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THE CHARTERED ACCOUNTANT

JOURNAL OF THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

Insolvency and Bankruptcy Code –

One Code with Many Solutions

ICAI - SET UP BY AN ACT OF PARLIAMENT



THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

(Set up by an Act of Parliament)



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CA. (Dr.) Debashis Mitra
President, ICAI
Central Council Members & Team, ICAI

CA. Aniket Sunil Talati
Vice-President, ICAI



THE CONFERENCE TAKEAWAYS

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Insolvency and Bankruptcy Code- One Code with Many Solutions

The Insolvency and Bankruptcy Code, 2016 (IBC) in its journey of more than five years has been instrumental in facilitating entrepreneurship, maximize value of assets and balance the interests of all stakeholders. The fundamental principle of the Code has been bound mechanism for the insolvency resolution process. Though the primary objective of the Code is to resolve the insolvency of corporate debtor and to avoid it from going into liquidation process, but at times, liquidation process cannot be averted. In such circumstances by providing an orderly and dignified exit, the Code is aiming to give economic freedom to businesses so that they are able to move out when the situation is not conducive to continue and becomes difficult to meet the financial commitments.

The Code is continuously evolving, to strengthen the insolvency framework and ensure its implementation effective and efficient. So far six amendments in the Code have been made. The Regulator under the Code- Insolvency and Bankruptcy Board of India (IBBI) is bringing out time to time amendments in the Regulations for different processes and aspects considering the emerging operational issues. Several regulatory amendments were notified with respect to Insolvency Professionals, Insolvency Professional Agencies, Insolvency Professional Entities, Corporate Insolvency Resolution Process, Liquidation Process & Voluntary Liquidation Process to bring transparency, improve value maximization, reduce timelines, and bridge information gaps in the processes.

Corporate Debtors, Financial Creditors and Operational Creditors are all now utilising the IBC framework which is helping in augmenting economy by reducing stressed assets and boosting investment climate in the country by promoting ease of doing business. The Code has provided a special dispensation for MSMEs as they are crucial in terms of their contribution for the economy. The Pre-packaged Insolvency Resolution Process (PPIRP) was introduced recently under the Code for MSMEs so as to provide a faster and cost-effective alternative

insolvency resolution process to mitigate their financial distress.

The Insolvency and Bankruptcy framework under IBC has led to the emergence of professional opportunities. With their strong acumen, experience, skills and domain knowledge many Chartered Accountants have become Insolvency Professionals and are playing a key role in driving the insolvency resolution process under the Code. There is huge scope and several other opportunities under IBC beyond becoming Insolvency Professional, broadening the scope of avenue for the Chartered Accountants.

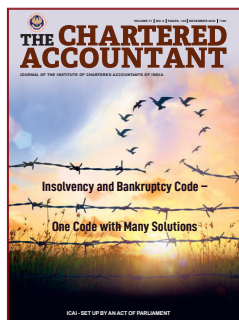
ICAI has been taking various measures for the benefit of the members to build the subject knowledge and skills in the insolvency resolution area. The Indian Institute of Insolvency Professionals of ICAI (IIPI), the Insolvency Professional Agency as formed by ICAI is working steadfastly towards professional development of its members. ICAI through its Committee on Insolvency & Bankruptcy Code is taking several initiatives for knowledge dissemination and capacity building to help its members in clear understanding of the provisions, applicability and intricacies under the Code and is creating awareness to realise the true potential of this professional opportunity. ICAI regularly submits its suggestions on various aspects/discussion papers/consultation papers as sought by the Ministry of Corporate Affairs and Insolvency and Bankruptcy Board of India in relation to IBC.

Indeed, the implementation of The Insolvency and Bankruptcy Code which is focussed on revival of businesses across the country through its effective institutional set up is providing many solutions to different stakeholders. It is bringing the change in prospects and concerns of both creditors and debtors. The IBC reforms especially the Cross Border Insolvency Framework which is expected to be rolled out, will further help to boost the confidence of investors in the country and sustain the growth momentum of India.

| -Editorial Board ICAI: Partner in Nation Building

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CA. (Dr.) Debashis Mitra
President, ICAI

about 10000 Professionals attended the event from more than 120 countries of the world. This was the largest attendance in the history of the Congress. WCOA 2022 was inaugurated by Shri Om Birla, Hon'ble Speaker, Lok Sabha and Keynote address during Inauguration was delivered by Smt. Nirmala Sitharaman, Hon'ble Union Minister of Finance & Corporate Affairs. More than 150 speakers in 40 sessions shared their thoughts and insights. The Exhibition stalls were a huge success and attracted delegates in large numbers. A report of the event is included in the Journal.

The continuous dialogue and interaction with various international bodies and side-line meetings pushed our learnings and experience. One of the important lessons learned was "need for collaboration" to ensure greater presence of the Institute globally.

Dear Colleagues,

To succeed, you must have tremendous perseverance, tremendous will.

- Swami Vivekananda

Dedication, Passion, Sincerity and the Will to Succeed was in abundant display as the Institute organised the 21st World Congress of Accountants (WCOA 2022). I would like to applaud and congratulate each one of you for the huge success of the Congress, held from November 18-21, 2022 in Mumbai. The event was held for the first time in India in more than 118 years history of the Congress. By successfully organizing such a grand event we have unveiled our leadership potential to the world. I am sure that the memories of the Congress will linger in our minds for years to come. The words of gratitude and appreciations showered by global accountancy leaders have humbled us.

The World Congress was attended by more than 60 Global Professional Accounting Organisations, 6500+ delegates in physical mode and 3300+ delegates virtually. In total

Global Collaborations

MoU Signed with Institute of Chartered Accountants of Nigeria and Institute of Chartered Accountants of Nepal (ICAN)

ICAI entered into MoU with the Institute of Chartered Accountants of Nigeria and renewed existing MoU with the Institute of Chartered Accountants of Nepal (ICAN). Both the MoUs were signed on side-lines of the WCOA2022 and were exchanged in the presence of Shri Devendra Fadnavis, Hon'ble Dy. Chief Minister, Maharashtra.

The MoUs will establish mutual co-operation for the advancement of accounting knowledge, professional and intellectual development, advancing the interests of the membership and positively contributing to the development of the accounting profession in Nigeria and Nepal.

International Engagements

On the sidelines of the WCOA2022, the ICAI hosted and supported various other International meetings and forums commencing from 14th November, 2022.

From the President

• IFAC Council and Board Meeting

The Institute had the privilege to host the Council and Board meetings of International Federation of Accountants on 15th & 16th November, 2022 in Mumbai. These meetings provided insights on the global trends and developments impacting the profession and the way forward to be relevant.

• CAPA Council and Board Meeting

We hosted the Council and Board meetings of Confederation of Asia & Pacific Accountants on 16th & 17th November, 2022 in Mumbai. During the meetings deliberations were held regarding development of the profession in the region.

• SAFA Board Meeting

The 75th Board meeting of South Asian Federation of Accountants was held on 17th November which was also addressed by Ms. Asmaa Resmouki, President IFAC. The Board deliberated on measures to augment the competence and capability of the profession in the region.

• PAFA Event

Coinciding with the WCOA2022, the Pan African Federation of Accountants (PAFA) celebrated the Africa Day on 17th November, 2022. The programme was hosted by ICAI. The event was attended by about 135 delegates and heads of accounting bodies from Africa. The event showcased the African economy and potential professional opportunities for Accountants in Africa.

• XBRL Asia Round Table

XBRL International held its 11th XBRL Asia Round Table (XART) on November 16th & 17th, 2022, at Mumbai. On November 17th, the Chairperson of Securities and Exchange Board of India (SEBI) Ms. Madhabi Puri Buch addressed the XBRL Asia Round Table and presented SEBI's initiatives on ESG.

• Round Table Meeting with Professional Accounting Organizations (PAO)

The Institute organised a Round Table meeting on Collaborative approach amongst PAOs for strengthening the profession globally on 18th November, 2022. The initiative was applauded by the PAOs and about 30 of them attended the event and agreed to collaborate in areas of mutual interest. The thought leaders participated in a Tree plantation programme to support and promote sustainability.

Interactive Meeting with Hon'ble Union Minister for Commerce & Industry, Textiles and Consumer Affairs, Food & Public Distribution

It was our privilege to have Hon'ble Union Minister CA. Piyush Goyal address the WCOA 2022. He spoke about the important role of the profession globally.

An Interactive meet of the Minister with the leaders from global professional accounting bodies was organised to discuss about how the global accountancy profession can play a pivotal role in galvanizing economic development as India takes up the presidency of G-20 from 1st December, 2022 with the vision "One Earth, One Family, One Future". The Hon'ble Minister called for collaboration amongst the global accounting fraternity in achieving the agenda of sustainability and building resilient economies of the future. The meeting was attended by more than 70 Global Accounting Professionals.

Let's take a look at the some of the other developments which have taken place in the last one month:

Meeting with the Hon'ble Union Finance Minister and Secretary, MCA

I along with CA. Aniket S. Talati, Vice President, ICAI met Ms. Nirmala Sitharaman, Hon'ble Union Minister of Finance and Corporate Affairs on 7th November 2022 to

From the President

discuss matters related to the profession and apprise her about the WCOA 2022.

It was also our privilege to meet the new Secretary of Ministry of Corporate Affairs, Dr. Manoj Govil on 1st November 2022 to apprise him about the Institute's activities and matters related to the profession.

Pre-Budget Memorandum Meeting

A meeting relating to our Pre-Budget Memorandum was held with Shri Nitin Gupta, Chairman, CBDT, in which a presentation was made by ICAI regarding its suggestions for the forthcoming Union Budget, 2023.

Mega Career Counselling Programme

The Committee on Career Counselling of the Institute organised a Mega Career Counselling Programme on 31st October, 2022 with the support of its Regional Councils and Branches. Through this programme students from Class IX to Graduation were imparted Career Counselling in order to enable them to take the best suited decision for their future. Approximately 1,30,000 students participated across the Country along with the Principals, Teachers and Career Counsellors. The programme was organised by 81 branches and four Regional Councils simultaneously.

ICAI Campus Initiatives

I would also like to inform you that 134 companies participated in the 56th edition of Campus Placement Programme for the May 2022 Final exam passed students. A total of 5,194 candidates were offered jobs out of which 3,521 candidates accepted the offer. The average salary offered to newly qualified CAs was Rs. 12.48 lakhs.

ICAI through its Committee for Members in Industry & Business (CMI&B) and Women Members Empowerment Committee (WMEC) also conducted the first ever placement programme specifically designed for women members only.

ICAI National Call Sahayata Beta Version

In order to provide prompt services to the expanding base of members and students, the ICAI is in the process of development of a National Call Sahayata service. A beta version of this was launched on November 21, 2022 in the august presence of Shri Devendra Fadnavis, Dy. Chief Minister, Maharashtra during the WCOA 2022. The National Call Sahayata shall act as one point of contact for the members and students of the Institute.

Conclusion

Hosting the 21st World Congress of Accountants was an unforgettable experience for Team ICAI. I would like to express my heartfelt thanks on behalf of ICAI to the International Federation of Accountants (IFAC) for having given us the opportunity to organise this Olympics of the Accountancy Profession.

Many of you must have noted that in the new video of ICAI's Motto song released during the World Congress, the flight of Garuda the Eagle is not restricted to India. At the Institute, we shall do everything possible to further enhance our international footprints consequent to the successful hosting of the Congress.

Wishing all of you the very best in your professional pursuits.

CA. (Dr.) Debashis Mitra
President, ICAI

Kolkata, 26th November, 2022

Photographs



ICAI President CA.(Dr.) Debashis Mitra and ICAI Vice President CA. Aniket S. Talati meeting with Smt. Nirmala Sitharaman, Hon'ble Union Minister for Finance and Corporate Affairs. (7th November 2022)



ICAI President CA.(Dr.) Debashis Mitra and ICAI Vice President CA. Aniket S. Talati meeting with Dr. Manoj Govil, Secretary, MCA. Also seen in the picture CA. Abhay Chhajed, Central Council Member, ICAI (1st November, 2022)



ICAI President CA.(Dr.) Debashis Mitra along with Guest of Honour Shri Himanshu Gupta, IAS, Director, Directorate of Education, Govt. of Delhi inaugurating Super Mega Career Counselling. Also seen in the picture are Central Council members CA. Hans Raj Chugh, CA. Sanjay Kumar Agarwal, CA. Purushottamlal H. Khandelwal, CA. C V Chitale, CA. GC Misra and Chairman, NIRC Naveen Garg (31st October, 2022)



Keynote Address by Smt. Nirmala Sitharaman, Hon'ble Union Minister for Finance and Corporate Affairs during the opening ceremony of 21st WCOA in the presence of Chief Guest Shri Om Birla, Hon'ble Speaker, Lok Sabha, CA. (Dr.) Debashis Mitra, President, ICAI, CA. Aniket S. Talati, Vice-President, ICAI, Mr. Alan Johnson, Outgoing President, IFAC and CA. Prafulla P Chhajed, Chairman, WCOA 2022 Executive Committee. (18th November, 2022)



Group Photograph of the ICAI Central Council with Chief Guest Shri Om Birla, Hon'ble Speaker of Lok Sabha at World Congress of Accountants-2022 (18th November, 2022)



ICAI President CA.(Dr.) Debashis Mitra and ICAI Vice President CA. Aniket S. Talati with Shri Girish Chandra Murmu, Hon'ble CAG of India and Dr. Ajay Bhushan Prasad Pandey, Chairman, NFRA during the WCOA. Also seen in the picture CA. T N Manoharan, Past President, ICAI. (19th November, 2022)



Group Photograph of the ICAI Central Council with Shri Gautam Adani, Founder & Chairman, Adani Group, Keynote speaker at World Congress of Accountants (19th November, 2022)



ICAI President CA.(Dr.) Debashis Mitra and ICAI Vice President CA. Aniket S. Talati meeting with ISCA delegation headed by President, ISCA Mr. Teo Ser Luck during the WCOA-2022 (19th November, 2022)



CFO Meet held jointly by PAIB of IFAC and CMI&B of ICAI on the theme, "Transition from CFO to CEO". Seen in the picture are CA. (Dr.) Raj Chawla, Vice Chairman, CMIB, ICAI, CA. Nihar N Jambusaria, Member, PAIB, IFAC and Past President, ICAI, CA. Sanjay Rughani, Chair, PAIB Advisory Group, IFAC, Mr. Stathis Gould, Director, Member Engagement & PAIB, IFAC, CA. Vishakha R.M., MD & CEO, IndiaFirst Life Insurance Co. Ltd. and CA. Murtuza Kachwala, Chairman, WIRC of ICAI, (19th November, 2022)



ICAI President CA.(Dr.) Debashis Mitra with Mr. Irfan Pathan, Former Indian Cricketer during the WCOA. Also seen in the picture CA. Sanjay Kumar Agarwal, Central Council member ICAI. (20th November, 2022)



ICAI President CA.(Dr.) Debashis Mitra and ICAI Vice President CA. Aniket S. Talati addressing at Lead to Empower with Automation and Passion(LEAP). Also seen in the picture are ICAI Central Council members CA. Priti Savla and CA. G C Misra and President CA Australia and New Zealand Ms. Kate Boorer (16th November, 2022)



ICAI President CA.(Dr.) Debashis Mitra and ICAI Vice President CA. Aniket S. Talati meeting the CPA Australia delegation headed by Ms. Merran Kelsall, President & Chairman, CPA Australia. Also seen in the picture are members of the ICAI Central Council and Western India Regional Council. (17th November, 2022)



ICAI President CA.(Dr.) Debashis Mitra and ICAI Vice President CA. Aniket S. Talati alongwith Ms. Asmaa Resmouki, President IFAC and Mr. Alan Johnson, Past President, IFAC meeting with Smt. Madhabi Puri Buch, Chairperson, SEBI. Also seen in the picture are ICAI Central Council members CA.(Dr.) Sanjeev Kumar Singhal, CA. Piyush S Chhajed, CA. Rajendra Kumar P., CA. Priti Savla, CA. Purushottamlal H Khandelwal. (17th November, 2022)



ICAI President CA.(Dr.) Debashis Mitra and ICAI Vice President CA. Aniket S. Talati meeting with JICPA delegation during the WCOA-2022 (19th November, 2022)



ICAI President CA.(Dr.) Debashis Mitra and ICAI Vice President CA. Aniket S. Talati exchanging MoU with President Mr. Mallam Tijjani President ICA Nigeria in the presence of Shri Devendra Fadnavis, Hon'ble Dy. Chief Minister, Maharashtra and Ms. Asmaa Resmouki, President, IFAC during the WCOA-2022 (21st November, 2022)



ICAI President CA.(Dr.) Debashis Mitra and ICAI Vice President CA. Aniket S. Talati alongwith Ms. Asmaa Resmouki President, IFAC and Mr. Alan Johnson, Past President attending the PAFA Africa Accountancy Day (17th November, 2022)



ICAI President CA.(Dr.) Debashis Mitra and ICAI Vice President CA. Aniket S. Talati felicitating CA. Piyush Goyal Hon'ble Union Minister for Commerce & Industry, Textiles and Consumer Affairs, Food & Public Distribution at the WCOA-2022 (20th November, 2022)



ICAI President CA.(Dr.) Debashis Mitra and ICAI Vice President CA. Aniket S. Talati with Swami Ramdev at the WCOA-2022. Also seen in the picture CA.(Dr.) Girish Ahuja, Renowned Tax Expert. (19th November, 2022)



ICAI President CA.(Dr.) Debashis Mitra and ICAI Vice President CA. Aniket S. Talati along with ICAI Central Council members in an interactive meet with CA. Piyush Goyal, Hon'ble Union Minister of Commerce & Industry, Textiles and Consumer Affairs, Food & Public Distribution on the sidelines of WCOA-2022 in the presence of Ms. Asmaa Resmouki President, IFAC and Mr. Jean Bouquot, Dy. President, IFAC (20th November, 2022)

ICAI President CA.(Dr.) Debashis Mitra and ICAI Vice President CA. Aniket S. Talati meeting with Pakistan Delegation. Also seen in the picture are ICAI Central Council members - CA. Charanjot Singh Nanda and CA. Sushil Kumar Goyal (20th November, 2022)





ICAI President CA.(Dr.) Debashis Mitra and ICAI Vice President CA. Aniket S. Talati along with the ICAI Central Council members at Round Table Meeting with heads of Professional Accounting Organizations (PAO) organized by ICAI. (18th November, 2022)



ICAI President CA.(Dr.) Debashis Mitra and ICAI Vice President CA. Aniket S. Talati along with ICAI Central Council members during tree plantation to promote sustainability on the sidelines of Round Table Meeting with heads of PAOs. (18th November, 2022)



ICAI President CA.(Dr.) Debashis Mitra and ICAI Vice President CA. Aniket S. Talati attending the 75th Board meeting of SAFA. Also seen in the picture are CA. Nihar N. Jambusaria Vice President SAFA, Ms. Asmaa Resmouki IFAC President, ICAI Central Council Members CA. Charanjot Singh Nanda, CA. (Dr.) Raj Chawla, CA. Dayaniwas Sharma, CA. Piyush S. Chhajer and CA. (Dr.) Jai Kumar Batra, Secretary ICAI. (17th November, 2022)



ICAI President CA.(Dr.) Debashis Mitra and ICAI Vice President CA. Aniket S. Talati felicitating Shri Devendra Fadnavis, Dy. Chief Minister, Maharashtra in the presence of Ms. Asmaa Resmouki President, IFAC. (21st November, 2022)



ICAI President CA.(Dr.) Debashis Mitra and ICAI Vice President CA. Aniket S. Talati and members of the Central Council with Shri Sonu Nigam, Renowned Singer at WCOA- 2022. (18th November, 2022)



ICAI President CA.(Dr.) Debashis Mitra and ICAI Vice President CA. Aniket S. Talati felicitating Shri Shiamak Dawar, Renowned artist at WCOA-2022. (20th November, 2022)

Know Your Ethics



1. If a member is a partner in more than one firm, is it permissible to print the names of all the firms on visiting cards, letterheads, stationery, etc.?

A. Yes, there is no violation under Clause (7) of Part I of the First Schedule to the Chartered Accountant Act, 1949.

2. Is a practice/ Firm of Chartered Accountants member permitted to use the logo on letterheads, stationery, etc.?

A. No, the use of logo/monogram of any kind/form/style/design/colour, etc. whatsoever on any display material or media e.g. paper stationery, documents, visiting cards, magnetic devices, internet, signboard by the members in practice and/or a firm of Chartered Accountants, is prohibited. Use/printing of member/firm name in any other manner tantamounting to logo/monogram is also prohibited. However, a common CA logo has been allowed to the members, provided it is used correctly within the Council guidelines.

3. Whether members of the Institute can use a common CA logo?

A. Yes, the common CA logo can be used by all members, whether in practice or not. Encapsulating the current beliefs, attitudes, and values of the profession, the CA logo seeks to enhance the identity of the members.

The logo consists of the letters 'CA' with a tick mark (upside down) inside a rounded rectangle with white background.

4. Whether a member may put CA Logo on his website on the same background colour as that of the website?

A. As per Logo Guidelines issued by ICAI, in the CA logo, the background colour of the Logo has to be white. It is to be complied with accordingly, irrespective of the background colour of the website.

5. Can a Chartered Accountant in practice use/fix a monogram of the Institute on any column/wall located inside the office or on professional documents?

A. No, in view of the Council directions under Clause (7) of Part I of the First Schedule to the Chartered Accountant Act, 1949, a Chartered Accountant in practice is not permitted to use/fix a monogram of the Institute on any column/wall located inside the office or on any professional documents.

6. Whether the office of a Chartered Accountant is permitted to go in for ISO certification or other similar certifications?

A. Yes, there is no bar for a member to go in for ISO certification or other similar certifications. However, the member cannot use expressions

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Know Your Ethics

like “ISO Certified” on his professional documents, visiting cards, letterheads, signboards, etc.

7. If a member has passed any additional course of the ICAI, is he permitted to print such qualification on visiting cards, letterheads, and other stationery?

A. It is not permissible for a member to mention the name of the certificate course of the ICAI cleared by him. However, wherever a diploma is awarded by the ICAI, the same can be mentioned on the visiting cards, letterheads, and other stationery. E.g. DISA (ICAI).

8. Whether public notice published in the newspaper by a Chartered Accountant individually or jointly with an Advocate in respect of the acquisition of land by their client is permitted.

A. Yes, in terms of the provisions of Paragraph 3.8.1 of Council Guidelines for Advertisement, 2008, appearing in Volume II of the Code of Ethics, the public notice published in the newspaper in respect of the acquirement of land by their client is permissible.

9. Whether the members in practice can print their photograph on their visiting cards?

A. No, it is not permissible for the members in practice to print their photograph on their visiting cards.

10. Whether it is permissible for a member in practice to publish an advertisement in the press for recruiting staff in the member's own office?

A. Yes, in terms of the provisions of Paragraph 3.8.1 of Council Guidelines for Advertisement, 2008, appearing in Volume II of the Code of Ethics, it is permissible for a member in practice to publish an advertisement in the press for recruiting staff in the member's own office provided that only the name and address of the member or that of his firm, with the description Chartered Accountant(s) is mentioned in the such advertisement and the advertisement is not displayed more prominently than is usual for such advertisements or the name of the member or

that of his firm with the designation Chartered Accountant(s) appears in type not bolder than the substance of the advertisement.

11. What should be the sequence /order of designations, while a member also uses the designation 'Dr.' along with 'CA'?

A. The member is free to use the designation 'Dr.' along with 'CA' in whichever sequence/order he wants to.

12. Which designation(s) can be mentioned by a member in practice empanelled as Insolvency Professional on his visiting cards, letter heads and other communication?

A. A member in practice empanelled as Insolvency Professional can mention “Insolvency Professional” on his visiting cards, letter heads and other communication, as this is recognized by the Central Government in terms of Clause (7) of Part -I of First Schedule to the Chartered Accountant Act, 1949. Mention of any other nomenclatures/designations, including membership of any IPA is not allowed.

13. Whether a Chartered Accountant in practice can accept a position as auditor previously held by another Chartered Accountant without first communicating with him in writing?

A. No, a Chartered Accountant in practice cannot accept a position as auditor previously held by another Chartered Accountant without first communicating with him in writing. It will be in violation of Clause (8) of Part I of First Schedule to the Chartered Accountant Act, 1949.

14. Who is “previous auditor” for the purposes of communication to be made in terms of clause (8) of Part I of First Schedule to the Chartered Accountant Act, 1949?

A. The term “previous auditor” as per Council guidelines mentioned in Paragraph 2.14.1.8(xvii) under Clause (8) of Part I of First Schedule to the Chartered Accountant Act, 1949, appearing in Volume II of the Code of Ethics, refers to the immediately preceding auditor who held the same or similar

Know Your Ethics

assignment comprising same/ similar scope of work.

15. Whether a Chartered Accountant in practice can accept audit in case the audit fee of the previous auditor remains unpaid?.

- A. No, in case the undisputed audit fees for carrying out the statutory audit under the Companies Act, 2013 or various other statutes have not been paid, the incoming auditor should not accept the appointment unless such fees are paid. In respect of other dues, the incoming auditor should in appropriate circumstances use his influence in favour of his predecessor to have the dispute as regards the fees settled.

The Council has taken the view that the provisions of audit fee made in accounts signed by both- the auditor and the auditee along with other expenses, if any, incurred by the auditor in connection with the audit, shall be considered as 'undisputed' audit fees. In this connection, attention of members is invited to the Council General Guidelines, 2008.

16. Whether posting of a letter under "Certificate of Posting" is sufficient to establish communication with retiring auditor?

- A. No, a mere posting of a letter "Under Certificate of Posting" is not sufficient to establish effective communication with the retiring auditor unless there is some evidence to show that the letter has in fact reached the person communicated with. Members should therefore communicate with a retiring auditor in such a manner as to retain in their hands positive evidence of the delivery of the communication to the addressee. In the opinion of the Council, the following would in the normal course provide such evidence:-
- Communication by a letter sent through "Registered Acknowledgement due", or
 - By hand against a written acknowledgement, or
 - Acknowledgement of the communication from retiring auditor's vide email address registered with the Institute or his last known official email address, or

- (d) Unique Identification Number (UDIN) generated on UDIN portal (subject to separate guidelines to be issued by the Council in this regard)

17. Whether a Chartered Accountant can accept appointment as an auditor after sending communication to the previous auditor through registered post without acknowledgment due?

- A. No, a Chartered Accountant cannot accept an appointment as an auditor after sending communication to the previous auditor through registered post without acknowledgment due, as this may tantamount to professional misconduct under clause (8) of Part I of First Schedule to the Chartered Accountant Act, 1949.

18. Whether communication with the previous auditor, as contemplated under Clause (8) of Part-I of the First Schedule to the Chartered Accountant Act, 1949, is permissible vide messaging application/sms?

- A. No, communication vide Messaging application/ SMS is not permissible as evidence of communication being sent, as required under Clause (8) of Part-I of the First Schedule to the Chartered Accountant Act, 1949.

19. What is the intention behind communicating with the retiring auditor?

- A. As per Council directions under Paragraph 2.14.1.8(i) under Clause (8) of Part-I of the First Schedule to the Chartered Accountant Act, 1949, appearing in Volume II of the Code of Ethics, professional courtesy alone is not the major reason for requiring a member to communicate with the existing accountant. The underlying objective is that the member may have an opportunity to know the reasons for the change in order to be able to safeguard his own interest, the legitimate interest of the public and the independence of the existing accountant. When making the enquiry from the retiring auditor, the one proposed to be appointed or already appointed should primarily find out whether there are any professional or other reasons why he should not accept the appointment.

Timing of capitalisation of transmission lines and sub-stations as an item of Property, Plant and Equipment from capital-work-in-progress and also in case of modernisation work

A. Facts of the Case

1. A Company (hereinafter referred to as 'the Company') is a registered company under the Companies Act, 1956, incorporated on 28-07-1999 and is wholly owned by the State Government with an authorised share capital of INR 1000 crore. The Company was formed by carving out the generation, transmission and distribution function of the erstwhile State Electricity Board. The Company is mainly vested with the functions of transmission of power in the entire State, governed by the provisions of the Electricity Act, 2003. It operates under a license issued by the State Electricity Regulatory Commission. The Company has adopted Indian Accounting Standards (Ind ASs) from 01.04.2016 onwards.

2. The Company is having Property, Plant and Equipment (PPE) to the tune of INR 21,619.58 crore as on 31/03/2020. The assets are being procured by way of:

- (a) Acquisition
- (b) Purchase
- (c) Gift/Consumers' Contribution
- (d) Construction of Transmission Lines and Sub-Stations

3. Sub-Stations (Plant and Machinery) and transmission lines (lines and cable network) are the major constituents of PPE of the Company. Work of construction of these sub-stations and lines are being carried out by the Company through turnkey contracts. The installation of equipments at sub-station premises and drawing of transmission lines from one station to other are being executed by turnkey contractors under the guidance and supervision of the Company's engineers. The materials required for these works will be inspected in the works of the vendors, and then dispatch instructions are issued upon confirmation of these materials meeting the technical requirements of the Company. On receipt of the materials at site, they will be verified by the engineer-in-charge of the works for physical damages etc.

4. As per section 162 of the Electricity Act 2003, the Chief Electrical Inspectorate to Government (CEIG) of the State has to inspect the premises.

The main objective of the Department of Electrical Inspectorate is to ensure that all electrical installations in the State are installed and maintained as per the relevant safety codes and standards. As such, the new installations will be inspected by the Electrical Inspectorate Authorities by giving preference to ensure adherence of required safety clearances of live points from adjacent structures, from ground and from other live points and for safe and proper erection of equipments. This is being strictly carried out with a specific intention to avoid the danger to human beings and animal life in particular and damage to the property in general. The Department is entrusted with the responsibility of ensuring the safety requirements in generation, transmission, distribution and utilisation of electrical power.

5. After completion of CEIG inspection, constructed line/stations have to be connected to the existing line/station, which require lines clearance from the concerned Electricity Supply Company (ESCOM) and Transmission Lines and Sub-station Divisions (TL&SS Divisions). Line clearance means, for energising newly constructed station, electrical power from existing station which is supposed to supply power to new station is to be interconnected. Existing station is already catering power to various stations; hence entire transmission activity in the existing station has to be temporarily diverted to other stations and keep the station idle till the equipments in the newly constructed station are connected to existing station power source line. The entire process of interconnection of newly constructed station and existing station and testing requires 2 to 3 months' time. Obtaining line clearance in large cities like Bangalore is very difficult and may require some more time. Further, pre-commissioning tests will be conducted by Relay Testing (RT) Division of the Company to ensure proper installation including wiring of the equipments. Results of the testing are recoded in a separate register for having completed the tests.

6. The equipment/materials installed in the sub-stations and transmission lines will be energised only after getting the approval from the chief electrical inspectorate authorities (CEIG) and the successful completion of the pre-commissioning tests by relay testing (RT) wing of the Company. Once the erection of all the equipments is

completed, the RT wing of the Company conducts pre-commissioning checks of all the equipments installed to ensure the intended performance of the equipments meeting the stipulated technical specifications and then, by extending power supply to the equipments, these will be energised and their performance will be observed by conducting stipulated tests. Load (power) will be transferred on to the new equipment by re-arranging the existing network and then only, it can be said that the equipment is 'available for use'.

7. After completing the inter-connection works by availing line clear, the equipments will be commissioned in the presence of RT wing, the representatives of manufacturers and the contract agency. The loads will be taken on the newly installed equipments thereafter. Once all the tests are completed and line clearance from ESCOMs are obtained, constructed stations/transmission lines are charged (energised), technical authorities of the Company will issue asset commissioned certificate for having energised the station/lines. Based on the asset commissioned certificate, the accounts section of the Company will categorise the work cost (Capital Work in Progress-CWIP) as PPE.

8. The querist has summarised the procedure: the assets will be constructed by the turnkey contractor → pre-commissioning test by the RT wing of the Company will be done → availability of the source line will be ensured → CEIG does

the Inspection → CEIG approval will be received by the Company → Test Run → Problems rectified and again tested by RT wing of the Company → Line clearance from ESCOM will be received (for outflow of power) → Station/Line will be connected to the electricity network → Asset commissioned certificate is issued by the Company's engineers.

9. The querist has also drawn attention to the fact that, other than the modernisation work of stations/lines, the initial capital work of construction of an asset is done mostly on requisition letter received from the respective ESCOMs. The Company recovers the cost from ESCOMs by way of tariff rates fixed by the State Electricity Regulatory Commission from time to time. After all the assets are tested and ready for operation, the same will be intimated to the concerned ESCOMs for taking the load by connecting their terminals to the Company's equipment. If line is not connected (output of power from the concerned new assets constructed by the Company) by ESCOMs, then the Company does not wait for capitalisation/categorisation of assets as there is no fault from the Company's end.

10. According to the querist, as the process of commissioning involves many steps, auditors are raising objection on timing of categorisation of assets (transferring from Capital Work in Progress to PPE Account). The audit observation from Comptroller and Auditor General (C&AG) and reply given by the management are given below:

| AE No. | Enquiries | Replies |
|--------|---|--|
| 1 | <p>MWD North</p> <p>Statement of Profit and Loss</p> <p>Expenditure</p> <p>Note - 31- Depreciation & Amortisation-Rs. 953.72 Cr</p> <p>The above includes Rs. 2,91,42,856 towards depreciation charged, on the value of four fixed assets categorized during the year 2019-20, from the date of commissioning of the asset instead of from the date of CEIG approval, which is not in order.</p> <p>As per paragraph 55 of Ind AS 16, the depreciation of an asset begins when it is available for use, i.e., when it is in the location and condition necessary for it</p> | <p>Sub-stations and Transmission lines after completion of construction have to be inspected and certified by the Chief Electrical Inspectorate to Government (CEIG) before commissioning of the said assets. The major objective of the inspection is to ensure safety, proper working of machinery, calibration of equipment installed etc.</p> <p>Newly constructed line/station has to be connected to the existing line/ station, which requires line clearance on 220, 66kV lines/stations. Concurrence has to be obtained from the concerned ESCOM and TL&SS Division. RT division engineers have to conduct final testing on equipment before commissioning.</p> |

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| <p>to be capable of operating in the manner intended by the Management. Based on the date of approval accorded by the Chief Electrical Inspectorate to Government (CEIG) against each work order, the transmission lines and sub-stations are charged. Hence, on the date of approval accorded by CEIG, the transmission lines and sub-stations are ready to take the load, i.e., ready to use. Accordingly, the depreciation needs to be charged from the date of approval of CEIG.</p> <p>A test check of assets categorized during 2019-20 revealed that in respect of four assets at Brindavan, Vidyanagar (UG cable from BIAL to Vidyanagar), Nelamangala and Tubagere, the date of commissioning was subsequent to the date of approval of CEIG. <i>However, the depreciation was charged from the date of commissioning instead of charging the depreciation from the date of CEIG approval, from which date the asset was ready to use. Hence, charging depreciation from the date of commissioning was not in order as it resulted in short provision for depreciation amounting to Rs. 81.66 lakh.</i></p> <p>This has resulted in understatement of depreciation and overstatement of Profit by Rs. 81.66 lakh.</p> | <p>Intention of the Management is to utilise the constructed asset in transmission of power and to generate revenue. Hence, Certification by CEIG cannot be construed as asset is capable of operating in the manner intended by the Management.</p> <p>Hence, Audit para may kindly be dropped.</p> |
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(Emphasis supplied by the querist.)

