03-2022*

The CBDT has entered into 62 Advance Pricing Agreements (APA) in FY 2021-22 with Indian taxpayers. This includes 13 Bilateral APAs (consequent to Mutual Agreement between India and its treaty partners) and 49 Unilateral APAs. With this, the total number of APAs since inception of the APA program has gone up to 421.

The complete text of the above Press Release can be downloaded from the link below:

https://incometaxindia.gov.in/Lists/Press%20Releases/Attachments/1068/Press-Release-Signing-of-62-Advance-Pricing-Agreements-by-CBDT-in-FY-2021-22-dated-31-03-2022.pdf



GST

Standard Operating Procedure (SOP) for scrutiny of returns for FY 2017-18 and FY 2018-19

Till the time a Scrutiny Module for online scrutiny of returns is made available on the CBIC-GST application, as an interim measure, Board has issued a SOP to ensure uniformity in selection/ identification of returns for scrutiny, methodology of scrutiny of such returns and other related procedures. An indicative list of parameters for scrutiny has been provided in Annexure B. The detailed instruction can be accessed at ***Instruction No. 02/2022-GST dt. 22.03.2022.***

CUSTOMS

Notifications & Circulars

1. Exemption of certain deposits from the provisions of section 51A of Customs Act, 1962

Section 51A of the Customs Act, 1962, states that every deposit made towards duty, interest, penalty, fee or any other sum payable by a person under the provisions of this Act shall be credited to electronic cash ledger of such person. However, exercising the power conferred under section 51A(4) of the Customs Act, 1962, CBIC has exempted the following deposits from the provisions of section 51A:

- Deposits with respect to goods imported or exported in customs stations where customs automated system is not in place.
- Deposits with respect to accompanied baggage
- Deposits other than those used for making payment of
  - ➢ any duty of customs, including cesses and surcharges levied as duties of customs
  - ➢ integrated tax
  - ➢ GST Compensation Cess
  - ➢ interest, penalty, fees or any other amount payable under the said Act, or the Customs Tariff Act, 1975

The above amendment shall be effective from 1st June, 2022.

Notification No. 19/2022-Customs (N.T.) dt. 30.03.2022

2. Introduction of Customs (Electronic Cash Ledger) Regulations, 2022

CBIC has issued Customs (Electronic Cash Ledger) Regulations, 2022 to provide for the following:

a) Manner of maintaining Electronic Cash Ledger

b) Manner of making payment from the electronic cash ledger

c) Refund

d) Intimation of discrepancy in electronic cash ledger

The above regulations shall be effective from 1st June, 2022.

Notification No. 20/2022-Customs (N.T.) dt. 30.03.2022

3. Exemption from IGST and GST Compensation Cess to imports under Advance Authorization/ EPCG and imports by EOU/EHTP/STP/BTP units extended till 30.06.2022

Imports against Advance Authorizations for physical exports and capital goods imported under EPCG Authorization for physical exports were exempted from payment of integrated tax and GST compensation cess up to 31.03.2022. Likewise, goods imported by EOU/EHTP/STP/BTP units were also exempted from payment of integrated tax and GST compensation cess up to 31.03.2022.

All the above exemptions have now been extended up to 30.06.2022.

Notification No. 18/2022 Cus (T) dt. 31.03.2022 & Notification No. 19/2022-Cus (T) dt. 31.03.2022

4. Pursuant to the amendments made in sections 2(34) and 3 of the Customs Act, 1962 and insertion of sub-sections (1A), (1B), (4) and (5) in section 5 and section 110AA, vide the Finance Act, 2022, following notifications (as provided in Table A) have been issued by the Board:

Table A

S. No.	Notification	Purpose in brief	Clarification
1.	21/2022 Cus. (NT) dt 31.03.2022	To appoint officers at the level of Commissioner of Customs and below till AC/DC for respective area of jurisdiction.	There is no change in the area of jurisdiction.
2.	22/2022 Cus (NT) dt 31.03.2022	To appoint officers at the level of Commissioner of Customs and below till AC/DC for the purposes of carrying out audit under section 99A of Customs Act.	Commissioner shall assign functions in terms of section 5(1B).
3.	23/2022 Cus. (NT) dt 31.03.2022	To appoint Commissioner (Adjudication), Delhi and Mumbai for the purposes of adjudicating cases assigned to them by the Board.	The posts of ADG (Adjudication), DRI in Delhi and Mumbai are being re-designated and officers being placed in the area of jurisdiction of Chief Commissioner of Customs, Delhi and Mumbai, respectively.
4.	24/2022 Cus. (NT) dt 31.03.2022	To appoint officers at the level of Chief Commissioner of Customs for the areas falling within the jurisdiction of specified Commissioners.	There is no change in the area of jurisdiction except as specified at S.No. 3 above.
5.	25/2022 Cus. (NT) dt 31.03.2022	To appoint officers at the level Principal Director General and below till AD/DD of Revenue Intelligence.	The jurisdiction is all over India.
6.	26/2022 Cus. (NT) dt 31.03.2022	To assign functions under various sections of Customs Act to various officers of customs.	Commissioner level officer shall assign function in terms of section 5(1B).
7.	27/2022 Cus. (NT) dt 31.03.2022	To appoint officers and assign functions relating to Faceless Assessment.	Circular/Instruction issued relating to Faceless Assessment continue.
8.	28/2022 Cus. (NT) dt 31.03.2022	For assigning proper officer in case of multiple jurisdictions in terms of section 110AA of Customs Act.	Such proper officers have been invested with enabling powers including issuing the notice and, unless otherwise specified, adjudication including confiscation.
9.	29/2022 Cus. (NT) dt 31.03.2022	To specify and assign adjudication functions for disposal of pending notices.	This is specified in light of Section 97of the Finance Act, 2022.
10.	30/2022 Cus. (NT) dt 31.03.2022	To provide for section 124 functions to be performed by certain officers in relation to particular types of cases.	A limitation / condition has been specified. Where entry under the Act and assessment is already made, but case falls outside the purview of section 110AA by virtue of there being no differential duty involved, after causing inquiry or investigation the report along with documents would be transferred to the officer specified in the notification for further required action, for the purposes of section 124.

Circular No. 07/2022-Customs dt. 31.03.2022

FEMA Updates

Amendment to NDI Rules pursuant to DPIIT Press Note No. 1 (2022 Series) Dated March 14, 2022 with regards to permitting foreign investment in Life Insurance Corporation of India (LIC) and other modifications for further clarity of the existing FDI Policy

NDI Amendment Rules 2022 dated April 12, 2022

The Government of India had reviewed the extant FDI Policy for permitting foreign investment in Life Insurance Corporation of India and other modifications for consistency and further clarity of the existing FDI Policy. Accordingly the said amendments have also been made in NDI Rules.

The changes can be read at amended NDI Rules of 2022 on following link:

https://egazette.nic.in/WriteReadData/2022/235070.pdf

Limits for investment in debt and sale of credit Default Swaps by Foreign Portfolio Investors (FPIs)

A.P. (DIR Series) Circular No. 29 dated April 19, 2022

Investment Limits for the financial year (FY) 2022-23:

a) The limits for FPI investment in Government securities (G-secs), State Development Loans (SDLs) and corporate bonds shall remain unchanged at 6%, 2% and 15% respectively, of outstanding stocks of securities for FY 2022-23.

b) As hitherto, all investments by eligible investors in the 'specified securities' shall be reckoned under the Fully Accessible Route (FAR) in terms of A.P. (DIR Series) Circular No. 25 dated March 30, 2020.

c) The allocation of incremental changes in the G-sec limit (in absolute terms) over the two sub-categories – 'General' and 'Long-term' – shall be retained at 50:50 for FY 2022-23.

d) The entire increase in limits for SDLs (in absolute terms) has been added to the 'General' sub-category of SDLs.