Additional view of the Company: It is learnt from the technical authorities in the field, that the CEIG is inspecting with a view to ensure safety, by verifying space clearance in respect of some equipments and height clearance in respect of transmission lines, and generally they do not carry any measurement equipment. They also verify equipment registers to ensure readings provided by manufacturer of the equipment and reading measured by the Company's engineers at the delivery spot are tallying. Based on the above findings, the CEIG will issue approval for commissioning the stations/transmission lines.

| AE No. | Enquiries | Replies |
|--------|--|---|
| 2 | <p>MWD North</p> <p>Balance Sheet</p> <p>Non-current Assets</p> <p>Note - 3 - Capital Work-in-progress - Rs. 3519.23</p> <p>The above includes Rs. 8,20,00,207 towards cost of construction of 1x12.5 MVA, 66/11 KV sub-station at Mandur, which was not categorized till date, which is not in order.</p> | <p>Construction of 1x12.5 MVA, 66/11 KV sub-station at Mandur, was not completed by A Limited and testing of equipment was not done. The work was terminated on 23.01.2017 by CEE, Transmission Zone, Bengaluru.</p> <p>Further, it is to inform that the sub-station work is not totally completed and in order to take the load, station work must be completed in all respects including testing of equipment. Moreover, <i>source line</i> work is also pending. Station cannot be commissioned unless source line work is completed.</p> |

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| <p>It was observed that all work relating to construction of sub-station was completed in 2009-10 and the capital expenditure was accounted for in August 2015. However, the work order was not closed for want of 66 KV source line from Budigere to Mandur. The work was terminated on 23.1.2017.</p> <p>As per paragraph 55 of Ind AS 16, the depreciation of an asset begins when it is available for use, i.e., when it is in the location and condition necessary for it to be capable of operating in the manner intended by the Management. Hence, as the construction of sub-station was completed, the sub-station was ready to take the load, i.e., ready to use. Accordingly, the depreciation needs to be charged from the date of completion/ready to use. <i>Although the sub-station was ready to use, the same was not charged/used for want of source line and the asset was not categorized as fixed asset till date.</i></p> <p>This has resulted in overstatement of capital work-in-progress and understatement of fixed assets by Rs. 8.20 crore; and understatement of Depreciation (from the date of completion of work/ready to use) and overstatement of profit by the same amount.</p> <p>The amount of depreciation to be charged from the date of completion/ready to use may be worked out and intimated to audit.</p> | <p><i>Intention of the Management is to utilise the constructed asset in transmission of power and to generate revenue.</i></p> <p><i>As such, it cannot be considered as asset is capable of operating in the manner intended by the Management.</i></p> <p>Hence, the categorization was not done for the above reason and it is requested to drop the Audit para.</p> |
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(Emphasis supplied by the querist.)

Additional view of the Company: Due to Right of way (ROW) issues, source line to energise the station is not completed. Only on supply of power to the station, the Company's engineers start testing equipment and make the station to cater power.

| AE No. | Enquiries | Replies |
|--------|---|---|
| 3 | <p>MWD North</p> <p>Balance Sheet</p> <p>Non-current Assets</p> <p>Note - 3 - Capital Work-in-progress - Rs. 3519.23</p> <p>(a) This includes Rs.45,01,15,659 being the expenditure incurred towards Renovation and Modernization (R&M) of 220/66/11 KV receiving station at SRS Peenya which also includes cost of erection of 150 MVA 220/66/11KV Power Transformer, which is not in order.</p> | <p>The Detailed Project Report (DPR) for the work of Renovation and Modernisation (R&M) works at 220/66/11kV SRS Peenya is approved vide Corporate OM No B19/1738/90.91 dated 17.02.2011.</p> <p>The said work is awarded to M/s M Electricals vide DWA No. CEE/T&P/SS-620/2403, 2404 & 2405 dated: 02.01.14. The target for completion of the work was 11.02.2015 revised upto 31.10.15 as per OM No: CEE/TZB/SEE (O)/AE-3/F-1629/14-15/8848-51 dated: 31.10.14. The Scope of the work of Renovation and Modernization includes the following:</p> |

This work was entrusted to M/s M Electricals, Bangalore on 21.1.2014 at a cost of Rs. 40.98 crores. A review of progress of the above work revealed the following:

| Sl. No. | Nature of Work | Date of Commissioning |
|---------|--|-----------------------|
| 1 | Erection of Power Transformer | 12.01.2019 |
| 2 | 220 KV South Bus (Charging) | 11.10.2015 |
| 3 | 220 KV North Bus (Charging) | 11.01.2016 |
| 4 | Subramanyapura Bay (Charging) | 16.02.2019 |
| 5 | Hoody Hebbal Line (Charging) | 11.03.2019 |
| 6 | Nelamangala 2 (Charging) | 14.06.2019 |
| 7 | Nelamangala 4,5 Bay (Charging) | 31.08.2019 |
| 8 | 66 KV Brindavan UG Cable (Charging) | 18.03.2019 |
| 9 | 66 KV Nelagadirenahalli HTLS Line (Charging) | 19.03.2019 |

As per paragraph 43 of Ind AS 16, each part of an item of property, plant and equipment with a cost that is significant in relation to the total cost of the item shall be depreciated separately. As the above works of erection of Power Transformer and the works on 220 KV side line have been completed and charged before March 2020, the same should have been capitalized in line with Ind AS 16. Further, it was observed that, balance work to be taken up pertains to replacement of 220 kv transformer side Bay equipment and R&M works on 66 kv side.

Non- categorization of the above assets has resulted in overstatement of capital work-in-progress and understatement of Property, Plant and Equipment; and understatement of depreciation and overstatement of profit by the same amount. The component cost of the above completed works and depreciation to be charged may be worked out and intimated to audit.

(b) Further, although works on 220 KV side and most of 66 KV side and additional 100 MVA were completed, the division capitalized IDC (Interest During Construction) of Rs. 2, 32, 62, 507 on opening balance, which should have been charged to revenue account. This has resulted in overstatement of capital work-in-progress and overstatement of profit by Rs. 2.33 crore

1. Conversion of existing 220kV and 66kV strung bus to rigid bus formation.
2. Upgradation of protection system of 220kV and 66kV side.
3. Installation and commissioning of additional new 220/66/11kV 100MVA Power Transformer.
4. Construction of 2 new 220kV line Bays and 7 new 66kV line bays for re-routing/re-alignment of 220kV Subramanyapura line and existing 66kV lines.
5. Dismantling of existing concrete structures at 220kV and 66kV side.

The main objectives of the work (as per Approved DPR) are as below:

1. To improve the reliability of Power supply to the surrounding areas.
2. To meet the future load growth.
3. For replacing the existing strung bus by rigid bus to minimize interruptions.
4. To strengthen the sub-station to meet the present load demand.
5. To provide numerical protection relays and bay control unit conforming to IEC 61850 communication protocol with sub-station automation system.
6. To provide bus bar protection system on the 220kV system.

The existing 220/66/11kV R/s at SRS Peenya is more than 50 years old and some of the equipments have served their useful life and the spares for the same are not available. The existing RCC structure of Main bus, Isolators, PI and other equipments at 220kV and 66kV are deteriorated. To meet the present load conditions, fault conditions, adopting latest fast acting protection equipments and to facilitate SAS operations, the R&M works are to be carried out in different stages by availing minimum line clear/ with minimum shutdown in live sub-station. The existing North, South & Auxiliary strung buses on 220kV side have been converted to Rigid bus and also North & South strung buses of 66kV side are to be converted to rigid bus using aluminum tube and also the work of 66kV line side protection scheme is to be taken up. This work can only be executed by doing temporary arrangements in the sub-station and availing line clear as and when required when it needs to.

As on date, the 220k V and 66kV Side of the transformer bay equipments, such as, current transformer, Lightning arrestor, Protection system cabling and wiring, C&R Panel and integration to SAS System work is to be taken up which can be completed only after availing line clear. Further, out of 13 66kV line bay portion, only 2 Nos.

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| | <p>bays are completed and re-routing of the lines to the new bays which is to be taken up. Only after completion of the re-routing of line work, load can be catered on the new bays. Also 11 Nos. of 66kV bay work is to be taken up for which re-routing is also to be taken up, which requires line clear and amounts to major portion of R&M Works. Earth mat work and cable duct work is also to be taken up for 66kV side.</p> <p>To take up the replacement of bus work on 66kV side from strung bus to rigid bus, line clear was requested several times from August 2019 to till date, but the same is not issued to take up the work. The main work which involved in the said project, such as R&M work of 220kV line bays, 220kV side was completed during the year 2019, however still 220/66/11kV Transformer bays at 220kV side and 66kV side, 66kV side bus work is to be taken up simultaneously only after approval of line clear.</p> <p>The station is being utilized by making use of already existing equipment. After completion and commissioning of both 220kV and 66kV side works, the station can be fully utilized and the benefits as mentioned in the DPR can be achieved.</p> <p>However, for achieving the benefits which are mentioned in the DPR, the following balance works are required to be carried out by availing line clears and with the proper planning, since the existing live station is having installed capacity of 3x150MVA +1x100MVA and 1x 67.5MVA totaling to 617.5MVA are feeding to the prime areas of Bengaluru Metropolitan area zone in Bengaluru:</p> <ol style="list-style-type: none"> 1. 66kV side strung bus system to be converted to rigid bus system. 2. 4 Nos of 220/66/11kV Transformer bay equipments to be replaced and commissioned. 3. Out of 13 Nos of 66kV Outgoing line bays, 2 Nos of line bays (Brindavan and Nelagadirenahalli) renovation and modernization work has been completed and remaining 11 Nos of line bays R&M work to be taken up. 4. Establishment of SAS for the total sub-station and to be integrated with SCADA SLDC for monitoring of real time data. 5. Site surfacing of the entire yard to be taken up. <p>Due to non-availability of line clear and due to outbreak of COVID-19 during March 2020, entire 220kV side work could not be completed. In order to achieve the objectives mentioned in the DPR, the total work which includes both 220kV and 66kV side has to be completed as per DWA (Detailed Work Award) scope of the work.</p> <p>The intention of the management is to utilise the constructed asset in transmission of power. As such,</p> |
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| | | <p>it cannot be considered as the said asset is capable of operating in the manner intended by the management.</p> <p>Hence, the categorization is not done for the above reasons. Further, as the work is under progress, the capitalization of IDC is in order.</p> <p>Hence, it is requested to drop the audit para.</p> |
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Additional view of the Company: In renovation & modernisation (R&M) work, existing station equipment will be replaced by higher capacity latest and updated equipment. Though the R&M work is under progress, station is being utilised to cater power. In the above station, new equipments are being installed adjacent to existing equipment. Once the incoming source line work and outgoing line works are completed, new equipment will be energised; till such time, the station is made to cater power using existing equipment. Due to non-availability of line clearance, the completion of the above work is getting delayed inordinately. Majority of the equipments are installed and connected to incoming source line, but the work in respect of outgoing line is not completed due to non-availability of line clearance.

11. The querist has informed that the contention of C&AG Auditors on the above three issues are:

AE No.1- Approval of the CEIG shall be considered for capitalising as PPE, as the asset is in the location and condition necessary for it to be capable of operating in the manner intended by the Management; and asset needs to be categorised and depreciation charged from the date of approval of CEIG.

AE No.2- As station work was completed long back, the sub-station was ready to take the load, i.e., ready to use. Accordingly, the depreciation needs to be charged from the date of completion/ready to use irrespective of the fact of no-source power line.

AE No.3- As per paragraph 43 of Ind AS 16, each part of an item of property, plant and equipment with a cost that is significant in relation to the total cost of the item shall be categorised and depreciated separately.

12. The contention of the Company on the above three issues are:

AE No.1- After CEIG approval, newly constructed station needs to be energised by taking line clearance and several test needs to be conducted to ensure proper working of the equipment

and to ensure taking up the load by station to transmit the power. On completion of the said procedure, intention of the management to utilise the constructed asset in transmission of power and to generate revenue is achieved and asset commissioned certificate will be issued accordingly by the Company's engineers. Based on the asset commissioned certificate, asset will be categorised.

AE No.2- The conclusion regarding completion of station work can be drawn only when CEIG approval is obtained, station energised, equipment tested by the Company's engineers and found that it is ready to transmit power. In this case, station is not energised as power source line is not completed and consequently, testing too is not done. As and when these procedures are completed, intention of the Management to utilise the constructed asset in transmission of power and to generate revenue is achieved and asset commissioned certificate will be issued accordingly by the Company's engineers. Based on the asset commissioned certificate, asset will be categorised.

AE No.3- Though a few equipments are installed and connected to incoming line, transmission of power cannot be carried out, as outgoing line work is under slow progress due to non-availability of line clearance. Intention of the management to utilise the constructed asset in transmission of power and to generate revenue is not achieved. Hence, such works cannot be categorised as assets.

The above issues have given space for more speculations as to the point that has to be considered while categorising/capitalising of an asset.

13. The Company acknowledges the fact that the CEIG approval is a mandatory statutory requirement to be taken by the Company before the constructed power infrastructure is connected to the grid. However at times, the CEIG has issued post-facto approval i.e., the Company has obtained the CEIG approval post connection of its power network to the grid. Hence, the Company is of the view that the CEIG approval is an administrative

procedure to be adopted before formal operation is conducted. The Company also acknowledges that the sole motive of creation of new power infrastructure is to cater to the increasing power demand posed by the ESCOMs.

14. As there was a difference between the views of C&AG and the Company, the Company has given assurance to the C&AG to seek an opinion from the Expert Advisory Committee.

B. Query

15. In view of the above, the querist has sought the opinion of the Expert Advisory Committee (EAC) on the following issues:

- (i) Whether the date of capitalisation (from CWIP to PPE) of an asset is the date of approval from CEIG or the date of asset commissioned certificate.
- (ii) Can the Company capitalise an asset pending availability of source line though all the equipments (Plant and Machinery) in the station are installed/erected but not tested?
- (iii) Can the Company capitalise an asset pending output of power/energy from the station though all the equipments (Plant and Machinery) in the station are installed/erected, tested and CEIG approval is received?
- (iv) Whether the date of successful test run to be adopted as the date of capitalisation of an asset.
- (v) Whether on erection and connecting the equipment to the incoming source line, such equipment is to be categorised though transmission of power cannot be carried out.
- (vi) Whether the assets need to be capitalised when all the works mentioned in the DWA is completed by the Contractor (pending obtaining of CEIG approval and source line).
- (vii) Whether in case of modernisation work, the assets need to be capitalised on erecting of part of the assets mentioned in the DWA though the end use of transmission of power not achieved.

C. Points considered by the Committee

16. The Committee notes that the basic issue raised in the query relates to timing of capitalisation of

transmission lines and sub-stations as an item of Property, Plant and Equipment from capital-work-in-progress in case of construction as well as in case of modernisation. The Committee has, therefore, considered only this issue and has not considered any other issue that may arise from the Facts of the Case, such as, accounting for assets acquired by way of gift/consumer's contribution, method and measurement of depreciation on fixed assets located at different locations, accounting for interest during construction, accounting for costs incurred during suspension of activities due to COVID, presentation and disclosure requirements as per Schedule III to the Companies Act, 2013, application of Ind AS 116, 'Leases', in the context of arrangements with ESCOMs, etc. Further, the Committee has opined purely from accounting perspective and not from any legal perspective, such as from the perspective of tariff regulations issued by the Central or State Electricity Regulatory Commission or technical aspects thereof. Further, the accounting Standards referred hereinafter are Indian Accounting Standards, notified under the Companies (Indian Accounting Standards) Rules, 2015, as amended/revised from time to time.

17. At the outset, the Committee notes the following paragraphs of Ind AS 16, 'Property, Plant and Equipment':

"Property, plant and equipment are tangible items that:

- (a) are held for use in the production or supply of goods or services, for rental to others, or for administrative purposes; and***
- (b) are expected to be used during more than one period."***

"7 The cost of an item of property, plant and equipment shall be recognised 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."***

"10 An entity evaluates under this recognition principle all its property, plant and equipment costs at the time they are incurred. These costs include costs

incurred initially to acquire or construct an item of property, plant and equipment and costs incurred subsequently to add to, replace part of, or service it. ..."

Subsequent costs

"12 Under the recognition principle in paragraph 7, an entity does not recognise in the carrying amount of an item of property, plant and equipment the costs of the day-to-day servicing of the item. Rather, these costs are recognised in profit or loss as incurred. Costs of day-to-day servicing are primarily the costs of labour and consumables, and may include the cost of small parts. The purpose of these expenditures is often described as for the 'repairs and maintenance' of the item of property, plant and equipment."

"15 An item of property, plant and equipment that qualifies for recognition as an asset shall be measured at its cost.

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

- (a) its purchase price, including import duties and non-refundable purchase taxes, after deducting trade discounts and rebates.
- (b) any costs directly attributable to bringing the asset to the location and condition necessary for it to be capable of operating in the manner intended by management.
- (c) the initial estimate of the costs of dismantling and removing the item and restoring the site on which it is located, the obligation for which an entity incurs either when the item is acquired or as a consequence of having used the item during a particular period for purposes other than to produce inventories during that period.

17 Examples of directly attributable costs are:

...

- (e) costs of testing whether the asset is functioning properly, after deducting

the net proceeds from selling any items produced while bringing the asset to that location and condition (such as samples produced when testing equipment). Excess of net sale proceeds of items produced over the cost of testing, if any, shall not be recognised in the profit or loss but deducted from the directly attributable costs considered as part of cost of an item of property, plant and equipment; and

..."

"20 Recognition of costs in the carrying amount of an item of property, plant and equipment ceases when the item is in the location and condition necessary for it to be capable of operating in the manner intended by management. Therefore, costs incurred in using or redeploying an item are not included in the carrying amount of that item. For example, the following costs are not included in the carrying amount of an item of property, plant and equipment:

- (a) costs incurred while an item capable of operating in the manner intended by management has yet to be brought into use or is operated at less than full capacity;

..."

"22 The cost of a self-constructed asset is determined using the same principles as for an acquired asset. If an entity makes similar assets for sale in the normal course of business, the cost of the asset is usually the same as the cost of constructing an asset for sale (see Ind AS 2). Therefore, any internal profits are eliminated in arriving at such costs. *Similarly, the cost of abnormal amounts of wasted material, labour, or other resources incurred in self-constructing an asset is not included in the cost of the asset.* Ind AS 23, *Borrowing Costs*, establishes criteria for the recognition of interest as a component of the carrying amount of a self-constructed item of property, plant and equipment."

(Emphasis supplied by the Committee)

The Committee notes from the above that an item of PPE shall be measured at cost which comprises its purchase price, *any costs directly attributable to bringing the asset to the location and condition necessary for it to be capable of operating in the manner intended by management* and cost of dismantling/removing and restoring the asset. It may also be noted that cost of testing whether the asset is functioning properly is also an example of directly attributable cost. The Committee notes that the assets covered in the extant case are in the nature of self-constructed assets. Further, in terms of paragraph 22 of Ind AS 16, the cost of a self-constructed asset is determined using the same principles as for an acquired asset. Therefore, in the extant case, the principles for 'acquired assets' under Ind AS 16 shall be equally applicable to the self-constructed assets covered under the contract with the turnkey contractors in the extant case.

18. The Committee further notes from paragraph 20 of Ind AS 16 that recognition of costs in the carrying amount of an item of PPE should cease when an item is *in the location and condition necessary for it to be capable of operating in the manner intended by management*, even though there is a possibility of the item operating at less than full capacity. From this, the Committee is of the view that an item of capital work in progress should be transferred to the gross block of PPE when such item is *in the location and condition necessary for it to be capable of operating in the manner intended by management*.

19. The Committee now considers the issue of determining the point in time when an item is in the location and condition necessary for it to be capable of operating in the manner intended by the management. The Committee is of the view that in the case of self-constructed assets, an assessment should be made as to what event or activity characterises the point at which an asset's physical construction or installation is complete and when that asset can be considered to be in the location and condition necessary for it to be capable of operating in the manner intended by the management as per the requirements of Ind AS 16, so that all directly attributable costs incurred up to that point can be included in the cost of the self-constructed PPE and the asset can be transferred from capital work in progress to gross block of PPE.

20. In this context, the Committee notes from the Facts of the Case that various steps/stages are involved in construction and installation of substations and transmission lines. As explained by the querist, after the asset is constructed by the turnkey contractor, pre-commissioning testing is undertaken by the relay testing wing of the Company and availability of source lines is ensured. After this, inspection is conducted by CEIG and after obtaining approval from CEIG, further testing by conducting test runs is done by the Company and identified problems are rectified by the relay testing wing of the Company. After this, line clearance is obtained from ESCOMs and stations lines will be connected to the electricity network and asset commissioned certificate is issued by the Company's engineers.

21. The Committee is of the view that the date or point when an asset can be considered to be in the location and condition necessary for it to be capable of operating in the manner intended by the management as per the requirements of Ind AS is a matter of technological assessment and judgement, which the Company should exercise itself in its specific facts and circumstances, considering various factors such as, technological parameters, safety parameters, various pre-requisite and substantive approvals from competent authorities, completion of test runs to ensure that the asset is functioning properly, etc. In this context, the following broad guidance may be used:

- (i) The Committee notes from the Facts of the Case that at times, CEIG has issued post-facto approval, i.e., post connection of its power network to the grid. Therefore, the Committee is of the view that in the extant case, CEIG approval may not be the sole determining factor for determination of such date/point as discussed above. The Committee is also of the view that normally, the purpose of trial and test runs is to ensure that the asset is functioning properly, i.e., technical and physical performance (and not financial performance) of the plant/asset, as expected for its intended use, is ensured. During test/trial runs, if there are technical deficiencies/problems, adjustments are made and problems are rectified to ensure that the plant is ready for its intended use, i.e. capable of producing the intended inventories or rendering the intended services. Therefore,

before such trial/test run, the plant/asset cannot be considered to be in the location and condition necessary for it to be capable of operating in the manner intended by management as per the requirements of Ind AS 16.

- (ii) The Committee is further of the view that while determining such date or point, the manner of operation intended by the management or in other words, intended use of acquisition or construction of an item of PPE should also be taken into consideration. Thus, after acquisition/construction of certain equipments/PPE which are part or components of a larger and integrated PPE/project, if these are not capable of operating due to other parts/components/facilities being under development or construction and cannot be operated independently, those equipments/ PPE cannot be considered to be in the location and condition necessary for them to be capable of operating in the manner intended by the management, as per the requirements of Ind AS 16. Conversely, if a part or component is capable of being used while construction continues on other parts, that part or component should be capitalised as PPE and depreciated accordingly, as per the requirements of Ind AS 16.

However, in this context, the Committee wishes to point out that the once the asset is in the location and condition necessary for it to be capable of operating in the manner intended by the management as per the requirements of Ind AS 16, if the Company is not able to operate the PPE due to non-availability of inputs or raw materials (for example, power supply in the extant case) or not able to operate at a certain level, the timing of capitalisation to PPE (i.e., transfer from CWIP) should not be delayed. In other words, timing of capitalisation to PPE is determined based on when the asset is ready to use and not when the asset is put to use. If the asset is ready to use but not put to use due to non-availability of power supply in the extant case, capitalisation cannot be delayed. Further, if there are any abnormal delays during construction period, leading to incurrence of costs of abnormal amounts of wasted material, labour, or other resources, such costs should not be included in the cost of the asset/PPE.

22. The Committee also notes that Ind AS 16 lays down similar principles for major subsequent expenditure on PPE. Therefore, in the extant case, if major subsequent expenditure, viz., modernisation work meets the recognition criteria as per paragraph 7 of Ind AS 16, similar principles of recognition and measurement will be applicable as applicable in case of a self-constructed asset as discussed in earlier paragraphs. Thus, in the extant case, when the asset on which modernisation work is carried out or a component/part thereof, can be considered to be in the location and condition necessary for it to be capable of operating in the manner intended by the management as per the requirements of Ind AS 16, the same can be capitalised.

23. The Committee also wishes to mention that the Company should also consider the impairment of assets, if any, considering the requirements of Ind AS 36 for assets which are taking longer time to complete due to non-availability of source line, etc.

24. Further with regard to the issue raised in the facts relating to commencement of depreciation, the Committee notes paragraph 55 of Ind AS 16 as follows:

“55 Depreciation of an asset begins when it is available for use, ie when it is in the location and condition necessary for it to be capable of operating in the manner intended by management. Depreciation of an asset ceases at the earlier of the date that the asset is classified as held for sale (or included in a disposal group that is classified as held for sale) in accordance with Ind AS 105 and the date that the asset is derecognised. Therefore, depreciation does not cease when the asset becomes idle or is retired from active use unless the asset is fully depreciated. However, under usage methods of depreciation the depreciation charge can be zero while there is no production.”

From the above, the Committee notes that depreciation of an asset should commence from the date the asset is available for use, i.e., when the asset is in the location and condition necessary for it to be capable of operating in the manner intended by the management. Accordingly, in the extant case, the depreciation should commence when the various assets are transferred from capital work in progress to gross block of PPE, as discussed above.

D. Opinion

25. On the basis of above, the Committee is of the following opinion on the issues raised in paragraph 15 above:

The date or point when an asset can be considered to be in the location and condition necessary for it to be capable of operating in the manner intended by the management as per the requirements of Ind AS 16 and when an item of capital work in progress can be transferred to gross block of PPE is a matter of technological assessment and judgement, which the Company should exercise itself in its specific facts and circumstances, considering various factors such as, technological assessments, safety parameters, various pre-requisite and substantive approvals from competent authorities, etc., as discussed in paragraphs 17 to 22 above. Additionally, the Company should also comply with the guidance discussed in paragraphs 23 and 24 regarding impairment and commencement of depreciation based on the specific facts and circumstances.

Subject to the above overall guidance,

- (i) and (vi) The CEIG approval date or the date of asset commissioned certificate may not be the sole determinant(s) for capitalisation of the asset. Further, regarding implication on capitalisation pending source line see (iii) and (v) below.
- (ii) and (iv) Normally, the purpose of trial and test runs is to ensure that an asset is functioning properly, i.e., technical and physical performance (and not financial performance) of the plant/asset, as expected for its intended use, is ensured. During test/trial runs, if there are technical deficiencies/problems, adjustments are made and problems are rectified to ensure that the plant is ready for its intended use, i.e. capable of producing the intended inventories or rendering services. Therefore, before such trial/test run, the plant/asset cannot be considered to be in the location and condition necessary for it to be capable of operating in the manner intended by management as per the requirements of Ind AS 16.
- (iii) and (v) Once the asset is in the location and condition necessary for it to be capable of operating in the manner intended by the

management as per the requirements of Ind AS 16, just because the Company is not able to operate the PPE due to non-availability of inputs or raw materials (for example, power supply in the extant case) or not able to operate at a certain level, the timing of capitalisation to PPE (i.e., transfer from CWIP) should not be delayed. In other words, timing of capitalisation to PPE is determined based on when the asset is ready to use and not when the asset is put to use. If the asset is ready to use but not put to use due to non-availability of power supply in the extant case, capitalisation cannot be delayed.

- (vii) In case of modernisation work, when the asset on which modernisation work is carried out or a component/part thereof, can be considered to be in the location and condition necessary for it to be capable of operating in the manner intended by the management as per the requirements of Ind AS 16, the same should be capitalised, as discussed in paragraph 22 above.

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| 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 April 11, 2022. 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-one volumes. These volumes are available for sale and can be procured online through CDS Portal at https://icai-cds.org/ . |
| 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 . |

World Congress of Accountants 2022: Building Trust Enabling Sustainability - A Report



The World Congress of Accountants (WCOA) popularly known as the ‘Olympics of Accountants’ was successfully hosted by the Institute of Chartered Accountants of India in partnership with the International Federation of Accountants (IFAC) from 18 - 21 November, 2022 at Jio World Convention Centre, Mumbai in hybrid mode. The 21st edition of World Congress had the highest ever participation from about 10,000 delegates from over 120 countries i.e. more than 6,500 attended physically while more than 3,300 delegates joined virtually over a specially curated virtual platform.

The World Congress had around 40 sessions spread over the four days covering the most relevant and contemporary topics and were addressed by over 150 eminent international and national thought leaders. The World Congress based on the theme “Building Trust Enabling Sustainability” centred on the continuous engagement and role of the accountancy profession in building trust to support communities and businesses & to build the sustainable, resilient economies that we need for the future. The WCOA also focused upon professional enrichment in contemporary and emerging areas. The WCOA was held for the first time ever in India and was a celebration for India as it steps towards becoming the accounting hub of the world. The following is a summarized report of this historic event.

Day 1 (18.11.2022)

Inaugural Session

The Congress was inaugurated by Shri Om Birla, Hon’ble Speaker of Lok Sabha and Smt. Nirmala Sitharaman, Hon’ble Union Minister for Finance and Corporate Affairs delivered the keynote address in the presence of Mr. Alan Johnson, outgoing President, IFAC; CA. (Dr.) Debashis Mitra President, ICAI and CA. Aniket S. Talati, Vice President, ICAI.

Mr. Alan Johnson, outgoing President, IFAC, welcomed delegates to the World Congress, the global forum for thought leadership and exchange of views, since 1904. He said that the Congress shall focus upon six main themes which will be key to relevance of accountancy profession. First, accountancy profession's role as a trusted partner in sustainability and society based on its skills & expertise. Second, explore ways for building an effective ecosystem for high quality sustainable disclosures which are aligned to global standards. Third, deliberate on accounting profession contribution as partner in nation building, promoting sustainable, equitable and inclusive development. Fourth, navigating the global economic recovery. Fifth, enhancing trust and confidence in sustainability information. And sixth, championing an integrated mindset for sustainable value creation.

CA. (Dr.) Debashis Mitra, President, ICAI, stated that the 21st World Congress will be an exemplary event that will generate new ideas, innovations and strategies on the global economic challenges and engender economic growth and development leading to building sustainable economies. He said that the true measure of success of profession is the respect and dignity that the profession commands, and the same has always been and will always be our objective in ICAI. He further elaborated that in his view the Garuda in ICAI’s emblem represents the following qualities of the profession i.e. being innovative, being fearless and being adaptive, which will be the spirit behind this Congress showcasing the potential of the profession as leaders of tomorrow to the world at large.

Ms. Nirmala Sitharaman, Hon’ble Union Minister for Finance and Corporate Affairs in her keynote address said that this Conference is happening at a time when the world is at reset and facing lots of challenges. She hoped that through this forum our conversations rotate around social, economic, and environmental sustainability, along with exploring the integration of upcoming technologies like Web3, artificial intelligence, cloud computing, blockchain and data analytics. She expressed confidence that the Congress will come out with takeaways that will provide solutions to dominate the transparency and accounting

problems for India and for several countries. She further added, "The Independence of Chartered Accountants is extremely important and significant for the trust and integrity of financial statements."

Chief Guest Shri Om Birla, Hon'ble Speaker of Lok Sabha, addressing the Congress, congratulated ICAI for hosting such a grand event for the first time in India and South Asia. He stated that the profession of Chartered Accountants is one of the most prestigious professions in our country and the world. CAs are not only contributing towards promotion of industries and running business, but also playing a significant role in attracting investment in the country. He further added, "The World Congress highlights the importance of knowledge-based economy and the significance of accounting at global level. The essence of the Congress lies in the fact that if the accountants from all around the world work together we can create a better future for the world."

CA. Aniket S. Talati, Vice President, ICAI presented the Vote of Thanks and said that it is a matter of great pride for ICAI and the entire country to host this prestigious event for the first time. He stated that this conference will provide a platform to connect with the best-in-the-world from the accountancy and the finance profession and to deliberate issues of professional importance & economic development. He further stated that being committed to sustainability, the event shall be totally carbon neutral. He thanked all the participants, supporting organisations, ICAI Council, Regional Councils, Branches and staff for their wholehearted support for organizing WCOA in a befitting manner.

CA. Prafulla P. Chhajed, Chairman WCOA Executive Committee, earlier at the start of the Inaugural session welcomed the distinguished dignitaries, esteemed Guests and the global delegates attending the World Congress. He emphasized upon the significance of World Congress. He impressed upon the responsibility of accountants towards a sustainable future and thanked all distinguished speakers who have agreed to share their vast experience during the World Congress.

Plenary Session: Accountancy Profession: Trusted Partner in Sustainability and Society

The panel discussion explored trust in the context of the profession's role in enhancing

trust in information, and the trust that society places in professional accountants.

Ms. Merran Kelsall, President & Chairman, CPA Australia, in her address emphasized that trust is concern for the common good and the accounting profession plays a constructive role in building trust, as trust once lost cannot be regained. She opined that trust can be gained by serving public interest and complying with Code of Ethics. She highlighted using technology and building processes to curb the menace of window dressing in reporting.

Ms. Julie Linn Teigland, Managing Partner, EMEIA, EY, said trust is the "currency" of the accountancy profession. She mentioned that professional accountants offer perspective, insights and support for assurance work; and that trust has to be earned by doing the right thing every single day. She said, "Just like in the medical world, every life matters, in an accountant's world, every audit and opinion matters."

Ms. Gabriela Figueiredo Dias, Chair, IESBA, said that trust is what we care about every day. It is a pillar of the functioning of the economic world. Trust is an ecosystem and it is not created by one person but by the entire society. Therefore, accountants, corporations, regulators and government organizations all should work together to build the trust. She insisted on importance of "S" in ESG that the social part of sustainability is very important, because, as accountants, we care about people.

CA. Atul Kumar Gupta, Board Member, IFAC & Past President, ICAI, opined that trust is a combination of 8Cs - Clarity, Compassion, Character, Competence, Commitment, Connectivity, Contribution and Consistency. According to him these are the 8 pillars of the trust. He stated that India would be one of the first countries making Business Responsibility and Sustainability Report (BRSR) mandatory for top 1000 listed companies.

Mr. Alan Johnson, outgoing President, IFAC, opined that accounting profession should be viewed by the world as a profession of trust. He concluded the session by stating that the profession of accountancy is the profession of purpose; and it is this profession which can save the world by serving the needs of everyone in society.

Day 2 (19.11.2022)

Special Session S-1: ICAI - A Knowledge Based National Standard Setter

CA. A.C. Chakrabortti, Past President, ICAI, acknowledged that standard setting is a challenging and onerous task. He stated, "Accounting standards are the mother of all standards." He highlighted that India has adopted the IFRS/Ind AS in the year 2015 and applauded ICAI for taking capacity building measures for its smooth transition.

CA. Charanjot Singh Nanda, Chairman, Digital Accounting & Assurance Board and Internal Audit Standards Board stated that for formulation of Forensic Accounting and Investigation Standards, international benchmarking, normal business practices and prepositions and local conditions are required to be considered. He further stated that ICAI is creating a knowledge base of professionals to formulate the standards.

CA. Pramod Jain, Chairman, Accounting Standards Board, elaborated that the ICAI is the foremost standard setter body in India responsible for disseminating knowledge and ensuring its implementation. He apprised the audience about the journey of ASB commencing from setting up of ASB in the year 1987 till present day. He elaborated that ASB has played a predominant role in formulating Indian Accounting Standards (Ind AS) converged with IFRS and Accounting Standards.

CA. (Dr.) Sanjeev Kumar Singhal, Chairman, Sustainability Reporting Standards Board and Auditing & Assurance Standards Board applauded the first ever sustainable and carbon neutral World Congress of Accountants being held in India. He informed that India has emerged as one of the first countries making Business Responsibility and Sustainability Report (BRSR) mandatory for top 1000 listed companies. He also said that the first Sustainability Reporting Maturity Model provided by SRSB was hosted by IFAC on its website.

CA. Mangesh P. Kinare, Chairman, Ethical Standards Board and Valuation Standards Board, highlighted that the ICAI requires its members to comply with the principles of ethics while performing their duties. The ethics for

Chartered Accountants have, therefore, been codified. ESB of ICAI is not only the standard setter, but also a regulator and an enabler of the ethical principles among the members. He added that Valuation Standards Board of ICAI, is acting as a catalyst in execution of valuation standards to bring standardisation in diverse valuation practices currently being prevalent across the different asset class.

CA. Gyan Chandra Misra, Vice Chairman, Internal Audit Standards Board stated that there is a paradigm shift in the internal audit environment due to evolving technology and statutory legislations. The contribution of internal audit to operations and governance of the organisations has been recognised across the world. Internal audit standards of ICAI codify the best practices in the domain of internal audit.

S-2: Yoga & Ayurveda - India's Gift to Global Health

At the outset, CA. (Dr.) Girish Ahuja briefed about Baba Ramdev's journey of becoming Yoga guru of India and the world. He described him as Social Entrepreneur with a vision to make people of India and the world healthy.

Swami Ramdev spoke about physical sustainability of the health and wellbeing of one's self through Yoga and Ayurveda, India's gift to global health. He demonstrated how one can physically live a healthy life and presented the benefits of yoga by performing many different asanas on stage for healthy lifestyle which inspired the entire audience to join him. He said, Chartered Accountants of India are not only the soul of Indian economy but the world economy as well".

S-3: Improving Global Competitiveness through Free Trade Zones

CA. G. Ramaswamy, Past President, ICAI, said that Governments globally develop certain underdeveloped or rural regions as industrial parks, provide international standard amenities and designate such zones as FTZs or Special Economic Zones to boost the economy. Special Economic Zones are particularly widespread in Asia, where they are regarded as the engine of the export-oriented growth in recent decades.

Mr. Saud Salim Al Mazrouei, Director, Hamriyah Free Zone Authority, UAE, stated that “Competitiveness and free zones complement one another and that neither can develop nor grow without the other. Free zones are where competitiveness begins. Free zones are the cornerstones of development and the main catalyst for competitiveness and growth. They typically offer a welcoming atmosphere for foreign investments.” He termed the World Congress vital, as it brings together international auditors to discuss ways for a robust and flexible economy.

S-4: Future of Accounting

CA. (Dr.) V. G. Narayan, Professor at Harvard Business School spoke on the future of the accountancy profession and its evolution which will shape the emerging future environment. He further said that “The youngsters today are looking for companies which have businesses related to the environment therefore there are large opportunities in the ESG space, one of the biggest problems faced by humanity is the climate change. Renewable energy is important but carbon emissions everywhere have to be a focus. To overcome this we need to create standards, we need to train the auditors, we need to train the preparers because we need better written and reliable ESG reports. The intent is we must create value before we claim value.”

S-5: ICAI - A World Class Educator

CA. R. Balakrishnan, Past President, ICAI, highlighted that trust is the most important foundation of accountancy profession and sustainability cannot be undermined. He emphasized on updation of the course curriculum over the years and praised Institute's role in upgradation of skillset of members.

CA. Purushottamlal H. Khandelwal, Vice Chairman, Career Counselling Committee, stressed that Chartered Accountants are partners in nation building and spoke about the significance of CA course. He highlighted the ICAI's robust examination system which was even appreciated by the Supreme Court.

CA. Sridhar Muppala, Vice Chairman, Students Skills Enrichment Board, highlighted that a student should be well versed with all the technological aspects, and the soft skills. Earlier practical training was period driven, now it

is assessment driven. The blend of practical training and theoretical knowledge is the USP of the CA course.

CA. Sushil Kumar Goyal, Chairman, Students Skills Enrichment Board, highlighted how the new course curriculum will provide holistic education. He talked about imparting NEP 2020. Self-paced online modules which will be the highlight of new course. The articleship will be reduced to 2 years on implementation of new CRET.

CA. Vishal Doshi, Vice Chairman, Board of Studies (Academic), spoke about the new CRET and said it would bring forth self-paced learning module. CA course is not only about academic but skill-based learning. He further stated the Institute is nurturing the accounting and commerce education right from the root level from class 12 onwards through career counselling.

CA. Dayaniwas Sharma, Chairman, Board of Studies (Academic), highlighted the importance of Chartered Accountancy course which has become a global curriculum. He also told “Education defines and redefines from time to time a family, a community, and a Nation.”

Keynote Address: India's Path to an Economic Superpower

CA. (Dr.) Debashis Mitra, President, ICAI, welcomed Mr. Gautam Adani, Chairperson of Adani Group and said, “Insights and experiences of all the speakers will surely guide us to approach the future of accountancy with more transparency and global awareness.”

The economy of India is the world's fifth-largest economy, now behind only the US, China, Japan, and Germany. Highlighting India's potential and its path towards becoming an economic superpower, **Shri Gautam Adani, Founder and Chairperson of Adani Group** said, “In this emerging multipolar world – superpowers will need to be those that take responsibility to step in and help others in a crisis and not bully other nations into submission. A superpower must also be a thriving democracy, a nation willing to share its technology to enable social development to address the universal challenges in education, healthcare, and skill development. It is in such a multipolar world

that the foundations of India's increasing economic might, coupled with its culture and beliefs, become relevant as it takes its journey to becoming an economic superpower that combines monetary growth with vast social growth – all within the bounds of a democratic society."

Mr. Adani further elaborated and spoke about how he sees India in the upcoming decades, breaking down his vision in three dimensions. According to him, first dimension will cover the nation's demographic dividend which will drive consumption and accelerate the growth of a tax paying society, second dimension is the pace of entrepreneurship and unicorn creation in India and the third dimension highlights the potential of the energy transition space. Therefore, he stated that the growth numbers for India will be greater than for any other nations between today and 2050.

Diving into the mode of sustainability, he further elaborated that the combination of solar and wind power coupled with green hydrogen opens unprecedented possibilities for India. By 2050, India can become a net green-energy exporter. Cooling the planet down will be one of the most profitable businesses and the largest of job creators over the next several decades."

CA. Aniket S. Talati, Vice President, ICAI, thanked Mr. Adani for his address and presence at the WCOA and concluded this session reiterating words of Mr. Adani "If there ever were a time to be Indian, be in India, and associate with India - it is now."

Plenary Session: Building an Effective Ecosystem for High-Quality Sustainability Disclosure

Leadership from the global organizations like ISSB, IAASB, IESBA, and IPSASB discussed that how their respective standard – setting activities work together to support global, high-quality sustainability disclosures.

Ms. Sue Lloyd, Vice Chair, ISSB, gave opening remarks and informed the audience that established in 2021, ISSB is aimed at creating an international language for reporting on the sustainability of business and provide the information that investors need for their

investment decisions which allows for global comparability around the world. ISSB has developed a 'Comprehensive Global Baseline' for sustainability disclosures and adopted 'Building Blocks Approach' in developing this baseline which considers possible additional requirements mandated by various jurisdictions."

Mr. Tom Seidenstein, Chair, IAASB, agreed to the views of the panellists and said that companies and other entities should report sustainability information that is ultimately trusted and useful for decision-makers including investors. He emphasised that various stakeholders including policymakers and investors seeks a more integrated and holistic view of corporate performance.

Ms. Gabriela Figueiredo Dias, Chair, IESBA, asserted that the future infrastructure for financial information must be coherent, cohesive, and complete. Similarly, sustainability information must be reliable to foster trust. Our responsibility as a standard setter is that we set and develop the standards so that individual users as well as regulators can make their decisions with respect to these standards. Ethics in Sustainability is inherent. She emphasized that today financial reporting cannot be imagined without ethical standards.

Mr. Ian Carruthers, Chair, IPSASB, emphasized that enough competence and expertise is needed to understand the sustainability disclosures. He exhorted various stakeholders to play crucial roles in making this world a better place. Highlighting the importance of sustainability disclosure to the public sector, he mentioned that the public sector is an important part of the overall ecosystem and said that we are moving from a world of voluntary to mandatory sustainability.

Mr. Martin Moloney, Secretary General, IOSCO, concluded the session stating, "We are increasingly aware that the degradation of the environmental ecosystem is not going to be a slow gradual process but there are certain tipping points. Referring to the "global baseline" he said that we need to be a little bit realistic. We live in a world with fragmented governance and jurisdictions. So, we can't expect a simple global solution to the question of accounting standards."

Plenary Session: Accountancy Profession: Partner in Nation Building

Welcoming the dignitaries, **CA. (Dr.) Debashis Mitra, President, ICAI**, emphasized that the ICAI's major thrust is on delivering high quality audit services to retain the trust of the stakeholders and nation as the profession is adjudged on the parameters of the integrity, excellence, and independence.

Shri Girish Chandra Murmu, Hon'ble Comptroller and Auditor General of India, highlighted the predominant role played by the ICAI in regulating the profession concurrently maintaining highest level of accounting standards, auditing procedures and accounting practices. He stated that the business community, public and professionals are looking up to WCOA for seeking substantial and purposeful insights. He appreciated ICAI for imparting training to its members in latest emerging technologies including blockchain, artificial intelligence and data analytics. He stated that CAG is working in close association with the ICAI on accounting and auditing standards. This synergy will be instrumental in strengthening the corporate governance thereby ensuring inclusive growth of the economy. Emphasising the significance of the sustainability in today's scenario, he suggested that professionals need to be guided by Mahatma Gandhi's words, "Earth provides enough resources to satisfy every one's needs but not every one's greed."

Dr. Ajay Bhushan Prasad Pandey, Chairman, National Financial Reporting Authority (NFRA), took pride in WCOA being held in India and applauded the efforts devoted by the ICAI in organising the same. He appreciated the vision of the ICAI in formulating the auditing and accounting standards in conformity with the international standards from the inception. He lauded the stringent and robust ICAI's examination system and the pivotal contribution of the ICAI in smooth adoption of converged IFRS and in the domain of taxation. He advocated crowd sourcing for risk identification wherein stakeholders can identify the risk areas to be focussed by the auditors to bridge the expectation gap of the shareholders and strengthen the auditors. Highlighting the need of non-financial reporting in the extant scenario, he appreciated ICAI

for codifying the standards for Sustainability Reporting.

CA. T. N. Manoharan, Past President, ICAI, hailed the dynamism and adaptability of the Chartered Accountants' fraternity for enduring and sustaining the VUCA (Volatility, Uncertainty, Complexity and Ambiguity) challenges in propelling the economy by continuing rendering the quality services. He emphasized that professional scepticism and judgment exercised by a Chartered Accountant cannot be replaced by the emerging technologies.

CA. Aniket S. Talati, Vice President, ICAI, delivered the Vote of Thanks recapitulating the words of wisdom shared by the distinguished dignitaries during the session. He endorsed the idea of crowd sourcing for risk identification, significance of sustainability in extant scenario.

A-1: India - A Land of Opportunities

CA. Nilesh S. Vikamsey, Past President, ICAI, presented the macro picture on the statistics of the India's growth rate and development. He highlighted that India is one of the world's fastest growing economy and said "India Tomorrow" would be world's 'IT Power' instead of 'IT Backup' owing to its talented youth and technology.

Mr. Deepak Bagla, MD & CEO, Invest India highlighted that during 21-22, India received the highest ever FDI which is close to 83.5 billion dollars. India is witnessing FDI in 61 sectors in the past 84 months which is unprecedented bouquet of opportunities for any country in the world and there are various new sectors, which are cropping up regularly. While discussing about digitalisation, he underlined that the Digital India Campaign was launched on 15th July, 2015, when India's per capita digital consumption ranking was 123 which is now number 1 last year with 48 billion digital transactions and 41% of the world's real-time digital transactions.

Mr. Injeti Srinivas, Chairman, IFSCA, highlighted the importance of setting up of GIFT City (Gujarat International Finance Tec-City) in India. He also explained that the IFSCA assumes responsibility as a unified regulator across realms overseen by the RBI, SEBI, IRDAI and the PFRDA. He said that IFSC is free trade

zone and only international financial zone in India. The regulations in IFSC are catering 100% to the global investors. So it is an outward-looking regulation, and trying to facilitate familiarity with the regulatory framework, ease of doing business and a fairly attractive tax regime.

CA. Sunil H. Talati, Chairman, Services Export Promotion Council, highlighted the importance of service industry in India. He said that the export of services was 325 billion and predicted to be 350 billion by the end of March, 2023. He further said that by end of 2025, 90% of income tax returns of U.S.A. will be filled by Indian Chartered Accountants that's the prediction and that's the growth we see in Indian Chartered Accountancy profession as the reach of Indian CAs is expanding.

CA. Rajasekar Rajagopal, Assurance Leader, EY Global Delivery Services said that India is a pool of talented professionals and accounting organisations should nurture and retain such talent by providing them right training and skills development rather than having them cross the world. He highlighted that Indian IT & ITES services have changed from providing just services to Research & Development.

A-2: Emerging Avenues for Professional Accountants

CA. Subodh Kumar Agrawal, Past President, ICAI, highlighted that Information Technology is a disruptor but presents huge opportunities for professional accountants. He listed out Valuation, Forensic Audit, Stressed Asset, Outsourcing, New Emerging Technology and Advisory as emerging avenues for professional accountants.

CA. Sanjeev Krishan, Non-Executive Chairman, Price Waterhouse & Affiliates stressed that Covid has accentuated many of the disruptions in the ecosystem today although it created many opportunities on its way. According to him, difference in age, conflicts happening around the world, asymmetry and polarization in the world are main disruptors. And there is so much opportunity arising out of such disruptions.

CA. N. Venkatram, Managing Partner and CEO, Deloitte Haskins & Sells LLP stated that "this is India's century" and we need to make the most of it. He pointed out that there are

recessionary and inflationary trends but there are opportunities and India can collaborate with the world to benefit from it. He stressed that the domestic market needs to grow, which will make India a 5 trillion dollar economy by 2027.

CA. Balaji V, Managing Partner, True and Fair Professionals Network said that the professional accountants need to enable trust, be very honest, independent, excellent and full of virtue of integrity in their work. Explaining the disruptors of IT as Artificial Intelligence, Block Chain, Cyber Security and Data, he said that despite many accounting tasks being automated, accounting professionals will never be replaced by technology.

A-3: Leading Sustainability: How Do We Build a Profession That Is Ready?

Ms. Helen Partridge, IFAC Director, Accountancy Education, moderated the session and initiated the discussion with a question that how many of them believe that the profession is ready for sustainability and how we are best positioned profession to deliver sustainability.

The panellists viz. Ms. Jelena Misita, Chair, IFAC PAODG, Ms. Anne Marie Vitale, Chair, International Panel on Accountancy Education, Ms. Julia Penney, President, ICAEW, Ms. Thuto Masaba, Head of Advisory, BDO Advisory Services and Dr. In Ki Joo, Past President IFAC, were of the view that this has been an immense opportunity to expand the skill set as up-scaling is not new for the profession. Panel was of the view that accountancy profession has the expertise and the skills that are foundational and with incremental knowledge the profession is absolutely ready to meet the challenge.

The discussions revolved around the core competencies of Chartered Accountants and collaborations required to take forward the agenda of sustainable development around the world.

Dr. In Ki Joo, Past President, IFAC, concluded with the remarks, "The accountancy profession has a critical role in building strong and sustainable economy."

A-4: Professional & Investment Opportunities in Australasia and ASEAN

CA. Manoj Fadnis, Past President, ICAI, introduced the theme and contextualised it with

the fact that that globalisation has undoubtedly generated boundless opportunity for the professionals to excel.

Mr. Andrew Hunter, CEO Australia, impressed upon the importance of usages of technology in the profession. He observed that the future of accountancy profession would be dependent on fostering the culture of investment.

Ms. Kate Boorer, President, CAANZ, observed that diversity in the career of the accountants is the hallmark of the profession. She emphasised that the success of the profession would be largely incumbent upon the flawless communication skills.

CA. Samir Mehta, Chairman, Sydney, Australia Chapter of ICAI, observed that like India, Australia is also a land of massive opportunity.

He shared with the gathering that Indian CAs have ample opportunities in Australia.

CA. Sandeep Agarwal, Chairman, Kuala Lumpur, Malaysia Chapter of ICAI, while underpinning the implementation of GST in India, stated that the world has to learn a lot from India in this regard. He informed the audience that the reintroduction of GST in Malaysia is in its nascent stage.

CA. SV Padmanabhan, Past Chairman, Singapore Chapter of ICAI, noted that if any Indian Company is desirous of becoming global, they should explore being establishing themselves in Singapore. He stated that differentiated approach in experience would guarantee emergence of plenty of opportunities to the profession.

Glimpses of Day 1 & 2



Keynote Address



S2



S3



S5



Plenary Session



S4



Plenary Session



A1



A4



A2



A3

Day 3 (20.11.2022)

Special Session S-6: Technology, Innovation & Entrepreneurship

The special session was led by **Mr. Sridhar Vembu, CEO, Zoho Corporation**, sharing his experience and thoughts on Technology, Innovation & Entrepreneurship wherein he spoke about balance and what causes imbalance in every aspect of business and accountancy. "Fundamental problems in the lack of value addition in rural areas forces people to migrate to urban cities leading to the imbalance of symmetry, the balance of capabilities, the sole factor affecting the GDP. Therefore, if a balance in value addition is created in the rural areas, the balance of capabilities is restored. This leads us to the balance of mind and nature also known as harmony, a principle cohesion within an economy and the balance of our mind that is contentment. He concluded his session by emphasizing on the four principles to achieve Economic Prosperity, Civilization Balance, Balance with Mother Earth and Spiritual Economics i.e. Balance, Symmetry, Harmony and Contentment & Humility.

Special Session: S-7: Enhancing the Startup Eco System

CA. Sunil Goyal, Past President, ICAI, highlighted that startups were once a domain of Silicon Valley, but now India has come to the forefront and the startup ecosystem in the country has evolved so much.

CA. Suresh Prabhu, Former Union Minister, said, "Start-ups are a new catchword, but innovation has been there since the invention of fire. In today's time the innovation of technology is one such idea and it drives innovation, backed by funds available giving us successful startups. Today, India's startup industry ranks 3rd in the world and can grow with a strong startup ecosystem much like US's Silicon Valley. Through this ecosystem we can make any idea into a successful business venture, they can take a business venture into a level where in those who invest as well those who created the idea all benefit, a win-win formula for all."

Keynote Address: S-8: Igniting Innovation in Global Professional Landscape

CA. Dilip B. Desai, Chairman, DHC International emphasized on 9 transformational actions that can impact the ignition of innovation in the global professional landscape. Namely, SMP focused global network where large firms are at strategic locations and SMPs globally, global center of excellence with borderless service organizations for the borderless business world, global network with MDF's, Hybrid operating model for consulting verticals, creating a dual network - making a split of assurance and consulting services, public listing of consulting vertical, creating a global skill academy, foundation for policy advocacy, and making way for technology, trust and sustainability.

S-9: Taxation Landscape in India

CA. R Bupathy, Past President, ICAI, highlighted that most of the economic indicators are in favour of India as an investment destination. He stressed on the need for tax administration to follow 3Ps i.e. profit (revenue), people (tax payers) and planet.

CA. Sanjay Kumar Agarwal, Chairman, Committee on International Taxation, deliberated that international taxation started taking shape in India in the year 1993 when India was the 10th largest economy which has now moved to 5th place and striving towards 3rd place next only to USA and China. There has been a phenomenal increase in number of foreign companies operating in India. Now, OECD is inviting ICAI for participation in their proceedings/matters.

CA. Rajendra Kumar P, Chairman, GST & Indirect Taxes Committee, expressed that consumption taxes world over should not be regressive. Consumption taxes are something which keeps the Government moving up and going and helps to judge the economy of a country. He highlighted that India is the only Federal Nation which has the consumption tax like GST levied uniformly across its entire territory in equal terms in every respect.

CA. Chandrashekhar V. Chitale, Chairman, Direct Taxes Committee, briefed that the Direct Taxes Committee has been regularly

representing to the Government (on taxation matters based on law) and to the CBDT on administrative difficulties faced by the taxpayers and other stakeholders. The Committee also assists Government by providing suggestions on important matters like Union budget, being a true partner in nation building annually.

CA. Umesh R. Sharma, Vice Chairman, GST & Indirect Taxes Committee, highlighted that the key objective of the GST & Indirect Taxes Committee is to assist Government in making indirect tax laws in the country simple, transparent, certain and equitable. The ICAI feels proud for its support to the GSTN for a robust technological development in India.

CA. Cotha S. Srinivas, Vice Chairman, Committee on International Taxation highlighted that ICAI has been partnering Government since 1991 i.e. since globalisation and liberalisation took place in India. The Committee has been actively participating in tax matters in OECD/ UN and has made submissions on the Public Consultation Documents issued by Organisation for Economic Co-operation and Development (OECD) with respect to Pillar 1 and Pillar 2.

S-10: Taxation in the New Global Era

Mr. Arvind Datar, Prominent Senior Advocate started with the quote “The best way to improve the present is to visualize a bigger future.” While marvelling on the way technology has transformed lives, at the same time, he cautioned about the resultant challenges in law which would arise. He drew reference to BEPS Action Plan 1 Tax Challenges arising from digitalisation. He pointed out that the indirect tax challenge arises in allocation of taxing rights i.e., whether in the place where supplier is located or where customer is located. The second challenge is the case of B2C transactions, which are generally a large volume of low value transactions. The third challenge is that there is no standard definition on what amounts to “consideration”. He opined that there should be DTAAs for indirect taxes also through which these challenges can be addressed. He further remarked that the major problem is with respect to digital services, which have a virtual presence. All these issues in taxation, needs to be addressed.

CA. Ved Jain, Past President, ICAI remarked “Taxes represent the cost of civilisation which each person is expected to contribute depending on his ability to pay”, as he commenced his presentation by highlighting the fundamental principles of taxes. According to him, it is the sovereign right of the Government to tax. Tax laws should be simple and certain and the tax system should be a reasonably good one which addresses disputes and litigation effectively.

He further emphasised “Over a period of time, however, taxation has been used to achieve other objectives, including social welfare objectives”. Like addressing geographical imbalances by encouraging investment in certain areas or employment in certain industries, promote certain industries and attract investment by offering exemptions from tax in India through DTAAs.

S-11: ICAI – Robust Regulatory Framework

CA B. P. Rao, Past President, ICAI, addressed the gathering on the par excellence education and the robustness of the Regulatory framework of ICAI. He emphasized that ICAI’s examination system is referred to as one of the best examination systems in the world.

CA. Ranjeet Kumar Agarwal, Chairman, Taxation Audit Quality Review Board addressed on the Unique Document Identification Number (UDIN) as a pathbreaking initiative of the ICAI. Highlighting the importance of UDIN, he mentioned that UDIN is quite unique in sense, as it regulates and safeguards the profession besides assisting the Government in framing policy.

CA. Anuj Goyal, Vice Chairman, Peer Review Board, informed that ICAI conceptualized the need for the Peer Review System in 2002. The purpose of peer review is to provide guidance to the members of ICAI to improve their performance, quality of attest functions consistently and with greater transparency. It is recognized and mandated by SEBI and CAG for undertaking assurance assignments of any listed entities and PSUs.

CA. Durgesh Kumar Kabra, Chairman, Financial Reporting Review Board said that Centre for Audit Quality (CAQ) of ICAI has developed Audit Quality Maturity Model

(AQMM) to measure the audit quality maturity at firm level, which will help the firms to chalk out the roadmap for attaining higher level of maturity and quality. He further highlighted that from next year AQMM is going to be mandatory by ICAI for CA firms for audit of listed companies.

CA. Prasanna Kumar D, Convenor, UDIN Directorate highlighted the regulatory role of ICAI through TAQRB. He mentioned that the role of Tax Audit conducted by the CAs is a very crucial audit function that enables the Government of India to bring economic welfare. He mentioned that TAQRB checks compliance with the reporting requirements prescribed under various sections of the Income-tax Act, 1961 and under various provisions of the Indirect Tax Laws.

CA Abhay Chhajed, Vice Chairman, Financial Reporting Review Board, highlighted the regulatory role of FRRB which was formed by the ICAI in July 2002, as proactive self-regulatory mechanism within the ICAI to strengthen sound financial reporting practices and to improve transparency in financial reporting to promote investor confidence in audited financial statements. The Board has been functioning effectively and independently to the satisfaction of the stakeholders' especially regulatory bodies.

Special Session: S-12: Leveraging Technology to drive digitisation of Corporate Treasury

CA. N. P. Sarda, Past President, ICAI, dwelt on the role of corporate treasury in managing financial resources such as capital, funds, risk management, funds optimization and ensuring regular availability of funds, etc. He viewed that treasury function has become a strategic function for any corporate. Listing out the factors accelerating digitisation of corporate treasury, could be better controls/ reporting, enabling digital collaboration and data visualization tools.

Mr. Siddharth Rungta, Head, Global Payment Solutions, HSBC, India, categorized that more technological change has taken place in the world during the last two decades than in the last two centuries. He viewed that today, each company, across sectors, must consider itself as a technology company first in order to survive. He said the Distributed Ledger Technology, is changing the treasury processes in terms of

trade finances, LC issuances, etc., and called on the treasuries to have a real-time mind-set for the entire eco-system.

Plenary Session: Navigating the Global Economic Recovery

CA. (Dr.) Debashis Mitra, President, ICAI, welcomed and reminisced about how he considers Shri Piyush Goyal, Hon'ble Union Minister, to be the brand ambassador of the Chartered Accountancy profession in India.

Shri Piyush Goyal, Hon'ble Union Minister, addressed the session on the theme Navigating the Global Economic Recovery. He said, "In the situation of volatility, uncertainty, complexity and ambiguity, true leaders are born, who have a deep understanding, the ability to decongest a situation with a clarity of vision and problem solving skills. Today, I see these kind of leaders at the WCOA; Chartered Accountants have that educational skill, capability, deep understanding, which is required to be the leaders for the change of tomorrow. And in these days and age when the world economies are under stress, I'm delighted to see this wonderful event that is drawn for WCOA and the efforts put in by ICAI, the regulatory body of this profession, to be a role model for other institutes to come".

He further shared "The progress of India's GDP in the last 25 - 30 years has improved by 11 times that is 270 billion to 3 trillion dollars today. We are working towards a vision to make India a 'Developed Nation' by 2047. To conclude, economic recovery for India is a world vision we believe in 'One earth, One family, One future' aka 'Vasudhaiva Kutumbakam' which is the theme of our G20 presidency starting from 1st of December, 2022."

CA. Aniket S. Talati, Vice-President, ICAI, thanked Hon'ble Union Minister Shri Piyush Goyal for his presence and hailed the India G20 motto and thanked all the other speakers who graced the stage of WCOA.

Post this a Panel discussion was held which was moderated by **CA. Sonal Bhutra Maloo**, Anchor & Sr Analyst, CNBC TV18. Initiating the dialogue she said, "lets understand what leads to global economic recovery post pandemic and what's the outlook for the global economy."

Mr. Sanjeev Sanyal, Member, Economic Advisory Council to the Prime Minister of India said that the Indian Economy is in good shape, inflation band below most of the world economies and RBI is taking substantial measures on liquidity front. He emphasised that the government has invested in physical frameworks of growth, where its physical infrastructure dramatically increased. For example, the number of airports, highways, underground railway system, etc. Further, soft infrastructure has also been strengthened which includes GST for common market, framework for insolvency and bankruptcy, etc. He emphasized that the accountancy profession has a very big role to play, because it brings to the table the framework of trust and governance.

Mr. Dinesh Kumar Khara, Chairman, State Bank of India, underlined that the first and foremost important thing for any bank would be the right recognition of its asset quality, and there he thinks the accounting profession has a lot to contribute. The kind of confidence which accountants give in terms of health of a particular entity, goes a long way in terms of building the trust. He added that the accounting profession has certainly contributed in terms of identifying the quality of the assets which are sitting in the books of various banks, which is very important, as banks are the custodian of trust, when it comes to money which is being handled on behalf of the depositors. Therefore, he is of the opinion that accounting profession has a lot to contribute in terms of ensuring the stability of the system.

Mr. M. Ayhan Kose, Chief Economist and Director of Prospects Group, The World Bank Group said that the world is facing multiple challenges, high inflation in advance economy above target, financing condition is getting tightened & interest rate is rising and geopolitical challenges creates uncertainty such as food insecurity and energy insecurity. He expects weaker growth persistent inflation into the next year, and probably volatility in commodity markets and financial markets. Therefore, he indicated uncertain road for the global economy.

CA. Kamlesh S. Vikamsey, Past President, ICAI appreciated the profession for standing up to the challenges during the Covid time. He deliberated how technology has played a vital

role during the time of Covid and beyond. Due to advancement of technology the working system is integrating across the globe and distance is no longer a hurdle in doing good work. He also talked about convergence of accounting standard and harmonization of financial statements across the world.

Plenary Session: Assurance: Enhancing Trust and Confidence in Sustainability Information

The session discussed the road ahead for enhancing trust in sustainability information through high quality assurance and the global standard-setting activities of the IAASB.

Mr. Chun Wee Chiew, IAASB Board Member, wonderfully moderated the session by engaging all the panellists and deriving insightful information from them. He remarked that the IFAC vision of high-quality assurance of sustainability information corroborates the importance of regulation. International Organization of Securities Commissions (IOSCO) supported the efforts of the IAASB to develop the global baseline of investors focused disclosure requirements and the efforts of International Ethics Standards Board for Accountants (IESBA). This is a sort of a transition period and the whole ecosystem will take some time to mature.

Mr. Tom Seidenstein, Chair, International Auditing and Assurance Standards Board, elaborated that Standardisation of Sustainability reporting is significant to prevent fragmenting of regulatory framework. It is imperative to arrive at a consensus on global standards on assurance on sustainability reporting. The extant sustainability reporting practices do not deliver the desired quality of information for investors and stakeholders and thus, there is need for ensuring quality and consistency in sustainability reporting assurance.

Mr. David Madon, Director, Sustainability Policy & Regulatory Affairs, IFAC, stated that the professional accountants need to play a significant role in enabling the sustainable transition and need to bring trust and confidence to the sustainability information reported by the companies through high quality assurance. There is a need for high quality consistently applied standards and frameworks for reporting the information which will

provide the best foundation for high quality assurance. The alignment between financial and sustainability related information is another important element about reporting.

Ms. Hilary Eastman, Head of Global Investor Engagement, PwC, UK, remarked that investors are looking at comparability, transparency, consistency and information about what companies are doing and how they are performing. They also want to know how the KPIs are measured and relevance of the information. One of the things that investors are really concerned is trustworthiness of published information providing balanced and neutral reflection of what's happening within the business.

Mr. Wallace D. Gregory, Jr., Global Regulatory, Independence & Conflicts Leader, Deloitte, highlighted various issues which need to be considered like IAASB can develop Standards for the professionals for non-financial information, it cannot force them on the non-practitioners. There is need to have an equally robust framework for non-practitioners. Role of regulators would be the only way to ensure that consistency. Shortage of talent for these specializations is a key area where PAOs can step in and help by developing guidance in education.

Mr. Naweed Lalani, Director, Audit & Infrastructure - Supervision, Dubai Financial Services Authority, stated that global bodies like IOSCO have to mandate the standards for its member bodies that will make way for all the national standard setters to comply with it. The implementation challenges are even harder. We may have the best of the framework, but we need sufficient qualified resources for implementation. Expectation Gap, Education Gap and the Resources Gap are the 3 gaps which will be crucial for the sustainability related work. There is need to work on bridging these gaps.

B-1: Understanding Capital Market for Wealth Creation

CA. Anil Singvi, Managing Editor, Zee Business, welcomed all the guests and opened the discussions with a statement, "The only rising and shining star in the world today is India" which was appreciated by one and all.

CA. Navneet Munot, MD & CEO, HDFC AMC, said that he felt "Proud to be a Chartered Accountant today." Calling CAs as "Change Agents", he said, "Whatever we do, we must do it for the welfare of many, for the good of many." He also advised the professionals to not be complacent towards their duties and emphasized on 3Cs naming - Conviction, Courage and Character - to become a sustainable economy.

CA. Nilesh Shah, Group President & MD, Kotak Mahindra AMC, shared an interesting fact, saying, "Six out of 10 fastest growing cities in the world today are from India." A country's growth depends upon the growth of its various sectors, he added. He further termed CA professionals as financial advisors of investors.

Mr. Madhusudan Kela, Founder, MK Ventures, said that India's geopolitical importance has increased in the world, saying, "At the time when they entered into the Stock Market, India was struggling to enter G-20 and now PM Modi has been made its Chief." He was optimistic about India's financial market which is growing exponentially.

During the discussion, all panellists agreed that, "If our inflation is under control and we have sufficient foreign reserves, then our economic growth will write a new chapter in history."

B-2: Building Trust - Improving SME Reporting

Ms. Monica Foerster, Chair, IFAC SMPAG, said that businesses are responsible for millions of employments all around the world. She also highlighted that IFRS for SMEs is being updated for the new IFRS issued recently which would form the basis for the first ever International Non-profit accounting guidance.

Ms. Michelle Sansom Project Manager, IFRS for SMEs, highlighted that Small and Medium Enterprises are critical in both private sector and not for profit entities. She stated that the standard is being maintained by periodic review once every 3 years to reflect better resources available with SMEs.

Mr. Ian Carruthers, Chair, IPSASB, highlighted that International Non-Profit Organisation is a resilient, accountable sector. It is also more reliable, trusted and consistent

sector. He informed about another milestone, i.e. Launch of Exposure Draft of International Non-Profit Accounting Guidance on the third day of WCOA 2022 for comments till end of March 2024. It mainly covers description of Non-Profit organisation, Narrative Reporting, General Purpose Financial Statements.

Ms. Assietou Sylla Diouf, Managing Director, Finance and Operations- GAVI, the Vaccine Alliance stated that International Financial Reporting for Non-Profit Organisations are one of the landscape of regulations and guidelines which are easy to understand & apply and also user- friendly. These acts as one common language for communication such as accountancy facilitates not only for the profession but the entire ecosystem.

CA. M P Vijay Kumar, Member, IFRS SME Implementation Group (SMEIG) and IFRS Advisory Council, mentioned that IFRS for SMEs are for less complex entities and it is advisable to make audit mandatory to these entities. On being asked about the opportunities, he added that IFRS for SMEs based on IFRS helps in reducing the distinguishment for entities applying IFRS for SMEs and IFRS Accounting Standards.

B-3: How Fintech is Reshaping the Financial Services Ecosystem

CA. Ramakrishnan Subramanian, Chairman, Singapore Chapter of ICAI, set the tone for the session with few key insights like the future of work is increasingly remote working. Purpose is defining the work. Technology is creating scalability, inclusiveness, and ability to serve millions of customers. Innovation and disruption are challenging the status quo.

Mr. Nakul Jain, CEO, Paytm Payment Service Ltd. mentioned that in the last couple of years the payment space has evolved in a big way with technology. That is evident from the fact that if you look at just the financial data of 2022, almost 75 billion transactions have happened digitally. He mentioned that the regulatory bodies has played a key role in really pushing the space to the next level with services like RTGS, NEFT, UPI, etc.