The revised limits (in absolute terms) for the different categories, are given below:

Investment limits for FY 2022-23						
						All figures in Crores
	G-Sec	**G-Sec Long Term**	**SDL General**	**SDL Long Term**	**Corporate Bonds**	**Total Debt**
Current FPI Limits	2,53,298	1,22,298	85,902	7,100	6,07,039	10,75,637
Revised Limit for the HY Apr 2022-Sep 2022	2,60,594	1,29,594	89,365	7,100	6,37,455	11,24,107
Revised Limit for the HY Oct 2022-Mar 2023	2,67,890	1,36,890	92,928	7,100	6,67,871	11,72,578

In terms of A.P. (DIR Series) Circular No. 23 dated February 10, 2022, the aggregate limit of the notional amount of CDS sold by FPIs shall be 5% of the outstanding stock of corporate bonds. Accordingly, an additional limit of ₹ 2,22,623 crore is set out for FY 2022-23.

Events

FORTHCOMING EVENTS

Sl. No	Title of the Seminar/Conference	Dates	Place	CPE Hours
GST & Indirect Taxes Committee				
For Registration Contact: Palakkad Branch of SIRC of ICAI, Phone- 0491-2576450, Email ID- palghat@icai.org. Visit website of the Committee: https://idtc.icai.org/ Registration and Payment Link - https://forms.gle/n4pG6GpU21R3KYB78 Payment Details: Account Details: PBSIRC OF ICAI, Account No.50200025787987, IFSC: HDFC0001533, HDFC Bank Ltd, College Road Branch				
1.	National Conference on GST	28th and 29th May, 2022	Club 6 Convention Centre, Palakkad	12
Virtual CPE Meetings by **Internal Audit Standards Board**				
For registration and details please contact, Secretary, IASB Secretariat: iasb.program@icai.in, 0120-3045995				
2.	Global Trends in Internal Audit- A Look Ahead	May 7, 2022, 6 PM – 9 PM	Virtual	3
3.	Global Trends in Internal Audit- A Look Ahead	May 14, 2022, 6 PM – 9 PM	Virtual	3
4.	Global Trends in Internal Audit- A Look Ahead	May 21, 2022, 6 PM – 9 PM	Virtual	3
5.	Global Trends in Internal Audit- A Look Ahead	May 28, 2022, 6 PM – 9 PM	Virtual	3
For more details about the forthcoming events please refer the detailed announcements hosted on the ICAI website www.icai.org				

ICAI News

Invitation for empanelment as Counsellors for the Career Counselling Programmes organized by the Committee on Career Counselling

The Committee on Career Counselling (CCC) is constituted to promote Commerce Education with special focus on CA Course amongst Secondary, Higher Secondary, Graduate and Post Graduate Students by conducting Career Counselling Sessions in schools and Colleges.

Applications are invited from eligible members of the Institute to empanel as a Counsellor, having a flair for conducting career counselling programme. The eligible members can register through the online portal https://ccg.icai.org/ and can contribute to the successful drive of Career Counselling.

Eligibility to be a Counsellor: A Chartered Accountant (active member) with good command over English and vernacular language, with exemplary Communication and Public Speaking Skills.

Honorarium	Rs. 5000/- including Conveyance.
Expenses	Expenditure includes all items like cost of Banner, Memento to Schools/ College Heads, Photographs, Press Meet etc. Actual expenditure incurred subject to maximum of Rs. 2000/- will be paid to the Counsellor. GST will be paid extra at actuals.

Members who are already empaneled need not apply again.