Mr. Jinand Shah, MD, Online PSB Loans, said that lending industry is transforming rapidly. The digital payment sector in India is already

quite matured and the lending sector in India is also fast developing. It is estimated that in just another 2 years the entire lending industry will be automated.

Ms. Deena Jacob, Co-founder & CFO, Open Financial Technologies Pvt. Ltd., shared her views on Neo Banking, saying that it is about complete digitization, or rather the digital banking, without even having any kind of touch point with a bank from a physical perspective. Neo Banking can have multiple niche segments and offer a full range of products and services.

Mr. KK Pan, Vice President, Oracle NetSuite Asia and Japan, said that technology has empowered Payments, Lending & Neo Banks. Technologies like Artificial Intelligence, Machine Learning provide better Customer Services, Risk Management and Fraud Detection technique. It gives speed and agility to the customers.

B-4: Professional & Investment Opportunities in Americas & Europe

CA. Jaydeep N Shah, Past President, ICAI, stated that the nation's diversity and growth, regulatory environment and pluralism are conducive for the investment and professional opportunity.

Mr. Indy Singh Hothi, President, ICA Scotland, impressed upon the digital engagement strategy for the professionals in search of their growth in Scotland.

Ms. Chandrima Sinha, Vice President, Invest India, elaborated upon the aim and objectives, as also the achievements of the Invest India in harnessing the investment opportunities in the country.

CA. Deepak Arora, Chairman , British Columbia, Vancouver Canada Chapter of ICAI, shared with the audience that one can easily start one's business in Vancouver as they have a very strong network of Chartered Accountants.

CA. Krishna Prasad Dahal, Chairman, London, UK Chapter of India, stated that it is not very difficult to practice Accountancy in UK as the profession as on this date is unregulated.

CA. Vikas Chaturvedi, Chairman, Amsterdam, Netherlands Chapter of India, while

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explicating upon the opportunities in the Netherlands quite elaborately, presented various macroeconomic aspects of European Union. He exhorted that the rising demand of trained accountants will come from India.

CA. Vishwanathan Arunachalam, Founder Chairman, San Francisco, USA Chapter of ICAI presented the potential of the Chartered Accountancy profession in the USA in view of their incredible expansion in various states of the USA.

Glimpses of Day 3



Plenary Session



Plenary Session



S7



S8



S10



S9



S11





ACCOUNTANCY PROFESSION: TRUSTED PARTNER IN SUSTAINABILITY AND SOCIETY



Day 4 (21.11.2022)

S-13: Do we really live in a connected world? An insight into a possible future of how connectivity can change the lives of professional accountants and businesses globally.

CA. Y.M. Kale, Past President, ICAI, said that as we move deeper into Data Analytics, IoT, Robotic Process Automation, Blockchain, Artificial Intelligence, Cyber Security and Fintech, the competition between the Chartered Accountants in the future may not be from rival colleagues, but more generally from inroads of connectivity driven by newer technologies into all sorts of adjacent competencies. This is not an alarmist forwarding, but an exhortation to examine how the roles of Chartered Accountants will be recast and their work modality will be impacted.

Mr. Bharat Goenka, Co-founder & Vice Chairman, Tally Solutions, pointed out that "Companies today have witnessed changes in their communication, but can you convene transactions wherein live and updated data is required over export and old data, which brings in the need for technology changes. This action of occasional communication with clients is changing in the next 12-18 months. The role of Chartered Accountant comes in when the businesses fail to have the acumen for finances and accountancy."

Special Session: S-14: Enabling Sustainability for a Better Future

CA. M.M. Chitale, Past President, ICAI, while delivering his address stressed upon the three pillars of ESG - Environment, Social and Governance. He added that not only human beings but all the mortals existing in this world need to be satisfied. Explaining one of the sutra of Arya Chanakya - "*sukhasya mūlam dharma: | dharmasya mūlam artha: | arthasya mūlam rājsya | rājsya mūlam indriyajaya*" he mentioned that the sutra aptly describes that the objective of sustainability is happiness and talking in terms of accountancy profession, ethics and commitment to duty is our dharma.

Ms. Teresa Jacobs Executive Director - Learning ISDC, initiated the session raising

the issue of sustainability, starting point of which is 2016 with the inauguration of UN Sustainable Development Goals. She acknowledged Hon'ble Prime Minister of India, Shri Narendra Modi ji for introducing the concept of '*Lifestyle for the environment (LiFE)*' and appreciated Indian companies for banning plastic bottles and adopting recycling process.

Special Session: S-15: Being Future Ready - India@100

CA. Amarjit Chopra, Past President, ICAI began the session by highlighting that one of the key issues facing Indian businesses relates to its ethical practices. He observed that the nature of business has undergone a change particularly in the last decade; and the coming decades are going to change it even further. He concluded by stating that "The saviour of this situation would be VUCA again, but a VUCA which stands for a Versatile, Unique, Candid and Upright Accountant who will be able to rescue businesses in India and prepare India@100".

Mr. Deepak Parekh, Chairman, HDFC, said, "From what I have seen in the past 3 days I see WCOA being the pillar of solidarity by being faster, aiming higher and standing strong together. Today the world is in a Poly-Crisis state in many ways. All countries around the world are facing a drop in growth from 6.1% to 2.7%, whereas India, has had a calibrated and confident increase. I see the growth of India in the next 5 years going from 3.4 trillion dollars to 7.5 trillion dollars."

S-16: Recent changes in Corporate, Economic and Other Commercial Laws

CA. (Dr.) Rajkumar S. Adukia, Chairman, Committee on Economic, Commercial Laws & Economic Advisory, briefed about the recent changes made in various laws. He discussed about the evolution that takes place in the field of laws - Supreme Court online proceedings in public domain and number of laws brought down to 910 from 1300 in last 10 years. He also highlighted that recently new digital personal data protection bill was introduced. India is the first country to adopt United Nations Commission on International Trade Law (UNCITRAL Laws).

CA. Sripriya Kumar, Chairperson, Corporate and Laws Corporate Governance Committee, specifically covered the topic of Insolvency and Bankruptcy Code and highlighted the bankruptcy law reforms committee report. She further said that it's a collective process where the resolution professional calls for claims, tries to get a resolution plan, and tries to settle the debts of the company, and tries to revive the company.

CA. Prakash Sharma, Chairman, Banking, Financial Services and Insurance Committee, firstly thanked Indian legislature and multi-government for active response to economic situation. He highlighted about the changing areas where financial audit become system audit and discussed about the audit tools. He discussed about various laws, e.g., IBC, GST, Artificial Intelligence.

CA. Hans Raj Chugh, Vice Chairman, Committee on Economic, Commercial Laws & Economic Advisory, underlined the ease of doing business parameters in India. He stated that within a span of 8 years, India has reached number 63 from 142 and surpassed all the capabilities and parameters whereby India has been looked at differently by the World.

CA Priti Savla, Vice Chairperson, Corporate Laws and Corporate Governance Committee, highlighted the term 'Social Stock Exchange' under BSE and NSE that will allow non-profit organizations to list on the stock exchange. She stated that the social audits will be done by the qualified members. Therefore, recently ICAI has formed self-regulatory organization (SRO) to pursue the role of a social auditor.

Special Session: S-17: Happy State of Mind for a Greener World

Dr. Bhagwat Kishanrao Karad, Hon'ble Minister of State for Finance, through his virtual address stressed about the trust in accountancy. He said, "Accountants have acted as enablers, problem solvers, change makers and are a resilient force for every business across the world. Accountants have always held a position of trust in the entire value chain." He further said that he believes trust is going to be a currency of all human beliefs and relationship especially in business, in the coming decades.

CA. M. Devaraja Reddy, Past President, ICAI, started his address by saying, "When you are happy, the world is happy." Continuing further he said, we need to reduce our wants to be happy.

Also, excellence in our respective fields will come only when our mind is happy. So, it is in our hands how we want to be happy.

Dr. Gnanvatsal Swami, Life Coach and Eminent Speaker said, "Growth, progress and success are all different. There are 3 ways through which one can achieve a happy state of mind – Be a prosperity thinker not a poverty thinker, practice intense hard work with ethics and third, always maintain the right amount of humanity, morality and spirituality inside of you towards others to achieve happiness in your mind."

S-18: Initiatives for MSME, Start Up, PFM and Export of CA Service

CA. Uttam Prakash Agarwal, Past President, ICAI, acknowledged that ICAI has been working relentlessly and excellently for the benefit of the members. He also stated that being the members of the august profession, plethora of opportunities have been made available by the ICAI, however, to tap the opportunities domestically as well as globally, there is a need to upskill and capacitate the membership base.

CA. Kemisha Soni, Chairperson, Committee on Public and Government Financial Management, also briefed the delegates that ICAI also formulates Accounting Standards for Local Bodies (ASLBs) to harmonise diverse accounting practices that are being followed in Local Bodies. She highlighted the ICAI contribution to improve the accounting and financial management system in all tiers of Government in India by various means.

CA. Dheeraj Kumar Khandelwal, Chairman, Committee on MSME & Start-up and Committee for Development of International Trade, Services & WTO, shared insights of the start-up ecosystem in India. He elaborated that from increasing literacy rate, enabling digitalization to India's state of the art infrastructure, all provide a cohesive ecosystem for the start-ups placing India at the 3rd rank world over. He also apprised the delegates about the Start-up portal launched by the ICAI.

CA. Rohit Ruwatia Agarwal, Vice-Chairman, Committee for Development of International Trade, Services & WTO, acknowledging the enormous opportunities available for the professionals globally, briefed about the array of initiatives undertaken by the ICAI to make Global Ready professionals including international campus placement, tailor-made foreign language courses for CAs and support infrastructure with 77 representative offices and chapters across the globe.

CA. (Dr.) Raj Chawla, Vice-Chairman, Committee on MSME & Start-up, briefed about the concerted efforts made in the MSME sector. He stated that the ICAI has been a swift responder to MSME needs by enabling and enhancing the MSME ecosystem through its MSME Yatra undertaken in 75 cities of the country. He highlighted that the ICAI has also launched a dedicated portal to provide an enabled ecosystem for networking and facilitating to MSMEs

CA. Piyush Chhajed, Central Council Member, while presenting the activities undertaken by the Institute for the professional development, stated that the profession of Chartered Accountants has a more proactive role to play in social engineering and supporting the Government in carrying out the developmental schemes for the country.

C-1: Public Sector Priorities: Trust, Sustainability and Accountability

CA. Sudhir Soni, Head of Audit, BSR & Co initiated the panel discussion by highlighting the important role of public financial management (PFM) in helping governments prioritize the pressing issues before them to serve the best interests of their citizens. He stated that the COVID 19 pandemic, volatile markets and climate change have posed challenges in PFM.

CA. Srinivas Gurazada, Global Lead, Public Financial Management & Head, PEFA Secretariat, World Bank, explained that Government's COVID 19 response would not have been successful without PFM systems and added that the role of accountants in this context is very significant especially to work with governments to get countries move to accrual accounting. He further highlighted that there is a need to improve two key aspects - public procurement and public investment.

Mr. Ian Carruthers, Chair, IPSASB, stated that the IPSASB tries to strike a balance between drawing on the literature that the International Accounting Standards Board has produced for the corporate sector and actually addressing public sector specific issues. He added that IPSASB is working on a Conceptual Framework to identify and address the special issues around public sector finance.

Mr. Kesavan Srinivasan, Deputy CAG of India and Chairman of the Government Accounting Standards Advisory Board, opined that in India, sustainability is a virtue in itself; it means that all

countries live together in happiness. *"Green GDP is the Indian vision towards achieving sustainability"* he stated. He added that the key challenge is to ensure that public funds are being utilised efficiently and judiciously.

Mr. Joseph Owolabi, Incoming President, Association of Chartered Certified Accountants (ACCA), stated that governments around the world are used to following cash-based accounting. He opined that the key challenge to move to accrual accounting is the quality of data. He observed that a number of PAOs are playing leading roles in providing capacity building support for the public sector finance system to leverage the skills and the tools that is needed for accrual accounting.

C-2: Technology and the Future

CA. K. Raghu, Past President, ICAI highlighted the significant role technology has played in our daily lives. He said, "In India, Government is giving a big push to the Intelligence technology so every Accountant should be Tech-savvy. Also due to push given by the COVID, Cloud is gaining popularity- online, real time and web-trust audit has become possible.

Dr. Clare Walsh, Head of Education, Institute of Analytics suggested that the accountants have to engage with technology. She said year 2023 will be a landmark year of change as Regulation in Technology will be imposed. She further suggested that there is no illegal or unethical technology, it's the way the technology is used.

Mr. Jeffrey C. Thomson, President & CEO, IMA addressed on the theme Race for Relevancesaying, "We want accuracy with reasonable assurance." He said that new technology is expanding rapidly and profession must move faster & smarter and leverage the emerging technologies to win the race of relevance.

Mr. John Turner, CEO XBRL International spoke regarding disclosures which create feedback loops from investors, lenders, regulators, customers, suppliers, increasingly from a much wider set of stakeholders. He further added that India is at least 12 months ahead, this year a couple of 100 voluntary companies have provided their BRSR disclosures on a voluntary basis.

CA. Shailesh V. Haribhakti said, "We should change ourselves to make us embrace and look forward to this new world that is emerging before us. By 2035 we will have a new singularity of

information, technology, nanotechnology, and biotechnology, an Indian element to it we will bring sustainability, technology, and spirituality together."

C-3: Cyber Security in Financial Services

CA. Naveen N D Gupta, Past President, ICAI, highlighted that Professional Accountants plays a very important role as far as Cyber Security is concerned by making the businesses and entire world a secure & better place. He said that Cyber Security, in today's phase of technological innovation and disruption means 'Better to be safe than Sorry', while working in the technology dominated environment.

Mr. Vishal Salvi, CISO & Head of Cyber Security Practice, Infosys, said that cyber security has become a mainstream topic globally. Also, during the pandemic, we have more and more people working from outside their office, from privately owned systems. This has given rise to security threats. He highlighted that there are three important pillars of the Cyber Security; confidentiality of information, integrity of the data and availability of information.

CA. Dharshan Shantamurthy, Founder and CEO, SISA Information Security, said that as auditing fraternity, trust is something which is ingrained in each of us as professionals. He said that there are two ways to solve the problem of cyber security or cybercrime i.e. being reactive and pro-active. He also added the key is to learn from what is happening around, share it and prepare ourselves.

Mr. Tushar Haralkal, Senior Technical Specialist Security, IBM India South Asia, gave a brief about the top cyber threats that financial institutions are experiencing which included social engineering attacks like phishing, ransomware attack. He mentioned that most of us are working from remote locations due to COVID pandemic which has increased the risk internal applications, devices, infrastructure etc. exposed to cyber threats.

C-4: Professional & Investment Opportunities in Middle East and Africa

CA. Ankit Agarwal, Chairman, Doha, Qatar Chapter of ICAI said that with the changing dynamics of global oil market, the search for diversification in the Middle East has led to the emergence of several new opportunities. The introduction of VAT across the region will mean

that there will be additional funding available for investment along with other large-scale events.

CA. Anurag Chaturvedi, Chairman, Dubai, UAE Chapter of ICAI said that the Middle East has a great strategy to invite the global talent. The international talent is on the watch list of these Middle East countries. No better time than this for firms to establish their business in the Middle East as they are embracing various reforms.

CA. John George, Chairman, Abu Dhabi, UAE Chapter of ICAI highlighted the UAE-India relationship in recent years has dramatically changed and the trade between them are likely to boost significantly.

CA. Sriram Gopalakrishnan, Chairman, Kuwait Chapter of ICAI said, "Kuwait has a great respect for Indians and they enjoy incredible relations. Indirect Tax Regime in Kuwait may take a couple of more years for getting implemented. In Kuwait any statutory function cannot be taken up by the outsiders."

CA. Sharmila Shet, Chairperson, Bahrain Chapter of ICAI, said that Policies of the Bahrain Government is quite liberal for attracting the FDI. The country allows 100% foreign ownership. They have brought to the fore the Investment Parks.

CA. Sajeev Surendran, Chairman, Muscat, Oman Chapter of ICAI, stated that Oman has similar cultural fabrics as in India. It is quite conducive for the Indians to engage in professional activities. The Government is supportive of establishing business and within no time one can establish the business in Oman.

CA. Samir Khatri, Chairman, Port Louis, Mauritius Chapter of ICAI concluded the session that the Middle East and African regions appear to remain very much open for business to international accountants.

Plenary Session: Chief Value Officers: Championing an Integrated Mindset to Drive Sustainable Value Creation

CA. Sanjiv Mehta, CEO & Managing Director, HUL, while delivering the theme address, shared his thoughts on Digital Sustainability, which is championing an integrated mindset to drive sustainable value creation. He said, "Let us transform our world into one that is fairer, inclusive, and more equitable, greener and more sustainable, healthier and smarter, and very importantly more adaptable and resilient,

and who better than accountants to play an important part in this journey."

Mr. Sanjay Rughani, Chair, IFAC PAIB Advisory Group and CEO and Managing Director, Standard Chartered Bank, Uganda, initiated the session by stating that the current challenging times are the best times for CFOs to lead the way as the world is looking for a trusted partner in a world where things are very chaotic such as pandemic, war and more importantly, big transformations around climate and digitization.

Mr. Bikash Prasad, Group CFO, Olam Agri, talked about the two key roles played by finance function over the time in terms of value reporting and value protection. The huge expectation from the investors, regulators and the government towards ESG and sustainability, demands CFOs to look at the value creation. Therefore, CFO function is focusing more on value creation.

Ms. Rachel Grimes, CFO, Challenger Limited & Past President, IFAC expressed her belief that the CFOs are to help educate the Board, senior management and everyone in the business about sustainability.

CA. Raj Mullick, Chief Accounts Officer and SVP, Reliance Industries Ltd., while sharing his experience, highlighted the initiatives of Reliance Industries Ltd. being always a trusted partner in the development of nation and talked about his passion in leading the sustainability agenda being a Chartered Accountant.

CA. Charanjit Attra, CFO, State Bank of India, being a part of financial services sector, expressed his perspective on borrowing concept, credit lines, operational risk and controls, sustainability initiatives such as solar powered ATM and role of CFOs in leading sustainability initiatives.

Special Session: Transform your life with Positive Thinking

CA. Nihar N. Jambusaria, Past President, ICAI pointed out 2 positive developments that have happened despite uncertainties and negativity around like Covid, floods, etc. One was holding the World Congress of Accountants in November 2022 itself when there were talks of postponing the event to a later date due to

the ensuing Covid-19 pandemic. Another was conducting the Final CA exams safely on the designated time.

Mr. Anupam Kher, World-renowned Bollywood actor and motivational speaker, who taking experiences from his life and teachings from his ancestors gave a powerful message that Positive thinking comes with dreaming, a dream to achieve something, to reach somewhere, and to reach success. Every man's success is a summation of positive thinking. He stated "in the last 50 years I have earned and lost a lot of money but I have never been dishonest and that is because of my Chartered Accountant, who has taught me how to stay honest."

Advocate Vijay Kumar Jhalani gave the concluding address by thanking Shri Anupam Kher and CA. Nihar Jambusaria. He applauded the approach of Mr. Anupam Kher to live life fullest with positive thinking perspective.

Closing Ceremony

The event was concluded with a closing ceremony honoured with the presence of Shri Devendra Fadnavis, Hon'ble Deputy Chief Minister of Maharashtra, Ms. Asmaa Resmouki, Incoming President, IFAC, CA. (Dr.) Debashis Mitra, President, ICAI, CA. Aniket S. Talati, Vice- President, ICAI and CA. (Dr.) Jai Kumar Batra, Secretary, ICAI.

CA. (Dr.) Debashis Mitra, President, ICAI, welcomed Shri Devendra Fadnavis, Deputy Chief Minister of Maharashtra and appreciated & recalled his key contribution to the organisation of WCOA 2022 in the form of swift permissions and unending support and encouragement.

Ms. Asmaa Resmouki, Incoming President, IFAC expressed, "I am very honoured to be a part of the WCOA in India and am delighted to see the arrayed sessions that have been held in the past 4 days. Our profession overall should be a home for people with purpose. The next WCOA's destination is yet to be decided but will be decided shortly." She highly appreciated the hospitality extended to the delegates in India.

Shri Devendra Fadnavis, Deputy Chief Minister of Maharashtra addressed the audience saying, "I am honoured to be a part of

this gathering. As politicians we are either on the right side or the left side but Accountants are always on the centre of the balance sheet. You as Accountants are the ambassadors of the business community. You have built a trust in the country which has created a tax compliant society, a society that asks their CAs to plan their taxes and not evade their taxes. Therefore, today GST revenue is at an all-time high." Quoting from the speech of Honourable Prime Minister Mr. Narendra Modi, Mr. Fadnavis further stated, *"The signature of a Chartered Accountant is more important than the signature of the Prime Minister of the country."*

In his address, **CA. Aniket Sunil Talati, Vice-President, ICAI** thanked Shri Devendra Fadnavis for sparing his precious time to address at the World Congress. He thanked the President of ICAI for dynamic leadership

throughout the planning and execution of the event and he thanked the Secretary and all staff of ICAI for their tremendous effort in putting WCOA 2022 together. In his parting words he addressed all the foreign delegates with the sentiment of 'Atithi Devo Bhava' saying "I thank all the foreign delegates, speakers, and attendees for joining us physically and virtually. We hope that all of you had a comfortable and thrilling experience."

During the closing ceremony MoUs were exchanged with ICA Nigeria and ICA Nepal.

CA. (Dr.) Jai Kumar Batra Secretary, ICAI presented Vote of Thanks and thanked IFAC for providing this wonderful opportunity to ICAI and leaders of global profession who have joined the WCOA. He further thanked all the distinguished speakers who addressed at the 21st WCOA.

Glimpses of Day 4



S13



S14



S15



S16



S17



S18

WCOA 2022 - A Report



C1



C2



C3



C4



Special Session



Plenary Session



Closing Ceremony



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Theme

A journey of Insolvency and Bankruptcy Code (IBC)



CA. (Dr.) Ashok Kumar Mishra

Author is Technical Member of the National Company Law Appellate Tribunal. He may be reached at drakmishra1956@gmail.com and eboard@icai.in

It is an undisputed fact that Insolvency and Bankruptcy Code, 2016 ('Code') was enacted to remove critical building block of Non-Performing Assets involving lacs of crore to a mature market economy. The Preamble of the Code provides Insolvency Resolution of Corporate Persons etc & its reorganization in a time bound manner for maximization of value of assets of such organizations and to promote entrepreneurship apart from releasing dead capital to working capital.

Journey process & its result

It reveals that there are still multiple options to get the amount realized from such Non-Performing Assets of Scheduled Commercial Banks. A look at the data available on the Web reveals that the mechanisms are Lok Adalats, DRT's, SARFAESI Act, Civil Procedure Code & IBC. Although the purpose of each one of this channels has different goal; in terms of number of cases referred to Lok Adalat is number one

but in terms of value IBC is number one. Just for information in 2019-2020 59,86,790 cases were referred to Lok Adalat where amount involved was Rs.67,800 Crore and amount recovered Rs.4,211 Crore - in terms of percentage it is 6%, while in IBC, 1986 cases were referred, amount involved was Rs. 2,24,935 Crore and amount recovered was Rs. 1,04,117 Crore - amount recovered as a percentage of amount involved 46%. No doubt, the percentage of recovery in IBC or in any channel will vary from year to year basis.

It is a matter of pride that enactment of the IBC / post initiation of IBC brought India's overall ranking in the latest World Bank's "Doing Business" Report in the ease of doing business to 63 from its earlier rank of 142 pertaining to the year 2015 and the ranking in "Insolvency Resolution" improved to 52 from the earlier 137. It is also a good sign as revealed from IBBI publications that out of total 5,636 cases commenced till June 2022, closer has been achieved in 3,637 cases. It also reflects that 53% of total closed cases got rescued. Under the Resolution Plan, the creditors have realized Rs. 2.35 lakh crore when the liquidation value of the involved Corporate Debtor's was only Rs. 1.31 Lakh Crore while they owed 7.67 Lakh Crore. This reflects that although they have realized 30% of the total admitted claim but they have achieved more than 178% of the liquidation value.

We all speak and that's what the approach of the Code is from the 'Debtor in possession' regime under the Sick Industrial Companies (special Provisions Act), 1985 (already repealed) to the 'Creditor in control regime' under IBC making the Insolvency system with the intention of strengthening creditor control. This is in line with the UK Insolvency Law.

Implementation of the Code through Tribunal system is tried with the objective of faster resolution; However, the composition of the Tribunal continued with the Judicial Members and Technical Members. In the Court system where the Hon'ble High Courts & District Courts are manned by the Judicial Officers alone and perhaps pendency in these courts moved the legislature to consider Tribunal format. Now the system has been settled by the judicial hierarchy of the Constitutional Courts. No doubt, it puts more pressure on the Technical Members for getting the arithmetical figure of disposal with the cooperation of Presiding Officer of the Bench. The Technical Members are equally responsible for disposal with highest grade of integrity.

Law Settled on IBC

Certain proposition of law which has been developed in the Code in the last five years are as follows:

- IBC is not "Debt Enforcement Procedure".

Theme

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| <ul style="list-style-type: none"> • IBC is not meant for chasing payments. • IBC is not an adversarial litigation. • The proceedings under IBC are summary in nature and it is not a money claim or recovery to be made in a civil suit. • No trial issue can be adjudicated under the IBC. • If any operational creditor is filing a claim with spurious or moonshine defence for a dispute existing in the claim then the Tribunals are required to investigate details whether dispute is substantial, tangible, real or not. • Existence of 'Debt' due & payable under law and existence of 'Default' with compliance of the Limitation Act, 1963 then only the Adjudicating Authority under IBC can permit initiation of Corporate Insolvency Resolution Process (CIRP), in case of Financial Creditor. • Similarly, in case of Operational Creditor, existence of Debt & Default must be there along with the reasoning for being undisputed in real sense then only the Adjudicating Authority under the IBC can permit initiation of CIRP. • Balance Sheet is also a way for acknowledgement of liability subject to that it is unqualified by the management & the auditors. • Outstanding amounts to allottees in Real Estate | <p>Projects are statutorily regarded as Financial Debts.</p> <ul style="list-style-type: none"> • On issue of recovery certification, right to sue commences, then the Bar of Limitation in terms of the provisions of the Limitation Act will commence. • The CIRP process can be initiated against the Government company also. • Commercial wisdom of Committee of Creditors is non-justiciable. • Suspended Board of Directors are entitled for a copy of Resolution Plan, so that their participation in the CoC meetings can be meaningful. • Mere filing of the petition cannot be taken as triggering point for insolvency resolution. • A moratorium order under IBC will apply to the order of Income Tax Appellate Tribunal. • No provisions for withdrawal of Resolution Plan exist in the Code and such withdrawal cannot be allowed through judicial interpretation. • Once Resolution Plan of Resolution Applicant is approved by CoC it becomes a binding contract even if it is not approved by that time by Adjudicating Authority under the IBC. • Speed is the gist of the Code, and it has to be completed within the laid down period of 330 days except in the exceptional circumstances. • The NPA classification only regarding the Principal | <p>Borrower. Section 7 of the IBC envisages provisions primarily for default from NPA/Date of Default meant for Principal Borrowers while in case of contract of guarantee, Section 7 of the IBC presumes to be enforceable from the date of invocation of the Bank Guarantee and when the demand is made from the Guarantor to pay back the amount and the Guarantor acknowledges the debt of the Principal Borrower. It will accrue even if the guarantor asked the Banker to approach the Borrower.</p> <ul style="list-style-type: none"> • If no resolution plan is approved within 330 days as envisaged under section 12 or such extended period, as approved by the Adjudicating Authority then only course open is to initiate the liquidation proceedings under Section 33(1)(a) of the Code. • As far as Arbitration is concerned, the Application for initiating CIRP cannot be converted into arbitration proceedings where the dispute is non-Arbitral. The Tribunal should refuse to refer the parties to Arbitration despite the fact the parties have agreed for Arbitration as the forum of settlement of dispute. |
|---|--|--|

Committee of Creditors Vs. MSME/SME

What is being observed in general that Committee of Creditors (CoC) who are the Financial Creditors decides the distribution of realized amount amongst themselves and employees of the Corporate Debtor and least

Theme

concerned for the other Operational Creditors primarily the suppliers who are MSME/SME who have less bargaining power while accepting a purchase order from the Corporate Debtor. Corporate Debtors when they are large business houses; these suppliers mostly MSME and SME's have zero bargaining power and have to enter into an unilateral contract where the Debts are not secured. The large suppliers always ask for letter of credit payment term even in indigenous payment. Committee of Creditors have become the King as their collective wisdom is not justiciable and thereby the approved Resolution Plan and realization there from after meeting the CIRP costs etc get distributed amongst themselves. Lot of talks are going on for developing professional Code of conduct for the CoC. However, as it looks apparently that developing such Code may not have much impact rather it will act as a leap sympathy to these (MSME/SME) operational creditors. A view has also cropped up why these MSME/SME continue to supply to these organizations when they failed to get the amount realized in earlier supplies. In the Aircraft Industry where lot of items are developed by these (MSME/SME) vendors at much lower costs and they become the permanent suppliers for that, particular programme. In order to reduce their costs, they always procure materials for the full programme which reduces their average costs and they can beat obsolescence also in the large manufacturing programme. So even if they

“The large suppliers always ask for letter of credit payment term even in indigenous payment.”

stopped the supply, all these material costs will become redundant and at the same time they have to pay their employees as the employees are having high skill set so they cannot dispensed with them also. All these requires that Insolvency and Bankruptcy Board of India to conduct an impact evaluation study to ascertain the impact of IBC on MSME / SME which is perceived as wiped out to some extent. Hence, there is a need for incorporation of appropriate provisions under the IBC to protect MSME/SME.

Reorganization of Corporate Debtor (CD)

The other area requiring focus is on restructuring the CD / the Company under Corporate Insolvency Resolution Process (CIRP). What is being seen amongst the Financial Creditors / banks that they follow the mechanical system of highest bidder rather than assessing the Operational, Technical & Managerial Competence of the firm in greater details like always purchasing on Lower bidder (L1) basis will not result into lower operational costs if L1 with reference to higher technical feature is not compared. No format in general can provide answer for optimizing the objective function. The other thing involved is that the Bank officials avoid operational risks, if they are allowed restructuring of

loans based on their wisdom rather than opting for IBC. A view that's why emerged that the IBC is more successful in liquidation than restructuring which laid to the amendment of the Code in the year 2018 which came on 06th June, 2018 by Ministry of Corporate Affairs. The voting threshold was reduced to 66% from 75 % for all important actions like approval of Resolution Plan, extension of CIRP period and so on and so forth and for routine decision, it was reduced 51%. The data available with Insolvency and Bankruptcy Board of India (IBBI) /Web reveals that as of December, 2021 out of 3,247 CIRP cases that were closed 46% have ended in orders for liquidation & out of that 77% were already ordered for resolution under BIFR. The Regulation 37 IBBI (Regulation Process for Corporate Persons) Regulations, 2016 allows Resolution Professional multiple mechanism for restructuring of the Corporate Debtor including but not limited to sell of a part of assets or transfer of part of assets or through merger or consolidation of Corporate Debtor.

“In the Aircraft Industry where lot of items are developed by these (MSME/SME) vendors at much lower costs and they become the permanent suppliers for that, particular programme.”

Although the provisions for 'group resolutions' are awaited into the IBC but the judicial side has permitted such resolution in case of Jet Airways and Videocon Group Resolution Process. In Jet Airways even involved marginally cross border Bankruptcy and Insolvency.

Theme

Startup & IBC

Legislative Framework as were existing from time to time prior to the IBC are as follows:

- Chapter XIX (Revival & Rehabilitation of Sick Companies-omitted by I&B Code w.e.f.15.11.2016) & Chapter XX (Winding Up by the Tribunal) of Companies Act, 2013
- RDBFI (Recovery of Debts Due to Banks and Financial Institutions) Act, 1993 (Now Repealed) -
 - ♦ Grants special rights to unsecured creditors for recovery of defaulted debts
- SICA (Sick Industrial Companies) Act, 1985 (Now Repealed)
 - ♦ Revival of sick companies
 - ♦ Applicable to industrial companies only
 - ♦ The moratorium provision under SICA was used by defaulters to keep creditors at bay

- The Presidency Towns Insolvency Act, 1909 (Now Repealed)
- The Provincial Insolvency Act, 1920 (Now Repealed)

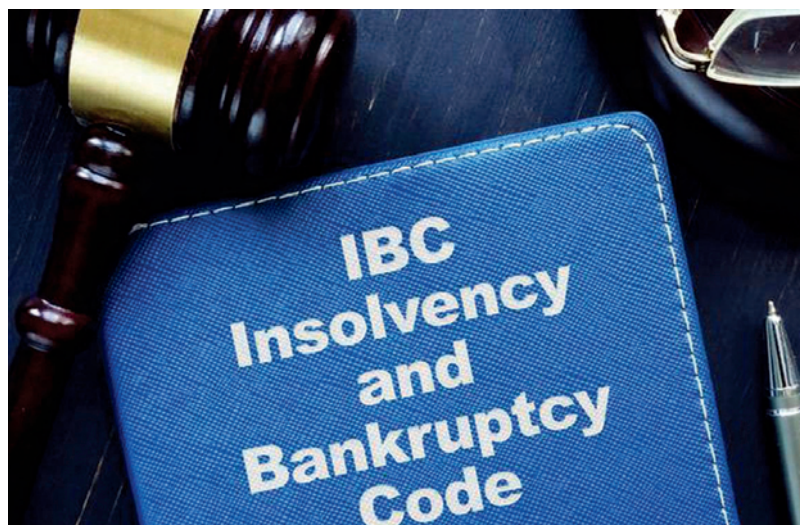
Mostly it was understood under the above framework that it is the moral failure of the promoters along with ulterior motive. Now as we want to give impetus to start ups and we have understood that 90% of startup's fail even in western countries, the time has come to think differently in the years to come. These failed entrepreneurs are being given lot of weights by the European Countries, if the failure is honest and then it is appreciated. We have to give some leverages to these startup for timely exit. In a case ,few IITan's wanted to develop certain technology in electronics fields which were not available worldwide and the fund was given by the Government of India to these promoters and

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later on they could not develop the technology and wanted to ease out, they didn't have even money to engage lawyers and appeared as "Party in Persons". It was perceived by the Bench that they were high integrity people, technically most competent but failure has cropped up in certain process of technical development

which was demonstrated by them even before the Bench. The Respondent side also didn't object and finally the exit was permitted.. Whenever such cases are coming even within the provisions of IBC through Section 10 and if the Hon'ble Judges perceive that it is an honest failure, they appropriately consider and resolve the case. Hence, the startup has to bring "Atma Nirbhar Bharat" without fear of misuse of IBC rather to consider to use the IBC.

The Hon'ble Judges with the experience in District Courts/ High Courts, they are well equipped to grasp whether it is an honest failure or the proposal has come with ulterior motive. This helps the Bench to dispose of within the framework of the IBC. However, the time has come to consider Insolvency as an integral part of risk mitigation for a failed organization with more leverages and easy access for startups for adopting voluntary adoption of Bankruptcy Process and not to taint these startups entrepreneur.



Theme

Treatment of Attachment Orders under the Indian Insolvency Regime

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The Insolvency and Bankruptcy Code ("IBC" or "Code") requires the Resolution Professional ("RP") to take control of the assets of the corporate debtor. Amongst other reasons, the RP has been entrusted with this duty for safeguarding the assets from being disposed off by erring promoters or by creditors and to enlarge the pool of assets that are available for maximization of value.¹ While exercising this power given under the Code for taking control and custody of the assets of the corporate debtor, the RP on multiple occasions has to face the issue of attachment of the assets of corporate debtor by regulatory/statutory

authorities. The issue gets further complicated when the authorities while exercising their power of attachment, take control of the assets prior to the insolvency commencement date ("ICD"). Consequentially, the conflict arises in respect of the power of attachment with the authority and the power of control and custody of the RP under the Code.

Judicial pronouncements of various Courts and Tribunals as discussed in the current write-up have mostly relied on the non-obstante clause in section 238 of the Code. Section 238 of the Code states that the provisions of the Code shall have the effect, notwithstanding anything inconsistent therewith contained in any other law for time being in force or any instrument. Further, Hon'ble Supreme Court in *K. Kishan V. Vijay Nirmal Company (p) Ltd*² has held that section 238 of the Code would prevail in case there is an inconsistency between the Code and consequent statute which is in question under the dispute in the immediate case.

In light of the above context, this article has mainly dealt with the act of attachments by three statutory/regulatory authorities, namely:

- (1) Customs Authority under Customs Act, 1962
- (2) Enforcement Directorate Under the Prevention of Money Laundering Act (PMLA), 2002 and
- (3) Provident Fund Commissioner under the Employees Provident Fund and Miscellaneous Provisions Act (EPF Act), 1952.

and recent pronouncements by the judicial authorities that have established the current law and practice.

1. Customs Authority- Central Board of Indirect Taxes and Customs, (Customs Act, 1962)

In the matter of *Sundaresh Bhatt, Liquidator of ABG shipyard v. Central Board of Indirect Taxes and Customs*³, the customs authorities had seized the goods of the corporate debtor. The seizure in question had taken place prior to the ICD. On commencement of the liquidation, the liquidator filed an interlocutory application (I.A.) under section 60(5) of the Code seeking a direction from the Hon'ble NCLT against the custom

¹ Section 18(f), Insolvency and Bankruptcy Code, 2016.

² (2018) 146 CLA 1 (SC)

³ Civil Appeal No. 7667 of 2021, Supreme Court of India.

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authorities to release the goods which belonged to the corporate debtor. In the immediate I.A., the Hon'ble NCLT allowed the prayer of the liquidator and directed the customs authority to release the goods of the corporate debtor which were seized by the customs authority. The Hon'ble NCLT reached the said conclusion by virtue of section 238 of IBC having an overriding effect on the Customs Act, 1962 due to the IBC, 2016 being enacted later in time than the Customs Act, 1962. The reason for a later enactment having an overriding effect over an earlier enactment is that the legislature while passing the Code in the year 2016 is deemed to be aware of the earlier legislations passed such as Customs Act, 1962 along with the conflict that might arise due to interplay of Customs Act, 1962 and the Code and being cognizant of the said conflict, the legislature had put the non-obstante clause in form of section 238 of IBC from which legislative intent of giving an overriding effect to the subsequent law may be inferred.

The above-mentioned order of the Hon'ble NCLT was then challenged before the Hon'ble NCLAT by the customs authorities. The Hon'ble NCLAT thereafter in the appeal sets aside the order of the Hon'ble NCLT by deciding whether the assets that the liquidator is seeking control over are assets of the corporate debtor or not. The issue, which was raised being that, if ownership of assets has passed to the customs authority, the power of the liquidator to take control and custody of "assets of corporate debtor" becomes redundant thus no question

of inconsistency between the Customs Act, 1962 and the Code survives which is to be dealt via a reference to a non-obstante clause in section 238 of IBC. The Hon'ble NCLAT while passing the order that the customs authority have the title on the goods seized, referred to section 48 of the Customs Act, 1962. As per Section 48 of the Customs Act, 1962, thirty days' time from the date of unloading at the customs station is granted for clearing the goods imported to India either for Home Consumption, or Warehousing or Transshipping. In case goods are not cleared from the customs' station, then after giving notice to the importer, the customs authority may sell off the goods seized. It is by the virtue of said section 48 of The Customs Act, 1962 that *the title over the seized goods was deemed to have been relinquished by the corporate debtor's [emphasis added]* act of not removing the imported goods from the custody of a custom authority. Further, customs duty was held not to be a liability, but a consequence of importing the good, thus the title could not have passed without paying the customs duty.

The primary issues before the Hon'ble NCLAT were dual fold in nature. The first part was the overruling effect of the Code over the Customs Act, 1962 and the second part to be decided was regarding the relinquishment of title to the goods by the corporate debtor in favour of the customs authority. Hence, aggrieved by the Hon'ble NCLAT's order, the Liquidator challenged the same before the Hon'ble Supreme Court. The Hon'ble Supreme Court while deciding on the overriding effect of

IBC, referred to section 142A of The Customs Act, 1962 which provides that the Customs Authority shall have first charge on any amount of duty, penalty or any other sum payable by the assessee or any other persons under the Customs Act, 1962 except as otherwise provided in section 529A of Companies Act, 1956, RDBFI Act, SARFAESI Act, and the IBC.

Further, in respect of the relinquishment of title over the seized goods by the corporate debtor, the Hon'ble Supreme Court held that the goods cannot be held to be abandoned without such declaration being passed by some authority after a reasonable opportunity of being heard given to the aggrieved. Furthermore, Article 300A of the Constitution of India was relied on by the Hon'ble Supreme Court to hold that the right to property is a constitutional right, cannot be taken away without there being a hearing or adjudication on the said matter.

Consequently, the matter was held in favour of the liquidator acting on behalf of the corporate debtor.

(2) Enforcement Directorate ("ED")- (Prevention of Money Laundering Act, (PMLA), 2002)

In the matter of *Sterling SEZ and Infrastructure Limited Vs. Deputy Directorate of Enforcement*⁴, Hon'ble NCLT Mumbai by its order dated February 12, 2019, held that considering section 14(1)(a), Section 63 and Section 238 of IBC, the order of PMLA Court passed for attachment of assets of the corporate debtor

⁴ Appeal No. M.A. 1280/2018 in C.P. 405/2018.

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is null and the RP was allowed to take charge of the assets which were under attachment of enforcement directorate prior to ICD. Thereafter in the matter of *Deputy Director, Directorate of Enforcement Delhi V. Axis Bank & Ors.*⁵, the Hon'ble Delhi High Court vide its order dated April 2, 2019, held that as the objects of the two pieces of legislation are different thus question of inconsistency between PMLA, 2002 and Code does not arise. Hence IBC doesn't prevail over PMLA, 2002. Further, the Court also held that any contrary view, if taken would defeat the objective of PMLA, 2002 by opening an escape route.

Subsequently, in the matter of *Mr. Anil Goel (Liquidator in respect of Varsana Ispat Limited) Vs. Deputy Director, Directorate of Enforcement, Delhi*⁶ an order of attachment passed under PMLA, 2002 was challenged by the RP before the Hon'ble NCLT, Kolkata which was dismissed due to the reason that attachment was made prior to initiation of the CIRP. Further, the appeal against the Hon'ble NCLT order before the Hon'ble NCLAT and Hon'ble Supreme Court was also dismissed. Thus, The liquidator filed another IA before Hon'ble NCLT, Kolkata, pleading relief under section 32-A (2) of the Code for the sale of assets without seeking any detachment orders against ED. The liquidator argued that there is no detachment required because by virtue of section 32-A (2) of the Code, immunity has been provided to assets of CD undergoing CIRP or liquidation. Hence, once the asset is sold under liquidation, the effect of section 32-A (2) of the Code would apply and the buyer who buys the attached assets

under liquidation can thereafter plead for detachment under section 32-A (2) of the Code. Section 32-A (2) of the Code was inserted on 28 December 2019 and provides immunity to a successful resolution applicant or buyer under the liquidation proceedings against the prior attachments by statutory/regulatory authorities due to offences committed by the corporate debtor prior to the ICD. Further, in answering the point of law raised by the liquidator under section 32-A (2) of the Code, the Hon'ble NCLT first dealt with the issue of application of section 32-A (2) of the Code during the liquidation proceedings and held that the object of inserting section 32-A (2) in the Code through an amendment makes it applicable to both CIRP and Liquidation proceeding. Furthermore, the Hon'ble NCLT by its order dated August 9, 2020, concurred with the argument of the liquidator under section 32-A (2) of the Code and allowed the sale to proceed without passing any specific directions in respect of the detachment.

It is to be noted that section 32-A (2) of the Code was introduced after the Judgment of the Hon'ble Delhi High Court in *Deputy Director, Directorate of Enforcement Delhi V. Axis Bank & Ors.*⁷ In the matter of *Nitin Jain Liquidator PSL Ltd. Vs. Enforcement Directorate*⁸ the Hon'ble Delhi High Court, vide the judgment dated December 15, 2021, held that there is no inconsistency between PMLA, 2002 and the Code as both PMLA, 2002 and the Code operate in separate spheres which do not coincide with each other. Thereafter, the Hon'ble Delhi High Court held that the legislative intent

by the introduction of section 32-A in the Code provides that a resolution applicant and the property of corporate debtor as acquired by him is to be insulated from the prospect of prosecution in respect of offences that may have been committed by the corporate debtor prior to the commencement of the CIRP. The Hon'ble Delhi High Court has reaffirmed the said view in the recent case of *Rajiv Chakraborty RP of EIFL Vs. Directorate of Enforcement*⁹ and has held that "PMLA would cease to have the power to attach or confiscate only when a Resolution Plan had been approved or where a measure towards liquidation had been adopted."

The above-mentioned judicial pronouncement on overriding effect of IBC on PMLA, 2002 makes it clear that the question of the overriding effect arises when consequent statutory enactments in question are acting in the same sphere. Such was the dispute in the matter of *Sundaresh Bhatt, Liquidator of ABG shipyard v. Central Board of Indirect Taxes and Customs*¹⁰ wherein, the Code was held to have an overriding effect over the Customs Act, 1962. The object of section 48 of the Customs Act, 1962 is to recover the pending dues of customs authority by selling off the seized assets. Thus, it is the object of debt recovery, which was in conflict in the matter of *Sundaresh Bhatt, Liquidator of ABG shipyard v. Central Board of Indirect Taxes and Customs*¹¹, hence, the reliance was placed on section 238 of the Code by the Hon'ble Supreme Court to decide as to which of the two laws acting in the same sphere will override the other.

Further, one may also suggest that the PMLA, 2002 is not a debt recovery act and the enforcement directorate is not an authority whose objective is to set off their

⁵. Appeal No. CRL.A. 143/2018

⁶. C.P.(IB) No. 543/KB/2017

⁷. Supra note 5.

⁸. W.P. (c) 3261/2021

⁹. 2022/DHC/004739

¹⁰. Supra Note 3

¹¹. Ibid.

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own dues by selling off the attached assets. Furthermore, the enforcement directorate does not provide any services to the corporate debtor in respect of which they would accrue some unpaid dues. Thus, one may surmise that the PMLA, 2002 and IBC do not necessarily operate in the same sphere. Moreover, the question of relinquishment of the title of ownership does not arise in the case of PMLA, 2002 because under PMLA 2002, it is not a case that the corporate debtor has the option to take back the assets from the enforcement directorate by paying off the proceeds he had embezzled through money laundering and on not doing so within a timeline, the title in the assets is to be transferred to the enforcement directorate. It is a criminal legislation enacted to prevent money laundering whereas the Customs Act, 1962 is a revenue legislation.

It is to be noted that the legislative introduction of section 32-A on 28 December 28, 2019, has helped the successful resolution applicant or a buyer of tainted assets of a corporate debtor under liquidation. As on date, the enforcement directorate has challenged the orders of Hon'ble NCLT passed on grounds of section 32-A of the Code. The finality of the interpretation of section 32-A of the Code vis-à-vis the PMLA, 2002 remains to be settled by the Hon'ble Supreme Court.

2. Provident Fund Commissioner (P.F. Commissioner)- (Employee Provident Funds & Miscellaneous Provisions (EPF) Act, 1952)

In the matter of *Regional P.F. Commissioner Vs. T.V. Balasubramanian (RP) (Sholingur Textiles Ltd) & Anr.*¹²- an attachment order was

passed by the Regional Provident Fund Commissioner and post initiation of CIRP the detachment of assets was prayed for by the resolution professional. The Hon'ble NCLAT while rejecting the prayer of the RP reversed the order of the Hon'ble NCLT which had cancelled the attachment order passed by the Regional Provident Fund Commissioner. The ground for reversal taken by the Hon'ble NCLAT was that the order of attachment under The EPF Act, 1952 was passed much prior to the initiation of CIRP. In the matter of the *Regional Provident Fund Commissioner-1, Ahmedabad Vs Ramchandra D. Chaudhary*¹³- the Hon'ble NCLAT held that the EPF Act, 1952 is not in conflict with IBC. The order of Hon'ble NCLAT was thereafter affirmed by the Hon'ble Supreme Court in *Kushal Limited vs The Regional Provident Fund*¹⁴ Commissioner and others.

Though, the Hon'ble NCLAT in the immediate case was not ruling on the attachment of assets but ruling on there being no conflict between the consequent acts, the said order of Hon'ble NCLAT is important for future cases which may involve adjudication on the disputes arising due to the order of attachments passed under EPF Act, 1952.

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It is to be noted that the legislative introduction of section 32-A on 28 December 28, 2019, has helped the successful resolution applicant or a buyer of tainted assets of corporate a debtor under liquidation. ”

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While the aim of the Code and the above judicial rulings is value maximization, there is also a reminder to all to necessarily balance the priorities of other stakeholders, particularly the vulnerable class of employees and workmen and their legitimate dues. ”

Conclusion

In the case of PMLA, 2002, the explicit legislative amendment of section 32-A (2) of the Code has helped the cause of the successful resolution of the corporate debtor and ensured value maximization as Courts prior to the amendment in form of section 32-A (2) being introduced in the Code had ruled against the overriding effect of section 238 of Code over the PMLA, 2002. In the case of attachment by the Provident Fund authorities, there is no such similar legislative enactment till date. Further, an attachment is made to recover the provident fund dues which have time and again been held as assets not belonging to the corporate debtor. Thus, any such recovery by the PF authorities through attachments per se is not conflicting with the provisions of moratorium under the Code, particularly in cases wherein attachments were made prior to the ICD.

To conclude, while the aim of the Code and the above judicial rulings is value maximization, there is also a reminder to all to necessarily balance the priorities of other stakeholders, particularly the vulnerable class of employees and workmen and their legitimate dues. ■■■

¹². Company Appeal (AT) (Insolvency) No. 1521 of 2019

¹³. Company Appeal No. 1001 of 2019

¹⁴. Civil Appeal No. 1920 of 2020.

Theme

Demystifying Going Concern Revival under Insolvency and Bankruptcy Code, 2016 - CIRP vs Liquidation Process



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Reforms Committee ("BLRC"), which submitted its Report ("BLRC Report") in 2015 which is the foundation on which the Code was framed and legislated. The Code envisages a change from an existing "debtor in possession" to a "creditor in control" regime.

The enactment of the Code has been considered as a paradigm shift in the insolvency resolution framework in India enabling the re-organization and consolidation of various 'not so effective laws' under the existing insolvency resolution framework and creating comprehensive legislation aimed at a time-bound resolution process under the supervision of Adjudicating Authority.

The Apex Court in its Judgement in *Swiss Ribbons Pvt. Ltd. & Another Vs. UoI & Other ("Swiss Ribbons")*¹, held that "the Preamble gives an insight into what is sought to be achieved by the Code. The Code is first and foremost, a Code for reorganization and insolvency resolution of corporate debtors.... maximization of the value of the assets of such persons so that they are efficiently run as going concerns is another very important objective of the Code....What is interesting to note is that the Preamble does not, in any manner, refer to liquidation, which is only availed of as a last resort if there is either no resolution plan or the resolution plans submitted are not up to the mark. **Even in liquidation, the liquidator can sell the business of the corporate debtor as a going concern.**"

Even though Going Concern is not defined in the Code, however, reference to the same was made in the Report of Insolvency Law Committee dated 26th March 2018² ("**ILC Report**") which states that "the phrase "as a going concern" implies that the corporate debtor would be functional as it would have been prior to initiation of CIRP, other than the restrictions put by the code". Further, Discussion Paper on the Corporate Liquidation Process³ ("**Discussion Paper**") stated that going concern means "all such assets and the liabilities, which constitute an integral business or the CD, that must be transferred together, and the consideration must be for the business or the CD. The buyer of the assets and liabilities should be able to run business without any disruption. The business or the CD must be a running one, and it must be transferred along with its employees. In case of sale of the CD as a going concern, the equity shareholding of the CD must be transferred, and the buyer must take over the CD, its business, affairs and operations,

Prior to enactment of the Insolvency and Bankruptcy Code, 2016 ('the Code'), there were multiple legislations operating parallelly, like Presidency-Towns Insolvency Act, 1909, The Provincial Insolvency Act 1920, The Recovery of Debts due to Banks and Financial Institutions and Bankruptcy Act, 1993, Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 etc. with a similar objective of recovery of outstanding dues from the borrowers. However, to optimize and harmonize the insolvency resolution framework with the intent of revival and resolution of the debtor in a time bound manner, a committee was set up under the chairmanship of Dr. T.K. Viswanathan, namely the Bankruptcy Law

¹ Judgement dated 25.01.2019 in WP (Civil) No. 99/2018

² https://ibbi.gov.in/ILRReport2603_03042018.pdf

³ IBBI - Discussion Paper on Corporate Liquidation Process along with Draft Regulations dated 27.04.2019

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including its licenses, assets, entitlements, beneficial interests, trademarks, brand, government approvals, etc.” It further goes on to state that via a going concern sale, the company survives and all the assets remain vested in the company, with the transfer of ownership from the Liquidator to the Acquirer.

One can find significant emphasis laid down upon the importance of ensuring “going concern” through various provisions of the Code. A resolution plan is defined u/s 5(26) of the Code, to mean “a plan proposed by resolution applicant for insolvency resolution of the corporate debtor as a going concern..”. Further, Section 20 of the Code in its entirety focuses on the management of operations of the corporate debtor wherein it mandates the interim resolution professional to make all endeavours to protect and preserve the property of the Corporate Debtor and manage its operations as a going concern by way of appointing professionals, entering into contracts or modifying the existing contracts, raising interim finance, issue instructions to personnel of corporate debtor or any other actions as deemed appropriate to ensure going concern of the Corporate Debtor.

Section 35 (1) (e) read with Section 35(1)(n) of the Code requires the Liquidator to carry on the business of the CD for its beneficial liquidation and empowers the Liquidator to apply to the Adjudicating Authority for such orders or directions as may be necessary for the liquidation of the corporate debtor. Regulation

32(e) and 32A of Liquidation Regulations, and Regulation 39C of CIRP Regulations also aim at going concern revival of the Corporate Debtor under liquidation process.

It is a well acknowledged fact that a Corporate Debtor which is operating as a going concern, in most likelihood, be attracting better interest from resolution applicants as compared to a Corporate Debtor which is non-operational. The Code, through various provisions, emphasizes on this aspect to ensure that Corporate Debtor is kept as going concern by the Insolvency Professional.

The criticality of going concern revival is not only limited to the insolvency resolution process. Even in the event of liquidation, the judiciary, on multiple occasions, stressed upon the sale of Corporate Debtor as going concern. The very first instance in this subject was the Order of Hon’ble NCLT in the matter of *M/s. Gujarat NRE Coke Limited*⁴ wherein the liquidator was directed to attempt to sell the Corporate Debtor as going concern in the event of liquidation. The consequence to this Order, to remove practical difficulties, IBBI provided legislative backing by introducing the concept of selling of corporate debtor as going concern in the event of liquidation proceedings by amending IBBI⁵ (Liquidation Regulations), 2016 (“**Liquidation Regulations**”)⁶.

As per the statistics published by IBBI, as on June 2022, approximately 517 Corporate Debtors have been revived pursuant to the receipt of successful Resolution Plans and

18 Corporate Debtors have been revived under liquidation by way of sale as a going concern. Further, these 18 Corporate Debtors have helped in the recovery of INR 600.84 Crores during the liquidation as against their liquidation value of INR 527.69 Crores.

Resolution in CIRP through a resolution plan and a going concern sale under Liquidation proceedings might seem to be one and the same but there exists a fine line of difference between the two, both legally and practically. The resolution applicants in a CIRP as well as the Successful Bidders in the going concern auction attempt to seek certain reliefs and concessions on the ground of viability and in absence of specific legal provisions in this regard, much is left to judicial discretion. This article attempts to critically analyze this fine line of difference while attempting to take an overview of judicial precedents on the granting of reliefs and concessions.

Understanding “Resolution under CIRP” and “Sale of Corporate Debtor as a Going Concern under Liquidation”

Although, the Code provides for resolution as a going concern and sale as going concern under liquidation, it nowhere defines as to what constitutes going concern. For the sake of understanding, reference can be drawn to Accounting Standard (AS) 1, notified by MCA, according to which “*Going Concern*” refers to an enterprise continuing in operation for the foreseeable future. It is assumed that the enterprise has neither the

⁴ Order dated 01.11.2018 [C.P. (I.B.) No. 182/KB/2017]

⁵ Insolvency and Bankruptcy Board of India (Liquidation Process) (Amendment) Regulations, 2018 dated 27th March 2018

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intention nor the necessity of liquidation or of curtailing materially the scale of the operations. In addition, the ILC Report and the Discussion Paper, offer further guidance on the term.

In view of the ILC Report, there have been many instances wherein Adjudicating Authority entered into the subject domain in the interest of the revival of the Corporate Debtor. Most notably, in the matter of *Gaurav Jain v. Sanjay Gupta*⁷ ("Topworth Judgement"), Hon'ble NCLT observed that the crux of the sale as 'going concern' is that the equity shareholding of the Corporate Debtor was extinguished and the acquirer would take over the undertaking. The undertaking included the business of the Corporate Debtor, assets, properties, licenses and rights etc. excluding the liabilities. It further observed the difference that, in the normal parlance 'going concern' sale would be transfer of assets along with the liabilities. However, as far as the 'going concern' sale in liquidation is concerned, there was a clear difference that only assets were transferred, and the liabilities of the Corporate Debtor had to be settled in accordance with Section 53 of the IBC. Hence, the Applicant would take over only the assets without any encumbrance or charge and they would be free from the action of the creditors. NCLT observed that, selling the Corporate Debtor 'as a going concern' included the following advantages:

- The equity shareholding would be transferred or extinguished and new shares would be issued.
- The purchaser would be expected to carry on the business of the corporate debtor after the sale of assets would be confirmed.
- The existing employees would have a chance to continue in their employment.

Further, Hon'ble NCLAT, in *M/s. Visisth Services Limited v. SV Ramani*⁸, assessed whether sale of Corporate Debtor as a Going Concern in Liquidation Proceedings includes its liabilities. Hon'ble NCLAT while referring to the Liquidation Regulations, the ILC Report and Discussion Paper stated that "*Sale as a 'Going Concern' means sale of assets as well as liabilities and not assets sans liabilities..... We conclude that Sale of a Company as a 'Going Concern' means sale of both assets and liabilities, if it is stated on 'as is where is basis'*".

In *Haryana State Industrial and Infrastructure Development Corporation Ltd. Vs. M/s. AAR AAR Technoplast Pvt. Ltd.*⁹, Hon'ble NCLAT has held that the principle of clean slate propounded for resolution applicants in CIRP applies for the purchaser in liquidation as well as the scope and purpose of the Code is to be interpreted in its truest sense.

Hence, it is adequately clear that a resolution under CIRP of a Corporate Debtor entails a continuity of going concern post resolution of the Corporate Debtor by the Resolution Applicant, whereas a going

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A Corporate Debtor which is operating as a going concern, in most likelihood, be attracting better interest from resolution applicants as compared to a Corporate Debtor which is non-operational.

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concern sale under liquidation entails a similar scenario for the fate of the Corporate Debtor post acquisition by the successful bidder. However, the difference may arise primarily on account of the methodology for settlement as the creditors are settled in CIRP as per resolution plan whereas the stakeholders in going concern sale under liquidation are settled in accordance with Section 53 of the Code and secondly on account of manner of revival post acquisition.

Benefits under various statutes for Resolution under CIRP vis-à-vis Going Concern Sale under Liquidation

It is generally understood that the legislation and jurisprudence have evolved significantly w.r.t CIRP, however, the same is yet to be seen for Liquidation Proceedings. Some noticeable differences in the legal framework available for Resolution under CIRP *vis a vis* a going concern sale under Liquidation is tabulated hereunder:

⁷ Order dated 9th March, 2021 in IA No. 2264 of 2020 in C.P.(IB)No. 1239/MB/2018

⁸ Order dated 11th January, 2022 in Company Appeal (At) (Insolvency) No.896 Of 2020

⁹ Judgement dated 6th September, 2022 in Company Appeal (At) (Insolvency) No. 606 Of 2021

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| S. No. | Statute | Resolution under CIRP | Going Concern Sale under Liquidation |
|--------|--|--|---|
| 1. | The Insolvency and Bankruptcy Code, 2016 | <p>Section 32A of the Code protects the successful resolution applicant and the property of the Corporate Debtor from any prosecution or any liability arising out of non-compliances or offences committed prior to initiation of CIRP of the Corporate Debtor pursuant to change in management or control of Corporate Debtor from date of approval of resolution plan.</p> <p>Further, a resolution applicant, on account of the acquisition of Corporate Debtor or its subsidiary, being NPA, vide resolution plan does not become ineligible under S.29A of the Code to participate in other CIRP for a period of 3 years from date of approval of that plan.</p> | <p>Similar relief has not been laid down in Code for a going concern sale under liquidation. Hence, there exists risk of additional liability / prosecution on Corporate Debtor w.r.t. past non-compliances / offences despite change in ownership on account of sale of Corporate Debtor on going concern.</p> <p>Such a waiver is not available and bidder attract Section 29A ineligibility for other CIRP/ Liquidation acquisitions which or its connected persons are classified as NPA.</p> |
| 2. | CIRP Regulations & Liquidation Regulations | <p>Explanation to definition of Resolution Plan u/s 5(26) of the Code states that resolution plan may include provisions of restructuring of Corporate Debtor, including by way of merger, amalgamation and demerger.</p> <p>Further, Regulation 37 of CIRP Regulations enables Resolution Plan to include provisions w.r.t. transfer of all or part of assets of Corporate Debtor to any person, satisfaction/modification of any security interest, extension of maturity date or change in interest or other terms of debt, amendment of constitutional documents, cancellation or delisting of shares, issuance of securities, obtaining necessary approvals from Governments & other authorities etc.</p> | <p>Sale of Corporate Debtor on a going concern is generally on a "As is Where is" basis. Liquidation Regulations do not explicitly allow submission of any plan/scheme for acquisition/bidding of Corporate Debtor and the terms of auction notice are binding as such.</p> |
| 3. | Income Tax Act, 1961 | <p>Section 79(1) of the Income Tax, 1961 ("IT Act") prohibits the carry forward of business losses of years prior to the previous year where a change in shareholding has taken place during the previous year.</p> <p>However, Section 79(2) of the IT Act protects the Corporate Debtor's rights to carry forward of business losses where a change in shareholding takes place pursuant to approval of resolution plan under the Insolvency and Bankruptcy Code, 2016.</p> | <p>Such benefit of carry forward of previous year losses are not available to a Corporate Debtor whose shareholding is changed on account of going concern sale under liquidation.</p> |

Theme

| S. No. | Statute | Resolution under CIRP | Going Concern Sale under Liquidation |
|--------|--|--|--|
| 4. | SEBI (Delisting of Equity Shares) Regulations | SEBI has relaxed the applicability of Delisting Regulations on delisting of equity shares of listed company made pursuant to approval of Resolution Plan under Section 31 of the Insolvency and Bankruptcy Code, 2016, provided the resolution plan provides for manner of delisting of such shares or an exit opportunity to existing public shareholders at a specified price. | No such relaxation has been provided for listed companies sold on a going concern basis under liquidation. |
| 5. | SEBI (Substantial Acquisition of Shares and Takeovers) Regulations | SEBI has relaxed the limits for substantial acquisition of shares or voting rights and further provided exemptions from obligation to make open offer for acquisitions pursuant to resolution plan approved under the Insolvency and Bankruptcy Code, 2016. | No such relaxation is available for listed companies sold on a going concern basis under liquidation. |
| 6. | SEBI (Issue of Capital Disclosure Requirements) Regulations | SEBI has relaxed the applicability of provisions w.r.t. preferential issue of shares (except for lock-in restrictions) for listed companies acquired pursuant to resolution plan approved under the Insolvency and Bankruptcy Code, 2016. | No such relaxation is available for listed companies sold on a going concern basis under liquidation. |
| 7. | Securities Contracts (Regulation) Rules | Relaxations have been provided to the listed companies acquired pursuant to approval of resolution plan under the Insolvency and Bankruptcy Code, 2016 to meet the minimum public shareholding requirements. | No such relaxation is available for listed companies sold on a going concern basis under liquidation. |
| 8. | Companies Act, 2013 | MCA has clarified that approval of shareholders / members of the Company for actions requiring such approval under the provisions of the Companies Act, 2013 shall be deemed to be granted for implementation of resolution plan pursuant to its approval by the Adjudicating Authority. | No such blanket approval is available for the companies sold on a going concern basis under liquidation. |

Understanding Conditions Precedents and Reliefs & Concessions under the Code

A resolution plan cannot be conditional as upheld by the Hon'ble Supreme Court in *Ebix Singapore Private Limited v. Committee of Creditors of Educomp Solutions Limited & Anr.*¹⁰ ("**Ebix Judgement**").

However, it is often seen that

certain Requests for Resolution Plans ("**RFRPs**") allow for Condition Precedents ("**CPs**") in the resolution plan. These CPs ideally should be those conditions which are pre-requisite for smooth and effective implementation of the resolution plan in accordance with applicable laws.

Apart from the CPs, the resolution applicants, generally,

request for certain reliefs, concessions and waivers ("**Reliefs**") as part of the Resolution Plan citing that the same be placed before the Adjudicating Authority along with the Application for approval of the resolution plan. The CPs and Reliefs are often intertwined and require detailed discussion between the CoC and the resolution applicants.

¹⁰ Judgement dated 13th September, 2021 in Civil Appeal No. 3224 of 2020 and other appeals

Theme



Resolution in CIRP through a resolution plan and a going concern sale under Liquidation proceedings might seem to be one and the same but there exists a fine line of difference between the two, both legally and practically.



The Code has not laid down explicitly with respect to the treatment of such reliefs/waivers/concessions requested by resolution applicants/successful bidders. Even though the commercial wisdom of the CoC is sacrosanct in a CIRP, the CoC may not wish to usurp a jurisdiction which has not been bestowed upon it by the legislature and the Resolution Applicant is required to pray for the same before the suitable forum or the Adjudicating Authority. Further, citing that the nature of the sale of Corporate Debtor as going concern under liquidation is similar to resolution under the resolution plan, successful bidders too pray for seeking benefits/privileges/exemptions as available under Part II of the Code for their going concern acquisition under liquidation. This has left open a significant grey area, and created a vacuum, which the judiciary has attempted to fill, in certain instances, in the interest of

justice and revival of Corporate Debtors as going concern.

A very interesting and critical analysis of the grey area regarding reliefs/concessions for a successful bidders in the Liquidation Process can be observed from the matter of *Nitin Jain, Liquidator of PSL Limited vs Lucky Holdings Private Limited*¹¹ (“**PSL Judgement**”), wherein reference were made by Liquidator to Orders in *V.K Global Vs M/s SMAAT India Private Limited*¹², *Dr. Devaiah Pagidipati Vs Southern Online Bio Technologies Limited*¹³ (“**SBTL**”) and *Topworth Judgement* (supra), to cite that although Liquidation Regulations do not provide for granting of specific reliefs, however, when the Corporate Debtor is being sold as a going concern, being akin to resolution plan, naturally the purchaser is entitled for consequential reliefs to achieve the object of running the Corporate Debtor as Going Concern. The Adjudicating Authority referred to *Apex Court Judgement in Arun Kumar Jagatramka Vs Jindal Steel and Power Ltd and Anr*¹⁴, to state that sale under resolution plan and under Regulation 32(e)/32(f) r.w Regulation 32A of Liquidation Regulations are similar in nature and object is also same. Then, reference was made to *Gujarat Urja Vikas Nigam Limited Vs. Amit Gupta and Ors*¹⁵. and *Embassy Property Developments Private Limited v. State of Karnataka & Ors.*¹⁶ (“**Embassy Judgement**”) with regard to scope of jurisdiction of NCLT under section 60(5) of the Code stating that

jurisdiction is confined to issues being central to insolvency resolution or liquidation proceedings of a Corporate Debtor and thereafter foundational principles of the Code can be put into service to find out a solution of a problem in a given set of circumstances, if there exists no specific provision to provide a solution thereto. The Adjudicating Authority further observed that “*there still remains a vacuum as neither the basic provisions under the Code nor regulations made so far prescribe as to what reliefs and concessions can be granted to a Successful Auction Bidder who takes over a Corporate Debtor as a going concern like a resolution applicant so as to enable such person to run the affairs of the Corporate Debtor as a going concern in a smooth manner without any hiccups*”.

The Adjudicating Authority further stated that there is a necessity that the legislature should provide a necessary framework for granting reliefs and concessions in the specific manner in case of the sale of Corporate Debtor as going concern or its businesses as a going concern under the liquidation process. While laying down the similarities between resolution and sale as going concern under liquidation, the Adjudicating Authority stated “*that reliefs and concessions on the parallel line of an approved resolution plan can be granted subject to one condition that such reliefs/concessions must be central issues and also in relation to or arising out of liquidation proceedings of a*

¹¹. Order dated 8th September, 2021 in IA/391(AHM)2021 in CP(IB) 37 of 2017

¹². Order dated 25th February, 2020 in IA No. 155 of 2020 in CP (IB) No. 91/9/HDB/2018

¹³. Order dated 26th November, 2019 in IA 1038 of 2019 in CP(IB) No. 343/7/HDB/2018

¹⁴. Judgement dated 15th March, 2021 in Civil Appeal No. 9664 of 2019

¹⁵. Judgement dated 8th March, 2021 in Civil Appeal No. 9241 of 2019

¹⁶. Judgement dated 3rd December, 2019 in Civil Appeal No. 9170, 9171 and 9172 of 2019

Theme

Corporate Debtor so as to confer jurisdiction on Adjudicating Authority under Section 60(5) (c) of the IBC, 2016". The Bench then proceeded to allow certain reliefs as prayed by the Bidder.

Judicial Precedents on Reliefs and Prayers in Resolutions under CIRP vis-à-vis Going concern Sale under Liquidation

In view of the PSL Judgement and other judicial precedents, it is generally observed that, either in resolution plan revival or going concern sale under liquidation, any waiver/relief/concession sought in the by resolution applicant/successful bidder, and if central to insolvency/liquidation proceedings, shall be subject to approval by the Adjudicating Authority, specifically in the light of the cited judicial pronouncements read with Judgment of Hon'ble Supreme Court in *Ghanshyam Mishra and Sons Private Limited v/s. Edelweiss Asset Reconstruction Company Limited*¹⁷ and Embassy Judgement.