For any queries related to above kindly contact at 0120-3876871/886, email: ccc.secretary@icai.in

Committee on Career Counselling

Glimpses of March -April 2022

BusinessLine

New Delhi, April 11, 2022

New curriculum will address concerns over education quality: ICAI president

Institute holds meeting with MCA on draft syllabus

KR SRIVATS

New Delhi, April 10

The CA Institute is confident that the proposed change in CA course curriculum would address all contemporary issues and concerns raised against the Institute of Chartered Accountants of India (ICAI) as regards the quality of its education and training, Debashis Mitra, President, ICAI has said.

The draft new CA curriculum, which was earlier submitted to the government for an in-principle approval, was discussed in detail with the Corporate Affairs Ministry on Friday, Mitra told *BusinessLine* here.

He highlighted that the revised scheme of education and training has been developed in conformity with the best practices adopted by international accounting bodies and the National Education Policy 2020 and taking note of the IT revolution. The MCA is yet to give its nod for the new curriculum.

Debashis Mitra, President, ICAI

Debate over autonomy

His remarks are significant as they come on the heels of the recommendations of the Standing Committee on Finance, headed by BJP MP Jayant Sinha, that the government must consider setting up an Indian Institute of Accounting (IIA) on the lines of IIM and IITs for the further development of the profession in the country. The panel had also made a case for removal of the statutory monopoly of the CA Institute.

Meanwhile, in a video message to ICAI members on Saturday, Mitra, among other things, highlighted that the recent enactment makes no mention of the IIA.

While admitting that some concerns are being raised about curtailment of autonomy granted to the profession, Mitra quoted Finance Minister Nirmala Sitharaman in her Rajya Sabha address during the passage of the Bill, where she said: "I recognise the importance of three professions in corporate governance structure. The objective is also to strengthen all three of them without in any way affecting the autonomy that they enjoy."

Strategy meet

The CA Central Council, which met in Mumbai on April 5 for a special strategy meet to discuss the way forward on the enactment of the new Bill, is understood to have taken note that the IIA does not find a place in the Bill, and therefore, did not merit significant immediate attention.

However, the meet did recognise that the CA Institute cannot turn a blind eye to the recommendation of the Standing Committee, and therefore, discussed IIA from the point of view of further improvement of working of the CA Institute, sources said.

Asked whether the CA Institute sees IIA becoming a reality and what would be its strategic response, Mitra said he cannot comment on this.

At the strategy meeting, the CA Central Council is understood to have deliberated at length the implications of the passage of the CA Bill. It was decided that the ICAI should accept Parliament's decision with grace and lay a huge emphasis on improving the quality of audit in the country, sources close to the development said. It was also decided that small and medium practitioners must be made aware of technological changes.

THE CITY HANS

NIRDPR, ICAI ink MoU

HANS NEWS SERVICE
HYDERABAD

THE National Institute of Rural Development &Panchayati Raj (NIRDPR) and Institute of Chartered Accountants of India (ICAI) signed a Memorandum of Understanding (MoU) on Thursday in virtual mode.

The MoU will lead to collaboration in the development of Accounting/Auditing Standards for Rural Local Bodies, ensuring accountability, transparency through social audit, maintenance of proper books of accounts, finance by various Rural Development functionaries, better systems of internal audit and control through data mining, preparation of detailed project reports by rural micro, small entrepreneurs.

Speaking on the occasion, Dr Narendra Kumar, Director General, NIRDPR, felt that the MoU is a landmark event in the Rural Development especially in the context of localiasation of Sustainable Development Goals with a view to develop government auditing, achieving Gram Panchayat Development Plan across 2.50 lakh rural local bodies spread across the country. He mentioned that proper financial management of Gram Panchayats, submission of Utilisation Certificates for the money spent, preparation of Detailed Project Reports for Rural Development programmes such as RURBAN, and NRLM by focusing on Return on Investment, seamless cash flows through Direct Benefit Transfer and Public Financial Management System for effective utilisation of funds will make rural India strong and accountable. He said that a core committee would be constituted soon to finalise the annual action plan to achieve the intended objectives of the MoU.