An overview of the judicial precedents available as on date will be helpful to understand the discretion exercised or approach adopted by the judiciary towards waivers, reliefs and concessions sought by the resolution applicants/successful bidders.

The Adjudicating Authority w.r.t CIRP in the matter of *Mrs. Jayashree Iyer, Resolution*

*Professional Cura Healthcare Private Limited & Ors.*¹⁸, *V. Venkatachalam, Resolution Professional, Sai Wardha Power Generation Limited*¹⁹, *Umesh Ved, RP of Shri Ram Cement Ltd v. Committee of Creditors, Shri Ram Cement Limited*²⁰, *ICICI Bank Limited v. Essar Power MP Limited*²¹, *Re Resolution Plan of Omni Auto Tech Pvt. Ltd.*²², *Abhilash Lal, Resolution Professional of Jhabua Power Limited*²³, has granted various waivers/concessions/reliefs. Some are : 1) Extinguishment of debts, liabilities and de-recognition in P&L Account, 2) Restatement of carrying value of assets and write off non-realizable amount to P&L A/c, 3) Dissolution of Board, the appointment of new directors, amendment of constitutional documents, transfer of shares at nil consideration, 4) Re-negotiation / termination of contract with 3rd parties, 5) Renewal/Extension of Licenses/Approvals from Govt. authorities, 6) the accrual of benefit of cash balance up to approval of plan CoC, 7) vesting of asset/PR with resolution applicant, 8) discretion to resolution applicant to utilize amount lying in security premium account in manner deemed fit subject to compliance with The Companies Act, 9) Waiving of past non-compliances by Govt. Authorities, 10) Govt. Authorities like ED/SFIO not to attach, initiate or continue a criminal proceedings against CD or its assets, 11) Account of CD shall stand regularized,

12) Termination of related party contracts, 13) freezing of amount to be paid to customs department for de-notification of SEZ. 14) Termination of all captive PPA's without any liability, 15) Claims, whether lodged during CIRP or not, shall stand extinguished, 16) Restoration of power supply subject to deposit of connection charge/security deposit, 17) Uninterrupted water supply and use of land for a period of 12 months, , 18) Ministry of Environment and Forest to waive off past non-compliance and provide an additional period for complying emission norms, 19) Any stamp duty or tax liability arising pursuant to transactions contemplated in resolution plan be exempted or waived off, 20) Winding up proceedings to stand abated, 21) Guarantors not to enforce subrogation rights against CD, 22) All creditors to withdraw all legal proceedings commenced against CD, 23) Exemption of income tax upon exceptional gains on account of waivers of financial liabilities and to receive all income without deduction of any Tax under the Income-tax Act, 1961 for a period of 10 years from plan effective date.

Similarly, w.r.t sale as going concern in liquidation, Adjudicating Authority in, PSL Judgement, *Topworth Judgement, SBTL, Mr. T. Raja Kishore v. TSN Raja, Liquidator of M/s VNR Infrastructures Limited*²⁴ has granted various waivers/concessions/reliefs.

¹⁷. Judgement dated 13th April, 2021 in Civil Appeal No.8129 Of 2019

¹⁸. Order dated 13th January, 2022 in IA /888(CHE)/2021 in CP (IB)/1325/2019

¹⁹. Order dated 17th October, 2019 in IA 703 of 2019 in CP(IB) No. 275/7/HDB/2018

²⁰. Order dated 20th September, 2021 IA 936/NCLT/AHM/2020 in CP (IB) 195/NCLT/AHM/2018

²¹. Order dated 1st November, 2021 in CP(IB) 863(PB) /2020

²². Order dated 18th July, 2022 in IA (IB) No. 114/KB/2022 in CP (IB) No. 1258/KB/2018

²³. Order dated 6th July, 2022 in I.A. (IB) No. 586/KB/2021 in C.P. (IB) No. 634/KB/2017

²⁴. Order dated 2nd September, 2021 in IA 397/2021 in CP 12/10/HDB/2017

Theme

Some are: 1) Transfer of licenses, consents, approvals, 2) Settlement of past liability, 3) Extinguishment of existing shares of CD, 4) Vacation of office by existing directors, 5) Change of status of CD to "Active" by ROC, 6) CD allowed to review and terminate contracts, 7) Assets of CD to vest with an acquirer, 8) Satisfaction of all charges, 9) Authorities to waive of non-compliances prior to approval date, 10) All inquiries, investigations (civil/criminal) in connection with the company shall stand withdrawn, 11) Removal of company's name from the DGFT 'Denied Entity List', 12) Income Tax Benefit for carry forward of business loss and depreciation, 13) 100% shareholding of the CD to be allotted to Successful bidder

, 13) Exemption to CD from payment of registration fees, stamp duty and other taxes, 14) Govt. authority shall waive tax, interest and penalties and shall not initiate penal proceedings in case of non-fulfilment of any obligation.

Conclusion

Undoubtedly, based on the above in-depth analysis of provisions of the Code and judicial precedents available as on date, the revival of Corporate Debtor, whether in CIRP or Liquidation can be touted as the ultimate object of the Code and such revival may not be practically viable unless and until certain waivers, reliefs and concessions are granted to the resolution applicant under CIRP and the successful bidder under liquidation. In absence

of specific legal provisions, the judiciary has attempted to extend the required assistance to the acquirers within the framework of The Code. In time to come, these judicial precedents may become the guiding light for the legislature to enact necessary amendments to the Code and Regulations to bring in specific provisions for the treatment of such reliefs/concessions/waivers, and for defining the powers of CoC and AA to consider the same, to mitigate post-acquisition complications and enable the acquirer to proceed based on the clean slate theory propounded by the Apex Court and operate the Corporate Debtor as an ongoing concern. Such an amendment will surely be aligned with the essence of The Preamble of the Code. ■■■



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APPEAL FOR CONTRIBUTION TO THE C.A. BENEVOLENT FUND (CABF)



CHARTERED ACCOUNTANTS' BENEVOLENT FUND (CABF)

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

The Chartered Accountants' Benevolent Fund (CABF) was established in December, 1962 with the objective to provide financial assistance for maintenance, and other similar purposes to needy members of our Institute, their wives, widows, children and dependent parent(s).

During Covid pandemic, hundreds of our members have lost their battle and many others are struggling hard to pass through this difficult time. The impact is deep and has certainly shattered their dreams. The Institute through the CABF has tried to help our members in distress.

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A small contribution with a big heart from each member would facilitate grant of a good amount of financial assistance to needy and suffering members/dependents of members of the profession to mitigate their hardship during unfortunate circumstances.

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DURING UNFORTUNATE CIRCUMSTANCES**

Theme

Even proceedings under section 7 can be initiated against Corporate Debtor and co-borrowers though the recovery cannot be more than its total outstanding put together



CA. Dinesh Gopal Mundada

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economic measure, aimed at aligning insolvency laws with international standards.

As per Part II of the Insolvency and Bankruptcy Code, 2016, the Financial Creditors, Operational Creditors, Corporate Debtor itself or Directors of Corporate Debtors can initiate Corporate Insolvency Resolution Process when the Corporate Person is in default (also called as Corporate Debtor) .

Part II of the Code titled 'Insolvency Resolution and Liquidation for Corporate Persons' applies to matters relating to insolvency and liquidation of corporate debtors where the minimum amount of default as of today is Rs.1 Crore. A corporate debtor refers to a company, a limited liability partnership or any corporate person who owes a debt to its creditors. Under the Insolvency and Bankruptcy Code, a corporate debtor is liable to the financial and operational creditors for the payment of such debt. Part II has been notified since its inception.

Part III of the Code, 2016 deals with provisions relating to Insolvency and Bankruptcy for Individuals and Partnership Firms. The provisions of this Part are yet to be notified except for personal guarantors of corporate debtors.

The issue arose in cases where the debt is granted to Corporate Person where guarantor/co-borrower are other than Corporate Person i.e., individuals, proprietors, partnership firms. So it became difficult for Financial Institution to initiate the proceedings partly in IBC and partly in different statute such as Securitization and Reconstruction of Financial Assets and Enforcement of Securities Interest Act (SARFAESI), etc. Therefore, the Central Government issued Notification on 15th Nov 2019 by which Part III of IBC is effective from 1st December 2019 in so far as they relate to the Personal Guarantor to Corporate Debtor. Notably, this notification was challenged in the Supreme Court, nevertheless the Supreme Court vide its judgement dated 21st May 2021 rejected the challenge to the notification issued by the Central Government in the case titled Lalit Kumar Jain Vs Union of India & Ors.

Perspective of Financial Institutions

It is indeed noticeable that the Insolvency and Bankruptcy Code brought new energy into the veins of financial institutions. Before IBC, Financial institutions had a very long route to recover its money and at times due to elapse of time the recovery was quite less or negligible. In the IBC era, which is time-bound process the resolution of the process is faster and revival is happening on going concern basis. Even though it is indeed a positive vibe amongst the financial institutions but few of them started looking at more recovery than its outstanding for which Adjudicating Authority had

The issue arises when there are two borrowers and/or two corporate bodies that fall within the ambit of corporate debtors, proceedings under Section 7 of the IBC can be initiated against both Corporate Debtors. Though the proceedings can be initiated against both persons, the amount cannot be realised from both Corporate Debtors. Total recovery of dues can never exceed the outstanding in the books of the lender. Yes, there are chances that part payment can be realised from one borrower and the remaining part from another borrower Corporate Debtor being the co-borrower. Therefore, the question of double recovery does not arise.

Background of IBC

On 28th May 2016, the Insolvency and Bankruptcy Code (IBC) was published in the Official Gazette after its passage in the Parliament. It has been hailed as a major

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to intervene for the betterment of each stakeholder. Time and again judiciary explained that IBC is not recovery mechanism but it seems that the provisions of Code are being tested otherwise. In *Invent Asset Securitisation And Reconstruction Private Limited Vs Girnar Fibres Limited (SC)*, The Court mentions,

“Time and again, it has been expressed and explained by this Court that the provisions of the Code are essentially intended to bring the corporate debtor to its feet and are not of money recovery proceedings as such. The intent of the appellant had only been to invoke the provisions of the Code so as to enforce recovery against the corporate debtor. We find no fault in the Tribunal and the Appellate Tribunal having declined the prayer of the appellant.”

However, in the interest of justice, it does appear appropriate and hence observed that if any other proceedings have been or are taken up by the appellant, the same shall be dealt with and proceeded on their own merits and in accordance with law.”

Initiation of proceedings limited to recovery of total dues

MAITREYA DOSHI vs ANAND RATHI GLOBAL FINANCE LTD. AND ANR. (SC) (Sep 2022)

Extract of Facts of the matters are as below

Financial Creditor disbursed loan to the tune of Rs. 6 Crores to M/s Premier Limited,

hereinafter referred to as “Premier” under three separate Loan-cum-Pledge Agreements. According to the Appellant, Doshi Holdings pledged shares held by it in Premier, in favour of the Financial Creditor, by way of security for the loan.

“Part III of the Code, 2016 deals with provisions relating to Insolvency and Bankruptcy for Individuals and Partnership Firms. The provisions of this Part are yet to be notified except for personal guarantors of corporate debtors.”

According to the Appellant, the Loan-cum-Pledge Agreements contemplated two distinct transactions under one document, that is, grant of loan to Premier, and creation of pledge by Doshi Holdings of securities held by the Doshi Holdings in Premier.

The Appellant was a director of M/S Doshi Holdings Pvt.

Ltd. (“Doshi Holdings”); and the Respondent no. 1 is Anand Rathi Global Finance Limited (Financial Creditor “FC”).

Premier defaulted on the payments, and the FC called upon Premier to repay the dues. On non-payment, the financial creditor proceeded to call upon both Premier and Doshi Holdings, to pay the entire outstanding loan amount.

On communication of inability to pay dues by Premier, the FC filed a petition to initiate Corporate Insolvency Resolution Process (CIRP) against both Premier and Doshi Holdings, for the same set of loans arising out of the same loan documents, in NCLT Mumbai, which admitted both the petitions.

The Appellant filed an appeal in the NCLAT under Section 61 of the IBC, against the judgment of the NCLT admitting the petition against Doshi Holdings, which was dismissed by the NCLAT.

Further, appeal was filed under Section 62 of the IBC against the above stated Judgement and Order of the NCLAT.

Contentions of the Appellant

The Agreements contemplated two distinct transactions under one document, - first, grant of loan to Premier, and second, creation of the pledge by Doshi Holdings.

The FC granted loans to Premier and no amount under the Agreements was disbursed to Doshi Holdings. Further, the loan was never utilised by Doshi Holdings. The reference to both Premier and Doshi Holdings as the ‘borrower’ in the Agreements was only done for the sake of convenience. The fact remains that Premier was the borrower and Doshi Holdings the pledger, and both represent separate entities.

Since no disbursement had been made to Doshi Holdings, there was no obligation on the part of Doshi Holdings to make

any repayment to the FC, and no financial debt was owed by Doshi Holdings to the FC. Further, the NCLT and the NCLAT erred in finding that Doshi Holdings was a borrower by misconstruing the expression ‘financial debt’.

By distinguishing the terms Contract

of Indemnity, Contract of Guarantee and Pledge, as per the Indian Contract Act, 1872, the appellant contended that creation of pledge of shares

“It is indeed noticeable that the Insolvency and Bankruptcy Code brought new energy into the veins of financial institutions.”

”

Theme

of the CD did not and cannot amount to a guarantee and/or indemnity under the definition of financial debt under Section 5(8) of the IBC. Further, relying on *Phoenix ARC Pvt. Ltd. v. Ketulbhai Ramubhai Patel*, where the Court held that where a Corporate Debtor had only extended security by pledging shares, the applicant (Respondent) would at best be the secured debtor qua the security but, not a Financial Creditor within the meaning of sections 5(7) and 5(8) of the IBC.

Further, it was alleged that when one bench of the NLCT admitted the petition for initiation of CIRP against Premier, it mentioned in its order that “for the same set of loans, arising under the same loan documents, the same debt/claim against Doshi will not be permissible”, and thus when another bench of the NCLT admitted the petition for initiation of CIRP against Doshi Holdings by a subsequent order, it was in disregard to the order of the previous bench.

Thus, the authorities erred in admitting the petition under section 7 of the IBC against Doshi Holdings.

Contentions of the Respondent

Doshi Holdings was party to the Agreements in its dual capacity as co-borrower and pledger. Further, the appellant

(who was Director of both, Premier and Doshi Holdings) had signed the documents on behalf of Doshi Holdings in its capacity as co-borrower.

Doshi Holdings had acknowledged receipt of monies disbursed under the Agreements by executing loan receipts, and had also issued promissory notes promising repayment of loan to the FC. Also, after Premier defaulted in payment of loan, demand notice was issued to Doshi Holdings to repay the loan in its capacity as co-borrower.

It was emphasised that the sine qua non for an entity to be considered as a Corporate Debtor is that such person/entity should owe a debt to any person and not that a disbursement has to be made to such a person/entity; and Doshi Holdings satisfies the aforementioned criteria.

Judgement

Prima facie, it appears that Doshi Holdings was a party to the Agreements in its dual capacity of borrower and pledgor of shares.

The Hon'ble NCLT found that Doshi Holdings is also a borrower under the Agreements

“
The Proceedings under IBC can be initiated against Borrowers, Co-borrowers and Personal Guarantor to Corporate Debtor.
”

is a plausible interpretation and shall not be interfered within an appeal under section 62 of the IBC.

The court relied on its earlier judgement in the case of *Lalit Kumar Jain v. Union of India*, to rule that the approval of a resolution in

respect of one borrower cannot discharge a co-borrower.

Thus, when there are two borrowers or if two corporate bodies fall within the ambit of corporate debtors, there is no reason why proceedings under Section 7 of the IBC cannot be initiated against both the Corporate Debtors.

However, the same amount cannot be realised from both the Corporate Debtors. If the dues are realised in part from one Corporate Debtor, the balance may be realised from the other Corporate Debtor being the co-borrower. And once the claim of the Financial Creditor is discharged, there can be no question of recovery of the claim twice over.

Conclusion

The Code is essentially intended to bring the corporate debtor to its feet and is not of money recovery proceedings as such. The Proceedings under IBC can be initiated against Borrowers, Co-borrowers and Personal Guarantor to Corporate Debtor. Having possibilities of initiating IBC proceedings against each of the above person, it does not mean to recover the same amount from all the persons put together. The recovery of amount cannot be more than outstanding dues from all the parties put together.





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Theme

Valuation: The Fulcrum of IBC



***CA. Mangesh Pandurang Kinare and**

****CA. Sarika Singhal**

*Author is member of the Institute. **Author is Deputy Secretary in the Institute. They may be reached at eboard@icai.in

"Valuation is the foundation on which entire stake and structure of IBC is dependent"

With the globalisation and ever-increasing competition in the market, many corporates have entered into various business segments. Out of which few of them have successfully made their prominent place in the markets and few are still struggling to find.

In this journey of their business life cycle, we all have witnessed numerous companies going into either Merger and Amalgamation (M&A) or Sale of Businesses or Liquidation or Voluntary Liquidation or Insolvency process for Corporates, Pre-package etc. every day. All these strategic business decisions impact each and every stakeholder including the smallest investor/stakeholder to a great extent.

The Insolvency and Bankruptcy Process as defined under IBC, 2016 determines whether a business will continue its life cycle or not as Insolvency Process aims at saving the businesses that are viable and enables the exit of those that are not.

This whole process of insolvency involves various steps and procedures and necessitates the need of many professionals and their expertise. This process starts broadly with Application to NCLT for commencement of insolvency resolution process, acceptance of which leads to appointment of IRP and then the Moratorium period begins (a calm period) during which the Insolvency Resolution Professional (IRP) will call for claims, analyse and verify them, also a Committee of Creditors (CoC) is formed to whom the Resolution Plan is presented (at first) for approval and thereafter to NCLT. Non-approval of the same may lead to Liquidation: the end of business life cycle.

Further, there are many intricate processes that are being involved and undertaken, such as estimating the value of the assets, preparation of Asset Memorandum etc.

The key objective under this process of IBC is to maximize the value of assets of the Corporate Debtor and consequently value for its stakeholders. This value is a critical element towards achieving the transparent and credible determination of the value of the assets to enable comparison and informed decision making by the CoC.

The decision by the CoC and the NCLT w.r.t. approval of the Resolution Plan is dependent upon the fair value and liquidation value ascertained by the Registered Valuers which enables the comparison of both i.e., the value of the assets of the company as per the Registered Valuer and the haircut as envisaged in the Resolution Plan.

The Valuation Report of the Valuer becomes a fundamental basis on which crucial decisions of the Committee of Creditors are dependent such as continuation with the resolution process or liquidation of the Corporate Debtor. Moreover, it also facilitates the resolution professional to invite prospective resolution plans and the inaccuracies in determining the liquidation value could undermine the resolution plan that may be approved on the basis of an incorrect liquidation value. Therefore, the future of the corporate debtor and its stakeholders hinge on an accurate valuation of assets. In this light, the Code read with the Regulations has been framed in a way that it mandates the

Theme



This whole process of insolvency involves various steps and procedures and necessitates the need of many professionals and their expertise.

valuations required under the Code and the Regulations made thereunder shall be conducted by a Registered Valuer.

The Valuation acts as the steering wheel which runs the entire process of resolution process in its desired direction.

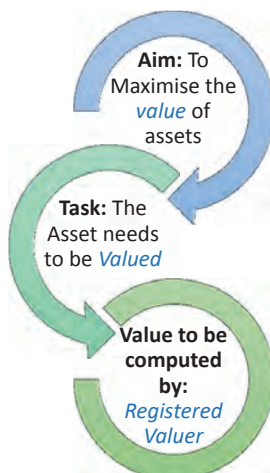
So, it becomes extremely crucial to arrive at a correct valuation by the Valuer due to the reason that a faulty valuation may lead to incorrect comparison and consequently erroneous decision on the part of CoC leading to disruption of the business and the economy.

Owing to the huge importance of Valuation in resolution process and uniqueness involved in the nature of every valuation assignment, need of a special class of professional to undertake the task of Valuation was emphasised and thus effective from 1st February 2019. The concept of Registered Valuers was introduced through Section 247 of the Companies Act, 2013 which provides that where a valuation is required to be made under the provision of this Act, it shall be valued by a person who, having the necessary qualifications and experience, and being a member of a Registered Valuer Organisation (RVO). Also, the Central Government has notified Companies (Registered Valuers and Valuation) Rules,

2017 (Rules) which provide for a complete framework for development and regulation of profession of Valuation and the power of the authority have been delegated to Insolvency and Bankruptcy Board of India (IBBI).

The Regulation 27 read with Regulation 35 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 mandates the Valuation to be conducted by two Registered Valuers to determine the 'fair value' and the 'liquidation value' of the corporate debtor, so appointed by the Resolution Professional (RP) and in case where the RP is not satisfied with the two Valuation Reports as prepared above and where the variance between these values is significant, he may require a third valuer to be appointed.

It is pertinent to note here that the Insolvency and Bankruptcy Code, 2016 was introduced to reorganise the Insolvency and Resolution process in a time bound manner for maximisation of value of assets of such persons, so as to promote entrepreneurship, availability of credit and balance the interests of all the stakeholders.



As the aim is to maximise the "value" of assets of the corporate, thus, the most crucial and critical aspect is to "value" the assets which is to be done by a Registered Valuer and hence, emphasizes the importance of Valuation and Registered Valuer under IBC.

In view of the significance that has been accorded to the process of Valuation and the Registered Valuer, it is essential that the Registered Valuers perform their duties and responsibilities with highest prudence.

We do understand that the Valuation in its entirety is the most decisive and, in fact, the most important aspect on which the entire decision-making process is dependent. The valuation report is developed and prepared by exercising judicious discretion by the Registered Valuer, by considering the relevant factors. There are always several factors, e.g. management capability, present and prospective competition, yield on comparable securities, market sentiment, etc. which may not be apparent from the Balance Sheet but they can have a significant impact on value. Any change in the assumptions or factors which have influence on valuation may impact the Value. Therefore, utmost care and caution must be exercised by the Valuers while deriving the value and must produce and present a detailed and fully reasoned valuation report that covers all aspects in detail. In this direction, few of the important points that a Valuer should take care while undertaking the valuation assignment are listed as under:

Theme



The Valuation Report of the Valuer becomes a fundamental basis on which crucial decisions of the Committee of Creditors are dependent such as continuation with the resolution process or liquidation of the Corporate Debtor.



- While carrying out valuation processes, the Valuer must be guided by the objective of the Insolvency and Bankruptcy Code, 2016 and the intent of that particular process.

The decisions taken and the dealings done by the valuer in various processes must be rational, and as per the provisions of Code/ Act.

In no case, position to be compromised due to bias, conflict of interest, coercion or undue influence from anyone.

- Under IBC, a valuer is required to carry out valuation to determine the “Fair value” and / or “Liquidation Value”. The valuations are required to be carried out in compliance with the Valuation Standards.
- The underlying assumptions for valuation under both fair value and liquidation value should be clearly articulated by the valuer in the report to enable its users in taking informed decisions.
- The valuation should be carried out by using the well accepted valuation approaches, i.e., Income Approach, Market approach and underlying Asset Approach, i.e., Cost Approach as deemed appropriate.
- The Valuer shall comply with the technical and professional standards like Valuation Standards adopted by the respective RVO, Guidelines, Circular, Advisories etc. issued by RVO, IBBI and the Ministry of Corporate Affairs.
- Completeness and veracity of the data do not reside on the valuer. Accordingly, significant limitations / constraints faced during conduct of valuation process should be appropriately pointed out and highlighted to the Resolution Professional and also mentioned in the valuation report.
- The valuer is not required to conduct his own independent investigation into the affairs / assets of the corporate debtor. However, any significant event that may come to his notice between the valuation date and the issuance of report should not be ignored.
- Subsequent events and how these have been considered in the valuation must be clearly spelt out.
- Use of Caveats, Limitations and Disclaimers should be in accordance with the guideline in this regard. He shall take responsibility of the information provided by him and should not

disclaim his liability by providing a disclaimer.

- The fees of the Registered Valuer should not be dependent on the enterprise value. It should be a fixed fee based on the assignment. He should never charge success fee as the same shows conflict of interest.
- The RV should not disclose any confidential information to any third party.

However, where an RV must maintain confidentiality, it does not stop him from disclosing relevant information with the consent of the relevant parties or as it may be required under any law for the time being in force.

The process of valuing an asset, may though seem to be a simple exercise but it involves huge intricacies. While discharging the duties as a Registered Valuer and computing the valuation under CIRP, there are multiple challenges that are being faced by a Registered Valuer, such as:

- Computation of **Fair Value** and **Liquidation Value**



The Insolvency and Bankruptcy Code, 2016 was introduced to reorganise the Insolvency and Resolution process in a time bound manner for maximisation of value of assets of such persons.



Theme

are central to the premise of Valuation and are to be computed on insolvency commencement date, which is historical. It becomes a challenge at times to collect reliable data and buyers on that date in the past and valuer may collect market prices, published information and other publicly available data to arrive at these values.

- Availability, ownership and Reliability of data.
- Timelines associated with receipt of key information and the sources of data
- Limitations created by exigencies such as COVID-19 pandemic
- There are Interdependencies while the Value of Business is to be assessed
- Valuation Report- Procedure, Limitations and Caveats.
- Non-availability of documents, information required to conduct valuation
 - ♦ Untimely, delayed receipt of desired information, impacts timely completion of the valuation assignments
 - ♦ Non-availability of reliable data leading to limitations in Reports and varying Valuations based on different underlying assumptions.
- Non-availability of audited financials as on the date of Corporate Insolvency Resolution Process (CIRP)



The process of valuing an asset, may though seem to be a simple exercise but it involves huge intricacies.



- Non availability of updated and reliable data on SFA included in the list of assets such as correspondence address of receivable, loans and advance, investment etc.
- Dependency on IP for appointment in almost all cases
 - ♦ No access to even phone numbers of promoters and enquiry from the other incumbents of the corporate debtor
- Non-Cooperation from management to resolve issues
- The stakeholders have a preconceived notion of the value of the company's business or securities even before the valuation process is initiated.
- Valuation reports are asked without audited accounts, authenticated inputs because of timeline pressure.
 - ♦ The time gap between the draft report and the final report is substantial.
- Difficulty in realizing assignment fees
- Sometimes Quotations are asked without properly

defining scope and nature of work

- Other issues concerning Valuation of Corporate Debtor under CIRP are as follows.
 - ♦ **Appointment of Valuers** – It is difficult to identify the nature of assets for valuation at the beginning of the appointment and the nature and priority of assets may vary during course of CIRP.
 - ♦ **Details of assets:** The details of assets may not be available for undertaking the valuation
 - ♦ **Mandatory appointment of valuers** - Valuers need to be appointed mandatorily by the RP, even if he is of the view that the assets being valued may not have much value.
 - ♦ **No proper Point of Contact** to discuss the valuation report.
 - ♦ Opportunity to visit client place is denied for small companies.
 - ♦ Though the financial statements are drawn under Ind AS using fair values as on the date of the balance sheet, there is significant erosion in the fair values immediately after the company comes under CIRP.
 - ♦ Valuation of Inventory- Raw Material, Work-in-progress, Finished Goods and Trade Debtors is another challenge

Theme

This underlines the need for catering due consideration to this important subject of valuation under IBC. It may be further noted that the requirement of Valuation is not only limited to Insolvency Resolution process for Corporate Person under IBC, but also extends to Liquidation, Voluntary Liquidation, Fast Track Insolvency Resolution Process, Pre-Package Insolvency Resolution Process under IBC and nonetheless is also mandated under various other Acts and Regulations, namely:

- **Liquidation under IBC:** Valuation of assets when a company is placed under liquidation if the liquidator decides that the valuation at the time of CIRP may no longer be relevant.
- **Voluntary Liquidation under IBC:** Valuation of assets of a company going in for voluntary liquidation
- **Valuation of the Undervalued Transactions**
- **Fast Track Insolvency Resolution Process:** Ascertainment of Fair value and liquidation value of the Assets of the Corporate Debtor
- **Pre-Packaged Insolvency Resolution Process:** Ascertainment of Fair value and liquidation value by two Registered Valuers
- **The Companies Act 2013:** At the time of Merger & Acquisition, Valuation at the time of winding up of company, Share Issue (other than rights and ESOP), Fair price justification for issue of sweat equity shares etc.

- **Indian Accounting Standards (Ind AS):** Valuation in case of Revaluation of PPE, ESOP / SAR accounting, Accounting for Business Combination etc.
- **The Income Tax Act 1961:** When a slump sale is effected, to determine the fair value of the slump sales, Valuation of specified security or sweat equity share being a share in the company etc.
- **Foreign Exchange Management Act (FEMA):** Valuation in case of Buy Back of shares by an Indian Entity from foreign shareholders, Inbound foreign investment in an unlisted entity etc.
- **Securities and Exchange Board of India (SEBI) Regulations:** Valuation for Preferential issue – conversion of debt into equity under strategic debt restructuring scheme, Valuation of the know-how or intellectual property rights or value addition etc.

Needless to say that the requirement of Valuation under almost each and every Act underlines the importance of Valuation.

Moreover, time and again, the High Courts and the Supreme Court have all delivered numerous landmark orders and judgments highlighting the pertinence of Valuation and the Registered Valuer under IBC and also under other Acts and Regulations.

To quote a few, the Apex Court in one of the cases has stated that valuation in its entirety is the most decisive and, in

fact, the most important aspect on which the entire decision-making process is dependent. The valuation report is developed and prepared by exercising judicious discretion by the Registered Valuer, by considering the relevant factors. Hence, the sanctioning court has no power or jurisdiction to exercise any appellate functions over the scheme. It is not a Valuer and It does not have the necessary skills or expertise, so, It cannot substitute its own opinion for that of the shareholders, therefore, Its jurisdiction is peripheral and supervisory, not appellate.

In one of the other judgements, the Court relied on the judgement in the case of Miheer H. Mafatlal and stated that the valuation of shares is a technical and complex problem which can be appropriately left to the consideration of experts in the field of accountancy. So many imponderables enter the exercise of valuation of shares.

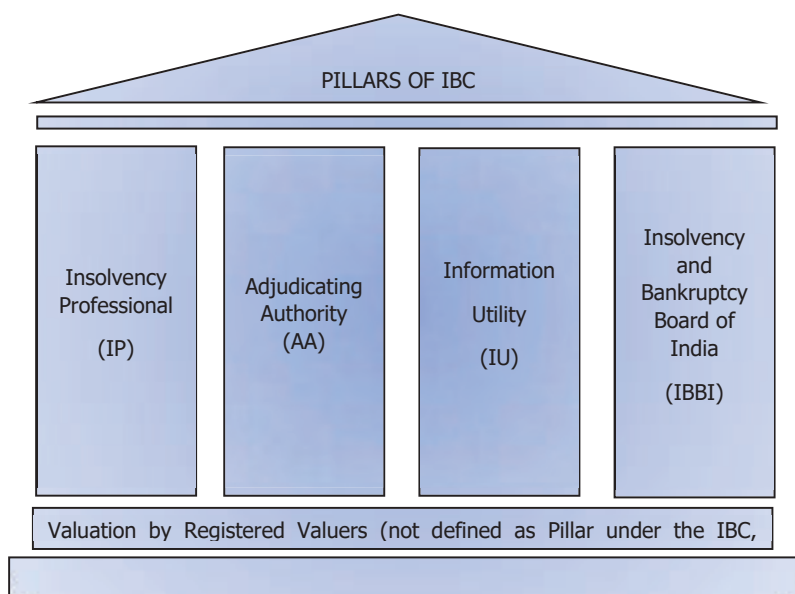
The provisions of the Insolvency and Bankruptcy



Requirement of Valuation is not only limited to Insolvency Resolution process for Corporate Person under IBC, but also extends to Liquidation, Voluntary Liquidation, Fast Track Insolvency Resolution Process, Pre-Package Insolvency Resolution Process under IBC.



Theme



Code, 2016 provides for the four (4) pillars on which the structure of IBC is dependent

which are said to be as follows:

- IBBI,

- Adjudicating Authority,
- Information Utility and
- Insolvency Professionals.

However, if we dive deep and give handful thoughts on the importance of Valuation under IBC, then **it could be construed that "Valuation is also one of the key pillars of IBC"**.

The position of "Valuation" in an Insolvency Resolution Process seems similar to that of "Salt" in the dish whose significance may not be clearly evident but is actually the most important element in the whole process. Eliminating the valuation conducted by a Registered Valuer will disturb and tremble the entire process of IBC. ■■■

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Theme

IBC- the much talked about Legislation and the road built towards Resolution and certainty



**CA. Durgesh Kumar Kabra and
CA. Sripriya Kumar**

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The Insolvency and Bankruptcy Code, 2016 (IBC or the Code) which is one of the significant reforms being implemented in the economic landscape of the country has set up a decisive and strong regime in the insolvency resolution arena. IBC since its inception over the years has been much talked about and discussed subject by several experts, professionals, academicians, columnists etc. The wide deliberations and immense interest are understandable as the main purpose of the Code includes implementation of the insolvency resolution process in a time bound manner, maximization of value of assets of stakeholders, promote entrepreneurship, increase availability of credit and balance the interest of all stakeholders. The primary objective under IBC remains to revive the businesses through resolution of insolvency but under certain circumstances when it does not happen then orderly exit is available in the Code.

The country is witnessing today the results of the successful implementation of IBC which has been possible because of the establishment of effective institutional set-up and the various judgements pronounced by Supreme Court, High Courts, NCLAT and NCLT benches. The judicial pronouncements are an important repository to understand the aspects in operationalization and in providing clarification on important provisions and issues under IBC.

The Journey of this Code includes many developments, amendments and achievements and recently a number of amendments have also been brought out in the Regulations under the Code. Before discussing on the recent changes, it is pertinent to mention that the salient features of the Code have brought to the fore important phrases/ words which are often and commonly used in various platforms like Corporate Debtor, Financial Creditor, Operational Creditor, Committee of Creditors, Personal Guarantor, Resolution Applicant, Resolution plan, Default, Moratorium, Interim Resolution Professional, Resolution Professional and so on.

One should know about the significant developments for which a recapitulation of the same is being made here.

Important developments under IBC over the years

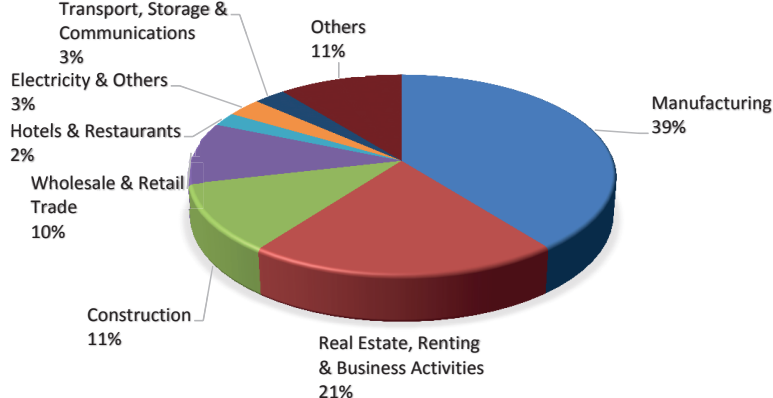
Corporate Insolvency Resolution Process (CIRP) – The Journey so far

If we look at statistics, since the inception of the Code in December 2016, a total of 5893 CIRPs have commenced by the end of September, 2022 as per IBBI data. Out of these, 3946 have been closed. The Code has rescued 553 Corporate Debtors (CDs) as on September, 2022 through resolution plans. They owed Rs. 7.91 lakh crore to creditors under the Code and the creditors have realised Rs. 2.43 lakh crore which is about 178% of the liquidation value of the assets of the CDs. Realisation by financial creditors in comparison to their claims is around 33 %. The Realisation for all classes of creditors, as compared to their claims, is around 30.8%.

The Chart below gives Sector wise distribution of CIRPs as per admission as on September 2022. Maximum admission of CIRPs has taken place in Manufacturing Sector followed by Real Estate Sector.

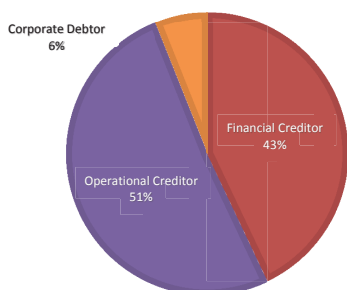
Theme

Sectoral Distribution of CIRPs : Admission



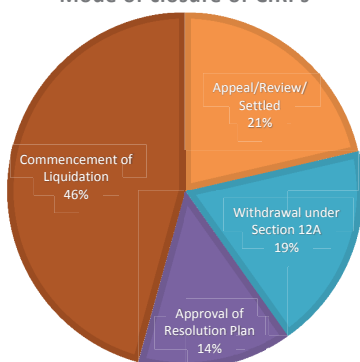
The distribution of stakeholder-wise initiation of CIRPs is given in the Chart below. Around 51.08% of CIRPs are initiated by Operational Creditors, followed by 42.98% by Financial Creditors and remaining by Corporate Debtors.

Initiation of CIRP- Stakeholder Wise



The mode of closure of CIRPs as on 30th September 2022 is given in the Chart below. 14% of the CIRPs commenced have been closed by approval of Resolution Plan.

Mode of closure of CIRPs



The Charts have been prepared based on IBBI Data

Economic Survey Report on IBC- Birth of two professions and change in behaviour of debtors

The Report of Economic Survey 2021-2022 has highlighted the birth of two professions due to enactment of IBC and further emphasised the change of behaviour of debtors due to IBC.

"The Insolvency and Bankruptcy Code (IBC) has created a cohesive and comprehensive insolvency ecosystem. With the enactment of IBC, India has witnessed the birth of two professions, namely, the insolvency profession and the valuation profession that have professionalised insolvency services. The Code has opened possibilities of the resolution, including merger, amalgamation and restructuring of any kind, which often requires professional help. This has created markets for services of Insolvency Professionals, Registered Valuers, Insolvency Professional Entities and expanded the scope of services of Advocates, Accountants and other professionals."

"Distressed assets have a life cycle and their value gradually declines with time. The fact that a CD may

“
The Insolvency Professionals (IPs) as we know play a key role under IBC on which rests the effective and timely mechanism of the insolvency resolution process.
”

change hands has changed the behaviour of debtors. Thousands of debtors are resolving distress in the early stages of distress, either when the default is imminent, on receipt of a notice for repayment but before filing an application, after filing the application but before its admission, and even after admission of the application, and making best effort to avoid consequences of the resolution process."

Insolvency Professionals – Key to Resolution Process

The Insolvency Professionals (IPs) as we know play a key role under IBC on which rests the effective and timely mechanism of the insolvency resolution process. As on date as per IBBI data, 4225 Insolvency Professionals have been registered with IBBI. Out of which, 2665 Insolvency Professionals are enrolled with IPA of ICAI (Indian Institute of Insolvency Professionals of ICAI- IIIPI) – i.e., more than 63% of the registered Insolvency Professionals are members of IIIPI. Further if we look at the distribution of IP as per their eligibility as on 30th September 2022, over 55% of IPs are members of ICAI.

Amendments- Improving and extending the scope of the Code

Theme

The Code has been amended six times after its enactment and Highlights of Major Amendments are given below.

- Further, The Insolvency and Bankruptcy Code (Amendment) Act, 2021 was enacted repealing

| | | |
|--|---|---|
| ➤ New Section 29A inserted to provide for Persons not eligible to be resolution applicant to submit a resolution plan. | ➤ MSME Sector provided with a special dispensation under the Code. It does not disqualify the promoter here to bid for his enterprise undergoing Corporate Insolvency Resolution Process (CIRP) provided he is not a willful defaulter etc. | ➤ Homebuyers recognised as financial creditors which would give them due representation in the Committee of Creditors (COC). |
| ➤ New Section 12A inserted wherein withdrawal by an applicant after admission under IBC would be permissible only with the approval of the Committee of Creditors with 90 percent of the voting share. | ➤ Voting threshold has been brought down to 66 percent from 75 percent for approval of resolution plan. The voting threshold for routine decisions has been reduced to 51%. | ➤ Moratorium not applicable to guarantors of Corporate Debtor. |
| ➤ Restricting the resolution process to 330 days, including time for litigation. | ➤ The resolution plan approved by the Adjudicating Authority shall also be binding on the Central Government, any State Government, or any local authority to whom a debt in respect of payment of dues arising under any law. | Introduction of pre-packaged insolvency resolution process under IBC for MSME only. It shall be completed within 120 days from the pre-packaged insolvency commencement date. |

COVID-19 Pandemic – Relief Measures undertaken in insolvency sphere

To safeguard the people, business and all the stakeholders, various actions were undertaken in the country in the insolvency resolution process by Hon'ble Courts, Government and Regulators to combat the situation and provide relief to the concerned. The notable amongst those actions were:

- The Central Government by notification dated 24th March 2020, revised the minimum amount of default to trigger insolvency to Rs. 1 crore instead of Rs. 1 lakh to help the MSME sector to be prevented from being brought under insolvency proceedings as per IBC.
- The initiation of Corporate Insolvency Resolution Process under IBC was suspended for one year from 25th March 2020 to 24th March 2021.

the Ordinance, which provides for Pre-packaged Insolvency Resolution Process for corporate debtors classified as micro, small and medium enterprises.

Alternative resolution mechanism for MSMEs- Introduction of Pre-packaged Insolvency Resolution Process (PPIRP)

Micro, small and medium enterprises are critical for India's economy as they contribute significantly to its gross domestic product and provide employment to a sizeable population. The purpose to introduce a pre-packaged insolvency resolution process for corporate persons classified as micro, small and medium enterprises is as follows:

- To mitigate the distress caused by the COVID-19 pandemic which has impacted the business operations

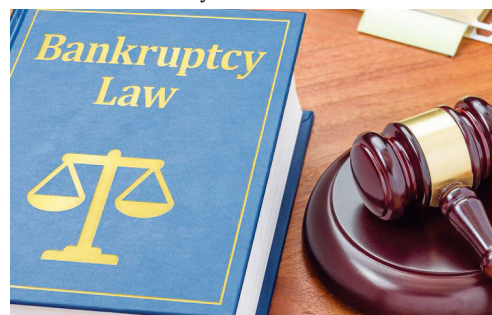
“Micro, small and medium enterprises are critical for India's economy as they contribute significantly to its gross domestic product and provide employment to a sizeable population.”

of micro, small and medium enterprises and exposed many of them to financial distress.

- To provide an efficient alternative insolvency resolution process for corporate persons classified as micro, small and medium enterprises under the Insolvency and Bankruptcy Code, 2016, ensuring quicker, cost-effective and value maximising outcomes for all the stakeholders, in a manner which is least disruptive to the continuity of their businesses and which preserves jobs.

Recent amendments in the Regulations towards effective implementation

The Highlight of the major amendments that took place recently are summarized below.



Theme

CIRP Regulations

- Now, Operational Creditor who are registered with Goods and Services Tax has to provide relevant extracts of GSTR- 1 (contains detailed information of all the outward goods and services of a business) & GSTR- 3B (simplified return to declare summary GST liabilities for a tax period) to be furnished with CIRP application for evidence of default.
- Financial Creditor/ Operational Creditor while filing CIRP application with Adjudicating Authority has to also furnish his/its PAN and email id.
- Regulatory fees payable to IBBI under Regulation 31A at the rate of 0.25 per cent of the realisable value to creditors under the resolution plan approved to be part of Insolvency Resolution Process Cost.
- If resolution plan is not received for CD as a whole from any Resolution Applicant then Re – issue of the request for resolution plan for sale of part of the assets of the CD can be issued.
- Minimum Fee is prescribed for Insolvency Professional performing as a Resolution Professional during CIRP which is from Rs.1 lakh to Rs.5 lakh depending upon the Quantum of Claims admitted.
- For the resolution plan approved by the committee on or after 1st October 2022, the committee may decide, in its discretion, to pay performance-linked incentive fee, not exceeding five crore rupees to Insolvency Professional for Value Maximisation & Timely Resolution.

Liquidation Process Regulations

- The Committee of Creditors (CoC) constituted during Corporate Insolvency Resolution Process (CIRP) shall function as Stakeholders Consultation Committee (SCC) in the first 60 days from Liquidation Commencement Date. After adjudication of claims and within 60 days of initiation of process, the SCC shall be reconstituted based upon admitted claims.
- Stakeholders Consultation Committee may fix the fees of the liquidator, if the CoC did not fix the same under regulation 39D of the CIRP Regulations in its first meeting.
- If any claim is not filed during liquidation process, then claim collated during CIRP shall be deemed to be submitted for the purpose of section 38 of Code and Liquidator shall verify all claims i.e., claims submitted during liquidation as well as claims collated during CIRP but not submitted during liquidation.
- Earlier, there was no provision for replacement of Liquidator but now, SCC may propose to replace the liquidator by a vote of not less 66% and for this they have to file an application before the Adjudicating Authority for replacement of the liquidator.
- Now, the liquidator may sell the assets of the corporate debtor as a going concern exclusively only at the first auction.

IP Regulations

- Earlier only Individual could take registration as an Insolvency Professional (IP) but now Insolvency Professional Entity (IPE) can also seek registration as an IP with the Board, by making an application in the specified form with a non-refundable application fee of two lakh rupees.

Important reforms envisioned for future

Cross Border Insolvency Framework

The Insolvency Law Committee (ILC) constituted by the Ministry of Corporate Affairs, has submitted its Report on Cross Border Insolvency in October, 2018. Earlier in the Report of the Insolvency

Law Committee submitted in March 2018, the Committee observed that the existing two provisions in the Insolvency and Bankruptcy Code, 2016 (Section 234 and Section 235) do not provide a comprehensive framework for cross border insolvency matters.

The ILC has recommended the adoption of the UNCITRAL Model Law on Cross Border

Insolvency, 1997 as it provides for a comprehensive framework to deal with cross border insolvency issues. The Committee has also recommended a few carve outs to ensure that there is no inconsistency between the domestic insolvency framework and the proposed Cross Border Insolvency Framework.

The UNCITRAL Model Law

Theme

has been adopted in as many as 44 countries and, therefore, forms part of international best practices in dealing with cross border insolvency issues. Some of the key advantages of adopting the Model Law are: Increasing foreign investment, Flexibility, Protection of domestic interest, Priority to domestic proceedings, Mechanism for cooperation.

The Model Law deals with four major principles of cross-border insolvency, namely direct access to foreign insolvency professionals and foreign creditors to participate in or commence domestic insolvency proceedings against a defaulting debtor; recognition of foreign proceedings & provision of remedies; cooperation between domestic and foreign courts & domestic and foreign insolvency practitioners; and coordination between two or more concurrent insolvency proceedings in different countries. The main proceeding is determined by the concept of centre of main interest ("COMI").

The necessity of having Cross Border Insolvency Framework under the Insolvency and Bankruptcy Code arises from the fact that many Indian

companies have a global footprint, and many foreign companies have presence in multiple countries including India. The inclusion of the Cross Border Insolvency Chapter in the Insolvency and Bankruptcy Code of India, 2016, will be a significant step forward and will bring Indian Insolvency Law on a par with that of matured jurisdictions.

Group Insolvency Framework

The Group Insolvency Framework is anticipated to be introduced under IBC. The Code provides a detailed framework to deal with the insolvency of a company in distress, on standalone basis. At present, it does not have a framework to resolve insolvency proceedings of different corporate debtors in a Group or resolve their insolvencies together, though the judiciary has permitted such resolution in a Group in some cases.

In this regard, Insolvency and Bankruptcy Board of India (IBBI) constituted a Working Group to recommend a complete framework to facilitate insolvency resolution and liquidation of companies in a group. The Working Group had submitted its Report in September, 2019 recommending a framework to facilitate insolvency resolution and liquidation of corporate debtors in a group.

To conclude

IBC has contributed towards building a strong ecosystem in the country. For the effective and smooth implementation of the Code, amendments have been brought out in the Code regularly and amendments in Regulations too were brought by the Regulator. The Code



The necessity of having Cross Border Insolvency Framework under the Insolvency and Bankruptcy Code arises from the fact that many Indian companies have a global footprint, and many foreign companies have presence in multiple countries including India.



is evolving constantly and has built a robust insolvency regime which included various developments and achievements.

For taking forward the unitary codified legislation- The Insolvency and Bankruptcy Code, 2016 and being an important Partner in Nation Building, The Institute of Chartered Accountants of India (ICAI) has constituted a dedicated Committee to give specific focus on Insolvency and Bankruptcy Laws and to bring in awareness among members at large about the new area of practice in the insolvency resolution sphere under the Insolvency and Bankruptcy Code, 2016 and to facilitate in educating the members on the practical aspects and procedures of the law. ICAI has the distinction to form the first Insolvency Professional Agency (IPA) in the country, which as on date has more than 63% of Insolvency Professionals (IPs) as its members. ICAI is continuously playing a key role in the implementation of IBC and its journey towards resolution and certainty. ■■■



The UNCITRAL Model Law has been adopted in as many as 44 countries and, therefore, forms part of international best practices in dealing with cross border insolvency issues.





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Internal Audit

Non Profit Organisations

Indian Accounting
Standards (Ind AS)

Enterprise Risk Management

Forensic Accounting
and Fraud Detection

Forex and Treasury
Management

Goods & Service Tax

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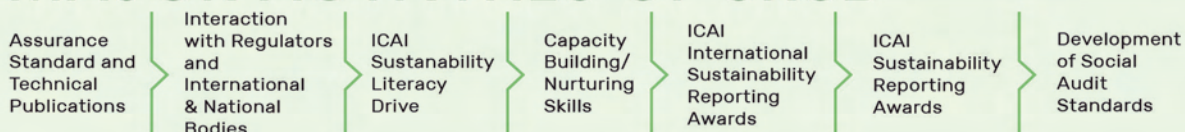


Hon'ble Prime Minister, Shri Narendra Modi Ji introduced five nectar elements, India's Panchamrit, at Conference of Parties (COP 26), to deal with the challenge of Climate change-

- > First- India will take its non-fossil energy capacity to 500 GW by 2030.
- > Second- India will meet 50 percent of its energy requirements from renewable energy by 2030.
- > Third- India will reduce the total projected carbon emissions by one billion tonnes from now till 2030.
- > Fourth- By 2030, India will reduce the carbon intensity of its economy by more than 45 percent.
- > And fifth- By the year 2070, India will achieve the target of Net Zero.

ICAI through Sustainability Reporting Standards Board is working towards achievement of five nectar elements as envisioned by Hon'ble Prime Minister and is leaving no stones unturned to integrate its action plan with the overarching objectives of the country towards low carbon economy and achieving the 2030 Agenda both in letter and spirit.

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- Segregate wet, dry and hazardous waste
- Create 'Utensil Banks'

AT WORKPLACE

- Use recycled paper and encourage digitalization
- Shift to electric vehicles/ use public transport
- Install solar panels and use motor sensor enabled LED lights
- Greener Infrastructure
- Avoid use of single use plastic
- Introduce E Learning
- Unplug computer/ laptop when not in use

"Let us contribute together and lead towards a happier, healthier and safer planet!"

SPECIAL WRITE-UP

A “Day in the Life” of a Sustainability Reporting Senior Manager

Professional accountants’ competencies transfer from financial reporting to sustainability reporting



Anne-Marie Vitale

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Professional accountants are confronted daily with a myriad of sustainability related terms and concepts. What does this mean for you, the professional accountant?

Alison, a Sustainability Reporting senior manager will show us.

It’s Monday. Alison, the senior manager in the Sustainability Reporting Group at a consumer products company, Klutch, is looking at her calendar. She briefly muses over the past several years and the ways in which her role has grown. Alison is responsible for executing Klutch’s data collection that underpins its annual corporate Environmental, Social and Governance (ESG) report.

Developing preliminary data collection processes, training operational specialists on gathering data, supporting other functional areas in their role, and gathering complete, accurate and reliable data are several of her many responsibilities.

Alison’s smartphone background screen flashes her department’s mission statement – ‘provide investment grade material information on sustainability risks and opportunities, which assists users in predicting value, timing, and certainty of Klutch’s future cash flows’¹.

Alison takes a moment to reflect on her meaningful role - she feels fortunate that she can combine her accountancy skills and her desire to make a difference through effective measurement and reporting on Klutch’s climate impact and its goals to reduce its impact on the environment.

The rapidly evolving standards, industry leading practices, approaches and changing regulations do not deter her. Alison understands her path to success is focusing on what can be controlled and the quality of her work.

She was pleased that the Senior Director of Sustainability, Hahn, allowed her to present on current International Sustainability Standards Board (ISSB) work projects during a recent company all hands meeting. These presentations are a great way to build on her communication skills and stay abreast of industry changes while sharing her knowledge with others that can be useful in performing their job responsibilities.

Alison’s calendar is jam packed

Before meeting with Sameer, the Director of Internal Audit, to discuss their scoping and testing approach on Klutch’s non-assured externally reported metrics, Alison refreshes herself on Klutch’s prior year sustainability disclosure. As a member of the review team,



¹. See Technical Readiness Working Group, IFRS Foundation, “General Requirements for Disclosure of Sustainability-related Financial Information Prototype” (November 2021), paragraph 3: “An entity’s general purpose financial reporting shall include a complete, neutral and accurate depiction of an entity’s significant sustainability risks and opportunities to assist users of the general purpose financial reporting in predicting the value, timing and certainty of the entity’s future cash flows, over the short, medium and long term and therefore inform users’ assessment of enterprise value. A complete depiction shall include all material information about significant sustainability-related risks and opportunities.” [emphasis in original]

Alison recalled the need to remind the communications team that the sustainability disclosure should be complete, neutral and an accurate depiction of Klutch's significant sustainability risks and opportunities². Alison believes reading disclosures with this mindset isn't significantly different from her previous role as a financial reporting manager. Alison is confident in her ability to gather and present quantitative and qualitative narrative disclosures.

Klutch's operational energy footprint was 23,491 megawatt hours (MWh), of which 71% was from electricity. Alison remembers the first time she encountered these metrics, wondering what it all meant. Hahn had described that 1 MWh is equivalent to the amount of electricity used by about 330 homes for one hour. This was an "ah ha" moment for Alison.

Alison joins the video call with Sameer. His team plays an important role in testing externally reported metrics that are not subject to third party assurance.

Alison and Sameer congratulate each other when Helen, the

Chief Financial Officer, agreed to their recommendation to issue the financial statements and ESG information at the same time.

While it makes for a busy time, the approach to issue the financial statements and ESG report at the same time can be much more effective from a project management perspective - using the same framework and timeline for reporting. And Klutch is moving towards providing users with information to understand the connections, dependencies and trade-offs that may apply between sustainability-related financial disclosures and its financial reporting³.

Alison's experience tells her this information complements each other

Sameer updates Alison on the new job requisitions that will increase his team so more financial related operational audits can be performed and his team can provide increased value to Klutch by conducting an initial evaluation of sustainability risks. Alison agrees that professional accountants have the baseline requirements to fill these

roles, including their business acumen and understanding of controls. She jokingly reminds Sameer that "effective internal controls are good for business!"

After a few hours, Alison is back at her desk working on planning for data gathering that will underpin Klutch's ESG report. Data accuracy is always top of mind - factual, precise descriptions; estimates and approximations and forecasts are clearly identified⁴.

Klutch's progress in implementing IT general controls and manual controls on the gathering of sustainability-related financial disclosures is going well. Alison reminds herself to send an email to the project team who is leveraging their knowledge of Klutch's financial statement preparation and reporting to support the accuracy and effectiveness in gathering sustainability-related financial information. An update on the project team's status will be helpful in managing deadlines.

Alison couldn't imagine being in charge of data accuracy without the skills she developed as a financial reporting manager. One thing she understands is the importance of using

² See Technical Readiness Working Group, IFRS Foundation, "General Requirements for Disclosure of Sustainability-related Financial Information Prototype" (November 2021), paragraph 3: "An entity's general purpose financial reporting shall include a complete, neutral and accurate depiction of an entity's significant sustainability risks and opportunities to assist users of the general purpose financial reporting in predicting the value, timing and certainty of the entity's future cash flows, over the short, medium and long term and therefore inform users' assessment of enterprise value. A complete depiction shall include all material information about significant sustainability-related risks and opportunities." [emphasis in original]

³ See Technical Readiness Working Group, IFRS Foundation, "General Requirements for Disclosure of Sustainability-related Financial Information Prototype" (November 2021), paragraph 21: "A complete set of sustainability-related financial disclosures is provided so that users can understand the connections, dependencies and trade-offs that may apply between sustainability-related financial disclosures and other information in general purpose financial reporting. Some sustainability-related financial information could be positioned in the relevant sections of a general purpose financial report together with information from the financial statements to provide users a complete depiction of the entity's business. Specific required metrics and targets could be disclosed together with information on governance, strategy and risk management where these metrics and targets support such disclosures."

⁴ See Technical Readiness Working Group, IFRS Foundation, "General Requirements for Disclosure of Sustainability-related Financial Information Prototype" (November 2021), paragraph D19: "Sustainability-related financial disclosures shall be accurate. Information can be accurate without being perfectly precise in all respects. The precision needed and attainable, and factors that make information accurate, depend on the nature of the information and the nature of the matters it addresses. For example, accuracy requires that: (a) factual information is free from material error; (b) descriptions are precise; (c) estimates, approximations and forecasts are clearly identified as such; (d) no material errors have been made in selecting and applying an appropriate process for developing an estimate, approximation or forecast, and the inputs to that process are reasonable and supportable; (e) assertions are reasonable and based on information of sufficient quality and quantity; and (f) information about management's judgements about the future faithfully reflects both those judgements and the information on which they are based."

SPECIAL WRITE-UP

accurate data when preparing information on which external users rely. Alison also understands that staying alert to changes in Klutch's business is needed to evaluate the impact on data accumulation and accuracy.

Alison opens an email from the Financial Planning and Analysis (FP&A) director, Yoon. Klutch's planned expansion for the current year includes opening several new office facilities.

Alison affirmatively nods her head to the importance of understanding Klutch's business and her satisfaction in reaching out early to the FP&A department to inquire about changes in the business.

She makes a note to herself to consider these changes when evaluating the data output accuracy - a change when developing her expectations for the year-over-year data comparisons. Her analytical analysis of the data will assist in evaluating the completeness of the facilities data used in Klutch's scope 1 emissions. Alison muses to herself "Let's see... electricity usage, natural gas, waste and refrigerants are a few of areas where a change is expected."

Using her ability to apply well-reasoned professional judgment, a skill honed during her early years as the financial reporting manager, Alison



The approach to issue the financial statements and ESG report at the same time can be much more effective from a project management perspective - using the same framework and timeline for reporting.



considers whether the new facilities will materially impact Klutch's metrics, which are based on its sustainability risks and opportunities - a point for discussion with Hahn for their afternoon call.

After a planning call with Klutch's external auditors, 'KD and Company', Alison turns her attention to the data

obtained to estimate the impact of all its office facilities, a scope 1 emission. Let's see, data from meter readings, utility bills and on-site renewables are presented in a report on a disaggregated basis - this is a great start! Alison will follow-up with her team to discuss the process to assess the report's completeness and accuracy. Klutch's IT change management controls have historically operated effectively; however, it is a good practice to discuss any possible changes to the report.

Alison now turns to the task of evaluating the assumptions used in estimating the electricity. The electricity bills show usage through December 15. Since Klutch's year-end is December 31, Alison evaluates whether using an average for October, November and the first 15 days in December to estimate the remaining period is reasonable. It doesn't make sense to include the summer months. And this is consistent with Klutch's accrual approach for financial reporting⁵.

Consistent with the prior year, the electricity estimate isn't considered a significant source of estimation uncertainty, and while prices are increasing, these are verifiable through third party data. This makes sense to Alison - Klutch has never disclosed the electricity accrual as a significant estimate in its financial statements.

Moving onto leased facilities where Klutch occupies a portion of the building - that calculation will require a bit more work. Alison evaluates the Leased Space Allocation report on her screen and notes that the data source is from a third party.

Total square footage of the occupied space hasn't changed from the prior year and with the expected 10% increase in utility costs, the estimate looks reasonable.

But wait! There is a new landlord, and while the landlord reports the estimate of energy consumption for the building, Alison isn't sure about the procedures performed by others at Klutch to evaluate the landlord's reporting methodology. Alison sends a follow-up email to the Facilities Manager to find out more. Alison expects that if the data is reliable, extrapolations to Klutch's occupied space will continue to be appropriate.

Alison knows she can work through these changes without too much difficulty. She has started planning early, her project management responsibilities are aligned with the financial reporting team, and Internal Audit's work on documenting the end-to-end process from

⁵ Technical Readiness Working Group, IFRS Foundation, "General Requirements for Disclosure of Sustainability-related Financial Information Prototype" (November 2021), Paragraph 65: "When sustainability-related financial disclosures include financial data and assumptions, such financial data and assumptions shall be consistent with the corresponding financial data and assumptions included in the entity's financial statements."

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origination of the information source through Klutch's reported sustainability related information is instrumental in understanding the sources of underlying data. Klutch's business often changes, and Alison is confident the Sustainability Reporting Group is well positioned to proactively incorporate those changes into its reporting.

After a quick tea break, Alison turns her attention to the priority of the day - whether a new supplier, 'R. Materials' can be included in Klutch's scope 3 emissions reporting. A few items she is considering - how comfortable are we that the information provided by R. Materials is complete and accurate? How do we know if R. Materials follows the GHG Corporate Value Chain Accounting and Reporting Standard? If the data is incomplete or not reliable, using the supplier specific method may not be appropriate⁶

After many hours, Alison is ready to call it a day. She reflects on her two years as the Sustainability Reporting senior manager and her path to this highly rewarding role. Was it only seven years ago she was an aspiring professional accountant?

She reflects upon Information and Communications Technologies (ICT)⁷ and how her bi-annual self-assessment is linked to her core competencies. Alison shakes her head, even as a professional accountant,

there are learning outcomes she considers applicable to any subject, and she incorporates these into her self-assessments:

- Explaining how ICT supports data analysis and decision making
- Using ICT to analyze data and information
- Analyzing the adequacy of ICT processes and controls
- Applying critical thinking skills to solve problems, inform judgments, make decisions, and reach well-reasoned conclusions⁸

Alison puts down her nighttime reading, Salesforce's Impact Report. Like Klutch, Salesforce discloses that its legal and financial reporting teams reviewed the report, and that the data can be traced back to internal and external records.⁹

Salesforce also obtains limited assurance from an independent accounting firm on its Schedules of Selected Environmental, Equality, and Social Value Metrics. These metrics include emissions from its operations and value chain, and employees by gender.¹⁰ Alison learns from reading these types of reports and it helps her think about what might be possible at Klutch.

Before turning out the light, Alison reflects on the next several months and the contributions she plans to make to the continuous improvement of gathering, evaluating, and disclosing



significant sustainability-related financial information at Klutch. Obtaining third party assurance is only one of the ways - time to schedule a meeting with KD and Company.

Against her better judgment, Alison looks at her email one last time. What's this? A sustainability team meeting first thing in the morning to discuss a potential change proposed by Klutch's Chief Operating Officer, Jesus, to move away from single use plastic in its Hair Products business unit. Jesus is seeking input about how this may impact Klutch's material financial statement and corporate ESG related data and assumptions.

Alison is excited - another opportunity to demonstrate her critical thinking, team with the financial reporting group, and leverage her skills in evaluating and assessing the timing and certainty of Klutch's Hair Products business unit's future cash flows over the short, medium, and long-term. ■■■

⁶ See Greenhouse Gas Protocol, "Technical Guidance for Calculating Scope 3 Emissions, Supplement to the Corporate Value Chain (Scope 3) Accounting & Reporting Standard." (2013)

⁷ International Accounting Education Standards Board, "Glossary of Terms (2021)," ICT definition: "Information and communications technologies (ICT) - Established and emerging technologies, techniques, and processes used to capture, manage, transform, or communicate data and information."

⁸ See International Accounting Education Standards Board, "IES 2, Initial Professional Development - Technical Competence (2021)".

⁹ Salesforce, Inc., FY22 Salesforce Stakeholder Impact Report, Reporting Scope and Methodology

¹⁰ See Salesforce, Inc., FY22 Salesforce Stakeholder Impact Report, Schedules of Selected Environmental, Equality, and Social Value Metrics.

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TAXATION

The Income Tax Slabs Conundrum



CA. Sagar Shah

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Currently the Income Tax slabs structure under old scheme is as follows. Let us look at the old scheme as a majority of assesses have not opted for the new scheme

| Income Tax Slab | Rate in percentage |
|-----------------|---|
| Upto Rs 250000 | 0 |
| 250000-500000 | 5 (with rebate u/s 87A upto 12500 for income upto 5 lakh) |
| 500000-1000000 | 20 |
| Above 10 lakh | 30 |

With the rebate given u/s 87A, income up to 5 lakh will have no tax liability.

Now, let us look at the new scheme.

| Income Tax Slab | Rate in percentage |
|-----------------|---|
| Upto Rs 250000 | 0 |
| 250000-500000 | 5 (with rebate u/s 87A upto 12500 for income upto 5 lakh) |
| 500000-750000 | 10 |
| 750000-1000000 | 15 |
| 1000000-1250000 | 20 |
| 1250000-1500000 | 25 |
| Above 15 lakh | 30 |

For example: If an individual assessee's Total income is Rs 502000, his tax liability will be Rs 12900 plus 4 % education cess, thereby leaving him with Rs 488500 approx in his pocket. Whereas if a individual assessee has total income of Rs 495000, his tax liability will be Nil. It effectively means that a person earning Rs 495000 ends up richer than a person earning Rs 502000.

In F.Y 2016-17, the data released by the Income Tax Department showed that out of 3.6 crore people that had filed the tax returns, nearly 1 crore reported an income less than the income tax exemption limit of 2.5 lakhs at the time. Five years later, the situation in F.Y 2020-21 has not changed much either. Interestingly, nowhere in the budget speech on 1st Feb 2022, the number of returns filed for F.Y 2020-21 and the gross income tax Receipts from these returns were mentioned. It is obvious that because of the pandemic, these numbers are way lower than the estimates despite taxing Dividend at highest rates in hands of recipient and bringing tax on Long Term capital gains at the rate of 10% a couple of years back.

The Income Tax Slabs in India at times may appear to be simple but aren't, especially after the amendments made in last year's budget on 01st Feb 2021, where new rates of Income Tax u/s 115BAC were introduced subject to no allowance of standard deductions for Salary and deductions u/s 80C,80D etc. As per the new scheme, If Total Income of an individual assessee is Rs 15 lakh, Tax Payable is Rs 195000 as per the new rates and tax payable as per old rates is Rs 257400. Benefits arising to the taxpayer here is Rs 62400. However, this benefit is only achievable if assessee is in the Rs 13 -15 lakh bracket and has no real deductions under 80C/80D. Frankly, which salaried Employee in this income bracket would not have deductions like school fees, LIC, repayment of principal and interest on housing loans, Mediciclaim and how many such assesses actually get the tax benefit remains to be seen. But if one were to closely analyse the tax slabs in India, a lot of other interesting, confusing and heart-breaking facts come out.

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The Economic Survey produced by the Chief Economic Adviser Arvind Subramaniam in F.Y 2016-17 substantiated that India had only 7 income tax payers out of every 100 voters, among the lowest of all G20 democracies. Less than 3 percent Indians pay Income tax is an established common parlance and this percentage unfortunately has not changed much in the last 5 years.

India is an extremely poor country with a per capita GDP of less than Rs 1.5 lakh i.e. an average Indian earns Rs 1.5 lakh per year which is sadly even lesser than that of Bangladesh, whereas the income tax threshold for paying income tax is Rs 5 lakh considering the rebate given u/s 87 A for income between 2.5 lakh-5lakh. Which means people earning Rs 5 lakh or below need not pay any income tax. While the average Indian earns Rs 1.5 lakh, income tax exemption of Rs 5 lakh removes a sizeable majority of the population from the requirement of paying any income tax. If lowering income tax rate to 5 % would have been coupled with lowering income tax exemption, we would have added more taxpayers. But sadly, that is not the case and there is absolutely no indication from the government that this precarious scenario will change in the near future. This bracket of Rs (2.5 -5 lakh) is more than 75 percent of India's entire working population consisting of factory workers, health workers, construction workers, teachers, dabbawalas, bank employees, security staff, fruits and vegetables vendors, electricians, plumbers, small shop owners, processed food vendors and the list goes on. If we would be able to get them under the tax net by removing

the rebate u/s 87A at a nominal rate of 5%, we can double the nation's income tax collections within 3-5 years. This will not only lead to parity or rationalization in tax laws but increased compliance, increased participation from taxpayers at large. Instead of having 7 taxpayers out of every 100 voters, India with this change in tax slabs can easily have 25-30 taxpayers for every 100 voter in the next 3-5 years. This could be one kind of a financial inclusion in a true sense which the government over the last 7 years has been bragging about. Having said that, it is imperative to bear in mind that taxation, if levied to lower income class cannot be at the benefit of the super-rich class because that will not justify social distribution.

It is interesting to note here that the average ratio across 20 developed and developing countries is 0.5 i.e income tax exemption threshold is only half of its per capita GDP. Whereas back home, it's the reverse. It is more than 3 times that of per capita GDP which means even if the per capita GDP were to double or triple in the next 3-5 years, it will still be less than the income tax exemption limit and doubling or tripling of per capita income will lead to no increase in amount of income tax collected.

For example, an average person in China earns 50000-60000 yuan but anyone earning more than 18000 yuan will be required to pay income tax. Let us compare that with India

“ Instead of having 7 taxpayers out of every 100 voters, India with this change in tax slabs can easily have 25-30 taxpayers for every 100 voter in the next 3-5 years. ”

where say for example, a person earning a Salary of Rs 60000 per month would have an annual income of Rs 720000. Assuming he or she has no other income and his savings bank interest of less than 10000 is already deducted u/s 80TTA, his

total income is Rs 720000. Considering an average person, with a family of four (wife and two kids) he would be entitled to a deduction of Rs 150000 which would easily comprise of LIC premium, repayment of housing loan if any and school fees of two children. School fees of two children in a metro area in India in today's time itself easily exceeds Rs 150000. With a Mediclaim deduction u/s 80D of Rs 25000 and assuming a deduction of NPS u/s 80CCD(1B) of Rs 50000 which is not uncommon for a person with annual income of Rs 7.2 lakh, total deduction eligible comes to Rs 225000. Therefore, his net total income comes to Rs 495000 because of which he is liable to pay zero tax. A person earning up to Rs 60000 is not required to legally pay any income tax in India. That accounts for more than 75 % of the working population. The law itself which was originally meant to help small taxpayers reduce the burden of tax automatically legally exempts more than 75% of the countries working population from paying Income tax.