Debashis Mitra, President, ICAI stated that they have developed accounting/auditing standards for Risk Based Internal Audit in respect of Urban Local Bodies and would like to develop the same for Rural Local Bodies for the larger benefit of the nation.

TAX SCAN

Fresher CA bags 30 Lakh package in ICAI Campus Placement Programme

By Taxscan Team - On April 3, 2022

A Fresher Chartered Accountant (CA) has bagged the 30 Lakh package in recent ICAI Campus Placement Programme. The Institute of Chartered Accountants of India (ICAI) had conducted the Campus Placement Programme for newly qualified CAs.

The ICAI President, CA. (Dr.) Debashis Mitra said that, "It gives me immense pleasure to inform you that 55th edition of the Campus placement programme is underway for which a total of 9,968 newly qualified Chartered Accountants have registered".

He also said that, "A record number of 143 companies with 11,516 vacancies have registered for the programme. The highest annual package offered hitherto in the current drive is approx Rs. 30 lakh".

The entire programme is system driven and is being held virtually from 10th March to 26th March 2022 at 9 major centres and from 13th April to 26th April 2022 at 12 smaller centres. So far more than 5,800 job offers have already been made by the companies.

ICAI in Media

Education TIMES

www.educationtimes.com

GET UNTANGLED

ICAI to initiate Commerce education in Kashmir

The Institute has waived off 75 % of the course fee in J&K, Ladakh

c-Puniti.Pandey
@timesgroup.com

PHOTO FOR REPRESENTATION

To promote Commerce education among students of the Kashmir, the Institute of Chartered Accountants of India (ICAI) has signed an MoU with Directorate of School Education, Kashmir (DSEK).

The MoU has been signed for five years to promote education in government and government aided secondary and higher school students.

The prime objective of this MoU is to bring out the true potential of students belonging to Kashmir valley, says Debashis Mitra, president, ICAI. "During the academic year 2021-22 in the higher secondary examination the pass percentage of boys from Commerce education was 91% and girls were 95%. Commerce education has a bright future in the valley. With Kashmir having a rich pool of talent, the young students need to be nurtured in the proper way so that the modern, young generation of today shall be able to contribute to the nation."

"Besides guiding the students, the Institute has waived off 75% of the course fee for all levels of CA course for students from the union territories of Jammu and Kashmir, Ladakh and north-eastern states," he adds.

The students will be taught through the digital medium, explains Mitra. In the age of digital era, the Institute has ensured that all the learning provided by the institute is easily available on the digital platform. The all-round knowledge hub is created on the digital platform to make the students equipped and abreast with the learnings. By organising counselling programmes in schools, the students shall be given apt career guidance & the opportunity available thereafter," says Mitra.

On how the education will benefit the students, Mitra says, "The commerce education plays an utmost important role in the inclusive growth of industry and the whole economy. Most appropriate qualification for business, trade and industry which will enable the students to showcase their knowledge, skills and experience globally with immense career opportunities."

The Times Of India

Foreign language will help CAs network with international clients

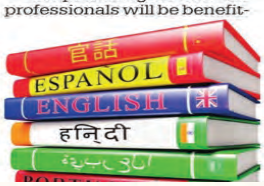
c-Puniti.Pandey
@timesgroup.com

The Institute of Chartered Accountants of India (ICAI) is aiming to teach Spanish, German, Japanese, Business English and French to its members and students for which it is organising online beginners' level courses. The initiative is being taken forward in collaboration with the language and cultural centres of foreign embassies in India.

Explaining the motive behind the decision, Debashis Mitra, president, ICAI, says, "Conducting foreign languages classes is a dedicated move to help students acquire additional linguistic skills. This will make them aware of the culture and language of various jurisdictions under the Champion Sector mandate."

Emphasising on how the professionals will be benefitted in the era of globalisation, he adds, "Today where there is delimitation of jurisdiction, acquiring foreign languages will help CA students and members to overcome language barrier and thereby have enhanced professional opportunities. Knowledge of foreign languages will enhance skill-sets of CA students and members and enable them to work efficiently with global companies investing in India or open gateway of professional opportunities overseas." Learning a new language and culture will help in understanding different businesses better. "To practice the profession in a foreign land, one needs to understand the framework, which differs from country to country but understanding the other country's language will help our professionals to network with other professionals and enhance their acceptability in those areas."

Since last two years ICAI in collaboration with Instituto Cervantes for Spanish language, Alliance Francaise for French Language, Japan Foundation for Japanese Language and British Council for Business English Language is organising foreign language courses, he adds.



City भास्कर

जयपुर, मंगलवार 5 अप्रैल, 2022

कन्वोकेशन सेरेमनी| सीतापुरा स्थित जेईसीसी में हुआ समारोह; दो साल पहले सिर्फ 1100 को मिले थे सर्टिफिकेट

2 साल बाद यंग सीए मेंबर्स के चेहरे पर मुस्कान, पहली बार पैरेंट्स की मौजूदगी में 4111 को मिले सर्टिफिकेट

The Indian EXPRESS

SATURDAY, APRIL 16, 2022

CONVOCATION - ICAI

Convocation is being held recently. During the event, approx. 4, 500 Members are being awarded Certificate of Membership and Rank holders of CA Final Examinations will also be awarded Rank Certificates.

दैनिक पूर्वोदय

राज्यपाल ने किया 'निवेशक शिक्षा और जागरूकता' पर राज्य स्तरीय संगोष्ठी का उद्घाटन

पूर्वोदय संवाददाता

गुवाहाटी, 29 मार्च। प्रो. जगदीश मुखी ने मंगलवार को 'निवेशक शिक्षा और जागरूकता' विषय पर आयोजित एक राज्य स्तरीय संगोष्ठी का उद्घाटन किया। संगोष्ठी का आयोजन निवेशक शिक्षा और संरक्षण कोष प्राधिकरण (आईईपीएफए), मंत्रालय के तत्वावधान में वित्तीय बाजार और निवेशक संरक्षण समिति (सीएफएमआईपी) द्वारा किया गया।

इस अवसर पर राज्यपाल प्रो. मुखी ने कहा कि हाल के वर्षों में विभिन्न वित्तीय बाजारों और अन्य परिसंपत्ति वर्गों में निवेश के प्रति जनता का ध्यान बढ़ा है। उन्होंने कहा कि वित्तीय बाजार किसी भी अर्थव्यवस्था का प्राणकेंद्र होता है। जिसके माध्यम से बचत को प्रभावी दीर्घकालिक निवेश में प्रवाहित किया जाता है। भारतीय इक्विटी बाजार अच्छी तरह से संगठित, एकीकृत, परिपक्व, आधुनिक और प्रौद्योगिकी के मामले में दुनिया में सर्वश्रेष्ठ है। उन्होंने निवेशकों की पूंजी को सुरक्षित बनाने और समावेशी विकास के लिए वित्तीय बाजारों की भूमिका पर भी जोर दिया।

इस अवसर पर कॉर्पोरेट मामलों के मंत्रालय के क्षेत्रीय निदेशक संतोष कुमार, निवेशक शिक्षा और संरक्षण कोष प्राधिकरण के महाप्रबंधक लेफ्टिनेंट कर्नल तुषार आनंद, आईसीएआई के अध्यक्ष डॉ. देबाशीष मित्रा, अध्यक्ष, वित्तीय बाजार और निवेशकों की संरक्षण समिति के चेयरमैन अनुज गोयल, ईआईआरसी और आईसीएआई के चेयरमैन रवि कुमार पटवा, आईसीएआई के ईआईआरसी की गुवाहाटी शाखा के चेयरमैन गौरव गारोदिया और कई अन्य गणमान्य व्यक्ति उपस्थित थे।

Invitation to Write Articles

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

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

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