Another way of looking at this, India collects Income Tax roughly about less than half of its potential and this automatically puts pressure on the Government in terms

TAXATION

of borrowings and managing fiscal deficits. It then leads then to them increasing indirect taxes on oil and various other commodities thus ever rising exorbitant fuel prices which lead to food inflation, reduced savings of the middle class, reduced spending and its consequent effects on the Economy. It is like a vicious cycle. So much so that fuel in India as on today is dearer than some of the underdeveloped Asian Economies and it does not look like we are going to be out of this situation any time soon.

But from both of my examples given earlier, when an assessee earning Rs 495000 directly or as in the above example indirectly (Rs 720000 less deduction of Rs 225000), the tax liability which would have been a meager Rs 12250 plus 4% education cess for the assessee is as per the current slab rates Nil. I say meager as Rs 12250 of tax is effectively only 2.47% of total income of Rs 495000 which, I don't think in today's day and age people mind paying for the nations progress. Sadly, more than half of India's working population falls under this (2.5 lakh-5 lakh bracket) and India loses at least a few lakhs of crores of Rupees of tax if not more. If by paying Rs 12250 of tax, a middleclass person in India earning Rs 60000 per month can contribute to the country's welfare schemes which in turn will lead to Savings of Rs 20000-25000 approx in terms of fuel prices and consequently food and other essential commodity prices, why will he not

pay? Also, in today's day and age, with so much of technology at the government's disposal as well as the taxpayer's disposal, with the help of 26AS, Stringent TDS compliances and AIS/TIS Reflecting on the Income Tax Portal, there is no question of too much hardships to be faced by the lower and middle class taxpayer. The whole perception that India is largely a non tax compliant state ironically has very little to do with the fact that people don't pay taxes truthfully but more to do with the fact that a large chunk of the population is itself legally exempt from paying any Income Tax due to the Current Income tax Slabs.

Economists Thomas Piketty and Nancy Qian did a research back in 2009 that accurately predicted that India's income tax base is likely to stagnate between 2-3 percent of the working population, driven by a very high income tax exemption threshold. 13 years later, as on today their research appears to be spot on and

there is nothing to suggest that this statistic will change in the coming years. Also, the problem does not stop at the Income tax threshold. India is largely an agrarian economy with about 60 % or more of its population living in Villages. Of this rural

population, a vast majority is farmers. However it is a known fact that while many farmers are small and marginal, there is a section of farmers in different parts of the country who have Income above Rs 10 lac through basic farming, rental incomes from land given to other small farmers etc. The blanket exemption given to Agricultural income u/s 10(1) in the Income tax act leads to zero tax collection from any farmer and transfers the burden of taxes on the urban taxpayer in terms of exorbitant surcharges.

Before we advocate or justify complex policy measures such as demonetization or taxing agriculture income to widen India's direct tax base, surely the fact that a large majority of Indians are anyways legally exempt from paying income tax is to be pondered over

To overcome this facet, Indian Government has already adopted New Scheme where there is denial of exemption and taxation was charged at lower rate but by keeping old and new regime live the benefit of both purpose of taxing at lower rate to lower bracket as well maintaining the socio-economic benefit is lost by the government. ■■■



“ India collects Income Tax roughly about less than half of its potential and this automatically puts pressure on the Government in terms of borrowings and managing fiscal deficits. ”

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Banking in the Metaverse – How Banks can Prepare for the Future

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Introduction

Metaverse is a digital universe that is created by combining virtual reality (VR) and augmented reality (AR). The word metaverse is a combination of the words 'meta', which means beyond, and 'universe'. Metaverse thus represents a 'virtual world' of alternate reality where consumers, companies, societies and entrepreneurs interact digitally. It is a place where people can interact, study, play and share life experiences with others virtually. It is a realistic society that minimizes ideas of race, gender, and even handicap while allowing for more direct and physical relationships.

Although Metaverse is still in the early phases of development, this immersive 3D virtual world has received a lot of attention in recent years. Top level executives of companies like Microsoft, Facebook (now Meta) and Walmart have started integrating augmented reality features and AI tools into their platforms in order to get ready for foraying into the metaverse space.

According to a global company, the metaverse is an evolution of the internet, it is more immersive than Web 2.0. Metaverse offers marketers an array of opportunities to innovatively engage with their consumers. It gives brands a chance for brand innovation and growth. According to a report, by 2026, 25% of people will spend at least one hour a day in the metaverse for work, shopping, education, social media and/or entertainment. Some of the popular Metaverse Platforms are Sandbox, Decentraland, Microsoft Mesh, Roblox, Second Life, Horizon

In a metaverse, users in the form of *avatars* interact with other users and share experiences. Some of these immersive virtual worlds have their own fundamental economies and currencies. Such a Metaverse is often referred to as Crypto metaverse. These crypto metaverses use blockchain technology into their virtual economies. Crypto assets such as Non-fungible Tokens (NFTs) are readily bought, sold and exchanged making them very similar to the real-world. All these happenings are subject to approval from the various countries Government policy.

Metaverse & Banking

The rise of crypto metaverses with their NFTs and crypto currencies has led to the creation of a virtual economy. New assets like virtual real estate, virtual art etc are gaining popularity in the metaverse. According to a global bank, the global metaverse revenue opportunity could grow to somewhere between \$8-13 trillion USD by 2030. This has made metaverse a very attractive destination for many financial institutions and banks.

Virtual Reality and Augmented Reality have led to the creation of the digitally stimulated world called the Metaverse. This rapidly evolving digital world is often believed to soon become even larger than the physical world. This new world is filled with immense opportunities for companies to provide innovative solutions to their customers. In times to come, metaverse will influence all sectors, including the financial sector as the rapid change in technology will have an effect on customer behavior and expectations. Companies will have to a clear metaverse strategy to meet the needs of consumers in the metaverse. The aim of this study is to understand how the metaverse will have effect on banks and the strategies that these banks can adopt to thrive in the meta universe.

Traditional banks need to realize that metaverse is extremely popular amongst their future clientele, the Gen Z. Gen Z have an extremely positive outlook for the metaverse and since they are extremely tech-savvy, they have been one of the early adopters of the meta universe. Banks need to embrace this opportunity and find innovative ways of connecting with these customers in the virtual world.

Strategies for Banks in the Metaverse

Establish Bank Branch

In order to establish their identity in the metaverse, banks need to start by finding the perfect location for their bank branch.eg. Foreign Banks like have already bought their virtual lands. Union Bank of India has already launched its virtual lounge Uni-verse in Sandbox in 2022.

Attract Gen Z and Millennial Customer Segments

Gen Z and Millennials are the early adopters of metaverse and they are attracted to those companies that are entering the metaverse at this early stage. Banks can engage with these customer segments by utilizing innovative strategies like hosting contests to earn NFTs, creating immersive educational experiences and providing virtual financial services to them.

Existing Customer Awareness and Demo sessions for Ease of Use

Banks will have to focus on creating awareness of Metaverse among all types of customers including the existing customers. Customer

segments like doctors, industrialists, traders, public servants, professors, teachers, other types of Employees, Housewives and Students have to be approached first and tell them the methodology of transacting under metaverse environment in Banks. Once they are comfortable they will become brand ambassadors for the bank in spreading awareness about metaverse banking among others.

Provide better than real-world service in the virtual world

Banks can provide excellent customer service in the Metaverse and provide better customer experiences. Traditional banking is often viewed as being too detached and impersonal. Virtual branches can offer real-time advice to their customers under Metaverse. They can also create events and invite these customers for virtual transactions. They can also have sessions to discuss future financial planning with all types of customers. Bank employees as Avatars can act as more personable to many customers than their real-world counterparts. Metaverse will definitely lead the Banking customers in right directions in all their business transactions with banks

Plan for Data Security Risks

Banks would need to understand the inherent security and data risks of the metaverse. They would have to invest in technology which can protect customer identity and sensitive customer data. Currently metaverse strategies focus on customer service and marketing, but, with time, as banks will move away from marketing towards



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financial transactions, they will have to ensure that their cybersecurity strategies are well thought of and designed to protect sensitive data of their customers.

Establish Trust

Banks will have to implement strategies that can build trust with their customers. Strategies like having a combination of both virtual and video interactions between customers and banker during important transactions and negotiations can help in building trust between both the involved parties.

Build a strong in-house team

Employees play a very crucial role in establishing a Bank's expertise in the metaverse. Banks would have to build a team of digital experts and consultants that can drive them to success in the virtual world.

Introduce new financial modes for metaverse

As banks move towards more complex transactions in the metaverse, they would have to establish new modes of financial transactions like credit /debit cards for metaverse. They would also have to create a payment infrastructure where real-world currency and meta currency can be easily exchanged. In addition, they would have to form digital

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asset and wealth management strategies for their clients.

Innovative Products and services

Banks will have to establish one separate vertical for developing new products and services and to make them available to the customers. Intensive training programs for All kinds of the staff inclusive of controlling officers have to be chalked out in a systematic manner to upskill the employees who are involved in Marketing, Implementing and Monitoring the entire gamut of activities covered under Metaverse Banking. Proper research and mock run drills should be carried out to ensure that the system becomes fool proof and does not leave any loose end for the fraudulent persons or hackers to infiltrate. This exercise must be done before the Banking sector enters into Metaverse operations

Initially the following areas could be taken up :

A. Deposits Mobilization :

- Opening new bank accounts in cases of Artificial persons like Limited Companies, Societies, Trusts, Government departments along with all kinds of KYCs

verification .Account opening procedures could be discussed and demonstrated to the office bearers and authorized signatories.

- Understanding the exact need of the prospect, counseling and assisting him to choose suitable product or service. Removal of doubt and apprehension if any with any service or product and ensuring perfect transparency in dealings.

B. Loans and Advances

- Understand the project for which the loan is sought by the customer will become very convenient when Bankers are face to face deal with the customer on virtual mode. Banks field officer, loan processing officer, branch head and sanctioning authority (if sanctioned at the higher level) will have a firsthand direct interaction with the



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borrower entrepreneur and his team.

- Monitoring the end use of loan amount to ensure that the loan amount is put to intended use and has not been diverted.
- Periodic inspection of security by bank will become easier not only for bank officials but also for the borrowers who may have his factory or project located far away from the physical branch. Moreover it will be easier for the external and internal auditors of the bank to gather the necessary information and review the project from audit angle.

C. Third Party Products

- A sizeable portion of banks income these days is generated through sale of products of other organizations like General Insurance, Life Insurance etc. In metaverse platform Bank can conveniently market and sell the product at the convenience of the customer. All his queries could be handled and necessary counseling can be done to help him in selecting the right product.
- Several Mutual Fund products floated by Mutual Fund organizations are available in the market these days. It may not be easy for a typical bank customer to choose a suitable

product an option and Plan for himself or his family members. Metaverse banking can provide him expert guidance in this regard.

D. Advisory Functions

- Providing expert advice to all group of farmers in rural area for starting allied agricultural activities like dairy farming, floriculture, sericulture, beekeeping, fish farming, poultry etc and guide them how they can supplement their earnings during slack season throughout the year. Information regarding bankable projects can be provided so that they may obtain loans from bank for pursuing the activity.
- Merchant Banking activity has a tremendous scope where guidance can be provided to promoters and corporate customers, sitting far away or abroad, regarding raising of



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capital though issue of IPO, Debentures etc.

- Through metaverse platform advice on Taxation matters can be provided by bankers to group of customers like Pensioners, Merchant Associations, Salaried employees of the Institutions and organizations already banking with the Bankers. Information on Tax saving instruments, insurance products, health care products can also be provided besides bring additional deposit, home loan accounts etc for the banks and enhance non-interest income of banks through sale of third party products like insurance and mutual funds.

Adopt innovative meta marketing strategies

The virtual metaverse is a place of sharing and interaction among users. Banks and financial institutions foraying into the metaverse would have to be ready to host virtual events, contests and competitions to increase customer engagement and build brand awareness.

Banking institutions moving into the metaverse at this early stage have the opportunity to establish themselves as pioneers in the virtual world. They can test new practices and try out strategies that will benefit them in the future.

Legal framework

It is essential that a legal framework has to be put in place through the regulators



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in the country by defining the product and services. Suitable amendments to existing laws like the Negotiable Instruments Act and Information Technology Act will have to be carried out stating the rights, liabilities and duties of the various parties to the transactions carried out and services delivered in the metaverse environment.

Cost benefit analysis

Indeed, there is no doubt that banks will have to commit their funds for the capital expenditure needed for acquiring technology and setting up the metaverse banking platform. This will involve training its own staff in administrative offices and branches.

However the additional capital expenditure incurred by banks for setting up and providing metaverse banking platform will easily get recovered through interest earnings on additional loans, non-interest income generated by banks on sale of third party products and through reduction in operating expenses and efficient utilization of resources viz, manpower.



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Impact of Ind AS 116 on Aviation sector: A case study of Indigo Airlines



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Introduction

Lease refers to a contract where one party (lessor) grants another party (lessee) the right to use an asset for a specific period of time in return for some consideration. Leasing is a commonly used financing solution which offers the users flexibility in using assets without actually owning them. Lessees account for the leases in their financial statements in accordance with the applicable accounting standard. Till 31st March, 2019 the applicable accounting standard for lease accounting was Ind AS 17 which required companies to classify leases as Operating or Finance with the former being recognised in the financial statements of lessee as lease rentals and the latter being capitalised.

The Ministry of Corporate Affairs (MCA) notified Ind AS 116, the new lease accounting standard, and certain other amendments to Indian Accounting Standards (Ind AS) on 30th March 2019. Ind AS 116 and other amendments come into force on 1st April 2019. This standard is in line with IFRS 16 & replaces the current guidance in the form Ind AS 17 (Leases).

Ind AS 116 defines a lease as a contract, or part of a contract, that conveys the right to use an asset (the underlying asset) for a period of time in exchange for consideration. Ind AS 116 eliminates the distinction between an operating lease and a finance lease for a lessee. Under Ind AS 116, lessees have to recognise a lease liability reflecting future lease payments and a 'right-of-use asset' for all lease contracts satisfying the definition of the lease as per this standard (refer Fig 1). This is a significant change compared to Ind AS 17, under which lessees were required to make a distinction between a finance lease (on the Balance Sheet) and an operating lease (off the Balance Sheet).

In the Statement of Profit and Loss, lessees will have to present interest expense on the lease liability and depreciation on the right of-use asset replacing the current practice of expensing operating lease rentals. In the cash flow statement, cash payments for the principal portion of the lease liability and its related interest are classified within financing activities. Ind AS 116 does not change the accounting by lessors. As under Ind AS 17, the lessor will continue to classify leases as either finance or operating, depending on whether substantially all of the risks and rewards incidental to ownership of the underlying asset have been transferred. For a finance lease, the lessor recognises a receivable, and for an operating lease the lessor continues to recognise the underlying asset and lease income. Ind AS 116 provides recognition exemption to short term leases i.e leases with a tenure of 12 months or less and leases of low value items. The main impact of this standard is on the financial statement of lessees as the accounting requirement

This article provides a brief overview of Ind AS 116 (Leases) introduced in India w.e.f 1st Apr, 2019 and its impact on the market leader of the aviation industry i.e InterGlobe Aviation Ltd. (Indigo Airlines). Ind AS 116 introduces a single lease accounting model doing away with the traditional classification of Operating & Finance Lease for the lessee. This standard is expected to have a significant impact on companies that have sizeable proportion of operating leases and hence, this study presents an analysis of the impact of this standard on key financial statement items & ratios of Indigo Airlines for the first-year post adoption of this standard i.e financial year (fy) 2019-20. The results show substantial impact on financial metrics with EBITDA rising by 345% & EBIT by 345% from previous financial year (pfy). Amongst the ratios analysed, the highest impact is found on Debt-Equity Ratio (284%) followed by Return on Equity (-288%).

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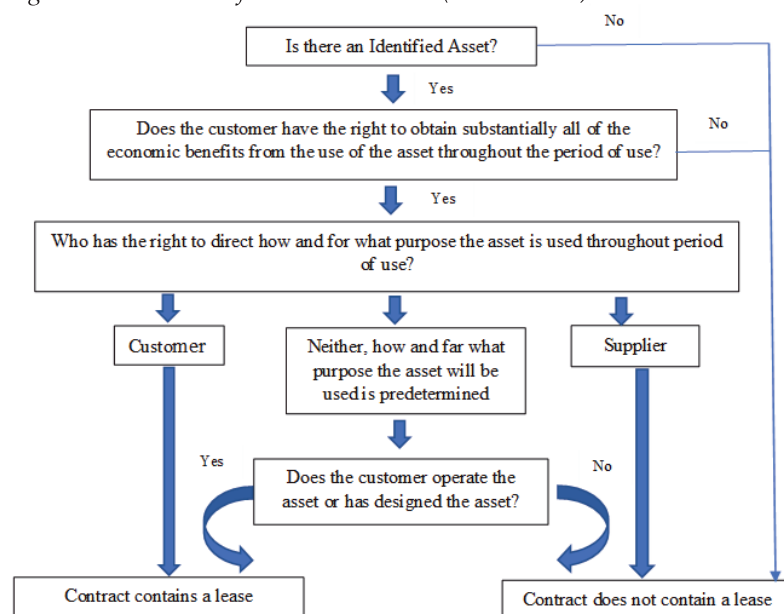
for lessors is largely unchanged. Ind AS 116 adds significant new, enhanced disclosure requirements for both lessors and lessees. The following table summarizes the key differences between Ind AS 116 & Ind AS 17:

Table 1: Differences between Ind AS 116 -AS 17

| Basis | Ind AS 116 | Ind AS 17 |
|-------------------------|---|---|
| Lessee Accounting | Ind AS 116 does away with the distinction of operating & finance lease. It requires all leases with a lease term of more than 12 months to be recognised as 'right of use' asset and lease liability representing corresponding lease obligations | Ind AS 17 requires leases to be classified as operating or finance lease based on transfer of risk & rewards incidental to ownership of the leased asset. |
| Recognition of Expenses | Under Ind AS 116, the lessee recognises depreciation on ROU assets & interest on lease liability in the Statement on Profit & Loss. | Under Ind AS 17, a lessee recognises lease rentals on operating leases on straight line basis in the Statement on Profit & Loss. |
| Disclosure for lessees | Ind AS 116 requires detailed disclosure for lessees as compared to Ind AS 17 | Ind AS 17 requires less disclosure for lessees as compared to Ind AS 116 |
| Lessor Accounting | Requirements for lessor accounting are similar to guidance contained in Ind AS 17. | A lessor continues to classify leases as operating lease and finance lease. |
| Disclosure for lessors | Ind AS 116 contains detailed disclosure requirements for lessor such as selling profit or loss, lease income on finance lease & additional qualitative & quantitative information about leasing activities | Ind AS 17 required less disclosure for lessors |

This standard is expected to have a significant impact on financial statements of companies. It is estimated that listed companies using IFRS or US GAAP have almost US\$3 trillion of off Balance Sheet lease commitments.¹ The need for this standard was felt owing to concerns relating to lack of transparency and disclosures relating to off Balance Sheet leases. This standard will lead to financial statements better reflecting the economic reality of firms and investors and analysts will be better able to directly compare the financial statements of companies using lease model versus borrowing funds to buy assets model.

Figure 1: Lease Identification Procedure (Ind AS 116)



Source: Appendix B of Ind AS 116 as issued by MCA

¹. <https://www.ifrs.org/content/dam/ifrs/project/leases/ifrs/published-documents/ifrs16-effects-analysis.pdf>

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Impact on Ind AS 116 on Financial Statements

The most significant impact of the new requirement is a change in the value of total assets and liabilities.

Companies operating in sectors with a huge amount of off-Balance Sheet leases such as airlines, telecommunication, hotels, retail, oil & gas will be impacted the most. Ind AS 116 changes the nature of expenses as reported in the Income Statement. operating lease expense is replaced by a depreciation charge for the leased asset impacting the operating profit (EBITDA) and interest expense for lease liability (included within finance cost). As regards the Cash Flow Statement, cash payments for the principal portion and interest expense of the lease liability are shown within financing activities. As a result, operating and financing cash flows will be impacted. In this study, we have chosen the aviation sector to study the impact of the new standard.

Aviation Sector

The initiative to develop a new leases standard goes back to the time when Sir David Tweedie, former chairman of the IASB commented that he wanted to fly in an aircraft that actually existed on an airline's



In the cash flow statement, cash payments for the principal portion of the lease liability and its related interest are classified within financing activities.



from the respective airport owner. Under Ind AS 116, substantially all lease contracts will be on the Balance Sheet of the lessee in the form of 'right of use' assets and 'lease liability'. Further, as many lease obligations are denominated in foreign currency e.g. US-Dollar, airlines will also be exposed to additional foreign currency volatility into their profit or loss. The effect is likely to be significant for airlines with sizeable operating leases. The adoption of Ind AS 116 is likely to have an impact on performance measures and thus airlines need to carefully reassess the funding structure and communicate the impact of new standard to key stakeholders.

Case - InterGlobe Aviation Ltd.

InterGlobe Aviation Ltd. is an Indian domestic low-cost airline operating since 2006. It is the largest passenger airline with a market share of 53.5% as of Oct,

Balance Sheet.²

In the airline industry, financing aircraft through off-Balance Sheet lease models is a well-established practice. In addition, airport facilities which are essential to run airline operations are typically rented

2021³. It is also the largest airline with a fleet of 279 aircrafts as of Aug, 2022. In FY 2021, the company was ranked 33rd amongst India's top 100 brands by Campaign India⁴. As per unaudited results, the company reported a net loss of Rs. 31,742 million and negative EBITDAR (Earnings before Interest, Taxes, Depreciation, Amortisation & Rent) of Rs. 13,602 million for the quarter ended June 2021.⁵ The company reported around 11% increase in net loss compared to same period last year owing to the second wave of pandemic. The company has a strong cash position with a total balance of Rs. 170,679 million comprising Rs. 56,207 million of free cash as on 30th Jun, 2021. The company went public in 2015 and has a free float market capitalization of Rs. 19,428.55 crore as on Dec 31, 2021.⁶ Since, Indigo is the leader in the Indian aviation industry by market share & fleet size, it was considered as the best candidate for study on the impact of Ind AS 116.

Methodology

The information pertaining to financial statement items for financial year 2018-19 & 2019-20 was collected from the annual reports of the respective years available on the company's website. Ratios used for comparison were calculated as per formulae given in Appendix 1.



Ind AS 116 changes the nature of expenses as reported in the Income Statement.



². A study on the impact of lease capitalization. PwC, Mar(2019)

³. <https://www.goindigo.in/about-us.html>

⁴. IndiGo Annual Report 2020-21.

⁵. <https://www.goindigo.in/content/dam/goindigo/investor-relations/Financial%20Results/2021-22/q1-apr-to-jun-2021/Unaudited-Financial-Results.pdf>

⁶. https://www1.nseindia.com/live_market/dynaContent/live_watch/get_quote/GetQuote.jsp?symbol=INDIGO#

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Results & Analysis

i. Impact of Ind AS 116 on Financial Statements of Indigo

The company's leased assets primarily consist of leases for aircraft and engines, equipment, leasehold land and buildings. As per the annual report of FY 2019-20, the first-time adoption of Ind AS 116 resulted in the following impact on the standalone Balance Sheet of the company:

1. Additional lease liabilities amounting to Rs. 146320.72 million were recognised. (Increase of 81% from the previous year (PY))
2. New Right of Use assets amounting to Rs. 93,942.04 million were recognised. (Increase of 38% from PY)
3. Retained earnings reduced to the extent of Rs. 6,180.47 million being the cumulative effect of retrospective application of the standard.

The first-time adoption of Ind AS 116 resulted in the following impact on the Standalone Profit & Loss of the company:

1. Depreciation and amortisation expenses increased by Rs. 32,140.33 million (An increase of 423% from PY)
2. Finance costs increased due to interest accrued on outstanding lease liabilities amounting to Rs. 12,677.43 million. (Increase of 249% from PY)
3. Foreign exchange loss amounting to Rs. 15,296.92 million was recognised on account of the revaluation of lease liabilities denominated in foreign currency.

4. Decrease in aircraft and engine rentals (net) and other rentals by Rs. 43,222.68 million due to recognition of operating lease as right of use (ROU) assets and corresponding lease liabilities.

“
In the airline industry, financing aircraft through off-Balance Sheet lease models is a well-established practice.
”

5. Net loss before tax of Rs. 15,934.17 million due to Ind AS 116 for the year ended 31 March 2020. (Increase of 249% from PY)

ii. Impact of Ind AS on 116 on Key Financial Statement Items & Ratios

As it can be seen from Table 2, Ind AS 116 has significantly impacted key financial statement items and ratios of the company for the first year of transition. Amongst the financial statement items, the greatest impact has been on the figure of depreciation & amortization. It has increased due to the recognition of depreciation expense on 'right of use' assets which were previously kept off the Balance Sheet. EBIT has increased due to the reclassification of operating lease rentals to interest. EBITDA has increased

Table 2: Percentage change in key variables from FY 18-19 to FY 19-20

(Rs. in million)

| Ratio/Item | 2019-20 | 2018-19 | Percentage change |
|-------------------------|------------|-------------|-------------------|
| EBIT | 16007.82 | 3,599.16 | 345% |
| EBITDA | 55743.95 | 11,194.96 | 398% |
| D&A | 39,736.13 | 7,595.80 | 423% |
| Interest | 18545.55 | 4933.18 | 276% |
| Capital employed | 248,270.13 | 125,263.52 | 98% |
| Total Assets | 420,484.56 | 250,117.34 | 68% |
| Current Liabilities | 164,105.12 | 79,984.43 | 105% |
| Non-current Liabilities | 197,755.05 | 100,685.02 | 96% |
| Net Worth | 58,624.39 | 69,447.89 | -16% |
| Operating Cash Flows | 69,433.01 | 31,599.97 | 120% |
| Financing Cash Flows | -24,074.84 | -5,921.58 | 307% |
| Current Ratio | 1.37 | 2.26 | -40% |
| Interest Coverage Ratio | 0.86316232 | 0.729582136 | 18% |
| Debt Equity Ratio | 3.23492901 | 0.843108264 | 284% |
| ROA Ratio | 0.03806994 | 0.014389886 | 165% |
| ROE Ratio | -0.0423303 | 0.022482325 | -288% |
| ROCE Ratio | 0.06447743 | 0.028732707 | 124% |
| Asset Turnover Ratio | 0.85035229 | 1.139336121 | -25% |

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due to the reclassification of operating lease rentals to interest & depreciation. Interest expense has increased due to recognition of lease liabilities and corresponding interest. The total assets have increased by 68% due to the recognition of 'right of use' assets. Current Liabilities & Non-current liabilities have increased due to the recognition of lease liabilities (current & non-current). There has been an increase in operating cash flows due to reclassification of operating lease rentals to depreciation (non-cash item) and interest expense (financing cash outflow). Net financing cash outflows have increased due to recognition of interest expense on lease liability as a financing cash outflow.

Amongst the ratios, the biggest impact is on Return on Equity followed by Debt Equity Ratio. Return on Equity has reduced



Interest expense has increased due to recognition of lease liabilities and corresponding interest.



by 288% due to the impact on net loss after tax. The Debt Equity Ratio has increased by 284% due to increase in lease liabilities and impact on retained earnings. Return on Assets has also been impacted due to change in the amount of EBIT & total assets.

Return on capital employed (ROCE) has increased due to impact on EBIT & capital

employed (increase in long term liability). Current Ratio has decreased due to increase in current lease liability. Interest Coverage Ratio has been impacted due to impact on both EBIT and interest. Asset Turnover ratio has decreased due to increase in amount of total assets.

Conclusion

As can be seen from the above analysis, Ind AS 116 has had a huge impact on the key metrics of Indigo Airlines which had substantially high proportion of off-balance sheet assets in the form of operating leases. operating lease Aircraft rentals recognised in P&L in FY 2018-19 prior to the transition to Ind AS 116 amounted to Rs. 49,994.49 million i.e 17% of Total expenses of the company. Aircraft on finance lease recognised in Balance Sheet amounted to Rs. 31,984.71 million i.e 13% of Total Assets. After adoption of Ind AS 116, 'right of use' assets constitute around 34% of Total Assets. The proportion of Financial liabilities to total liabilities also increased from 31% (2018-19) to 52% of total liabilities (2019-20). There was also a 23% reduction in retained earnings on account of transition to this standard.



Ind AS 116 has had a huge impact on the key metrics of Indigo Airlines which had substantially high proportion of off-balance sheet assets in the form of operating leases.



Thus, the analysis shows that capitalization of erstwhile operating leases changed the face of the balance sheet of the airlines which is the market leader in the aviation sector in India. The users of financial statements can now appreciate the full extent of future commitments of the company and compare it with other companies in the same sector irrespective of their financing structure for aircrafts and other facilities.

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Factors Influencing Capital Structure of Power Sector Companies in India



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The growth of corporate sector is crucial for the economic development and the pattern of corporate finance plays an important role for the financial well being of companies in any sector. The issue of corporate capital structure is debatable, some arguments are in favour of its relevance and some are against. All the organisations constantly encounter some questions e.g. decisions in relation to the reinvestment of retained earnings, dividend decisions and financing decisions for new ventures by equity or debt funds. The decisions of corporate finance directly or indirectly affect the various facets of the corporate management, which ultimately determines the wealth of investors. In Indian corporate sector, finance decisions and accomplishments not only affect the financial stability of the concerned private equity but also the financial health of the nation as a whole. These are public investment decisions by the government and a number of government agencies that are also involved in this process.

Research work has been executed to identify the determinants of capital structure. Mainly, there are three conflicting theories of capital structure which have developed after the pioneering work of Modigliani and Miller (1958) on capital structure. These are static or dynamic trade-off theory, agency cost theory and pecking order theory. In developed countries, a number of studies have been conducted related to the capital structure e.g. Rajan and Zingales (1995) in G-7 countries i.e. in Canada, France, Germany, Italy, Japan, the UK and US; Burgman (1996) in the US; Antonious, Guney and Paudyal (2002) in UK, Germany, and France; Bevan and Danbolt (2002) in UK; Akhtar (2005) in Australia; and Akhtar and Oliver (2009) in Japan.

To understand how firms in developing countries finance their operating activities, it is necessary to look at the determinants of their financing pattern or capital structure decisions. There are a few evidences from developing countries such as Wiwattanakantang (1999) in Thailand; Booth *et al.* (2001) in India; Pandey (2001) in Malaysia; Omet and Nobanee (2001) in Jordan; Chen (2004) in China; Buferna *et al.* (2005) in Libya; Prahalathan, B. (2010) in India; and Sheikh and Wang (2011) in Pakistan. Joshua Abor (2008) says that, the company's financing decisions involve a wide range of policy issues.

Literature Review and Research Gap

Modigliani and Miller (1958), studied the optimal capital structure and value of the firms. MM concluded their study with the remarks that the value of the firm is self-determining of capital

This paper aims to conduct an analysis of the factors influencing capital structure of selected power sector companies in India, during the eleven and twelve plan periods i.e. 01.04.2007 to 31.03.2017. The study suggests that some of the insights from modern finance theory of capital structure are relevant for explaining capital structure in an emerging economy like India. The results of the study conclude that factors such as asset tangibility, profitability, growth, size, cost of debt, tax rate and debt serving capacity have significant impact on capital structure of an organisation in India.

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structure and that the value of an unlevered firm is equal to a levered firm. The study was conducted with an assumption that there would be no tax. Modigliani and Miller (1963) conducted another study considering tax as one factor and concluded that tax shield on debt ultimately provides advantage of higher value to levered firm compare to an unlevered firm. This value was equal to the value of tax shield. Modigliani and Miller (1977) also conducted a study and modified their previous research (1963) considering the effects of personal tax, divided as tax on income from shares and tax on income from debt securities. This study identifies certain special cases where gain from leverage tends to zero i.e. equivalent to their original research (1958). Outcome of this study signifies the existence of an optimal capital structure at the macro level but not at the micro level.

The study of Jensen and Meckling (1976) on capital structure states that agency cost of debt can be traded off against the benefit of debt. This study identified disputes between the managers and owners (shareholders) because of management's ownership being less than 100% of the equity. Jensen (1986) conducted another study and came up with final remarks. According to them, this problem could be reduced by increasing the percentage of shares held by the manager or by increasing debt in the capital structure. This would result in reduction of the amount of unused cash available to the managers (Stulz, 1990), and in the long run, cater to the benefits of debt financing. According to Dybvig and Zender (1989), financial

securities such as convertible debt and managerial incentives could be used to eliminate agency problems.

Titman (1984) stated that capital structure was designed to ensure that shareholders did not liquidate a firm. But, the debt holders would liquidate a firm only when it was declared bankrupt. This way a firm would default only if the net gains to liquidation exceeded the cost of the company's customers.

Brander and Lewis (1986) showed that firms in equilibrium choose positive debt levels, under certain defined oligopolistic assumptions. Firm's debt capacity increases with elasticity of demand for a product and decreases with the discount rate as concluded by Maksimovic (1988) in his research. The firms which employed workers with highly transferable skills would have more debt, as argued by Sarig (1988).

According to Diamond (1989) as a firm gets older, it chooses less risky projects, thereby reducing its default which leads to a lower cost of debt. This study suggested that younger firms would have less debt than the older firms.

The study of Harris and Raviv (1990), on optimal capital structure concluded that high leverage can be an outcome of large value of the firm, lower probability of reorganisation at default and higher debt level.

The study of Stulz (1990), states that managers issue debt only if they fear on takeover. Based on this fact, optimal capital structure can be designed by a trade-off between benefit of debt and cost of debt.

If market prices are determined by rational investors then bankruptcy costs would not be required. This was argued in a study conducted by Haugen and Senbet (1978) supported by another study conducted by Ronn and Senbet (1995). The debt should be obtained to balance the bankruptcy costs and tax savings as proposed by Kraus and Litzenberger (1973), during the development of the static trade-off theory. According to Correia, Flynn, Uliana and Wrmaid (2000) existence of bankruptcy costs reduce the value of tax shield. Level of development can have an impact on the capital structure of individual firms as disclosed in a study conducted by Mayer (1990). On the levels of development between financial markets and banks, Mayer cited instance that if the bond market was more developed than the rest of the financial market and the country's banking sector, then the level of debt financing in firms would be on the higher side. A positive relationship was found between the level of the bank development and leverage and negative relationship was found between stock market and leverage in a study conducted by Demircug-Kunt and Maksimovic (1996).

The relationship between a firm's capital structure and its strategy, the other examines the relationship between a firm's capital structure and the characteristics of its products and inputs to explain capital structure by developing a model based on industrial organisation. Firms normally raise funds for new investments internally through retained earnings and externally

through equity issues.

Masulis (1988) observed in his research that a fall took place in the overall firm leverage between 1946 to 1986, while a general rise in leverage since the Second World War was observed by Taggart (1985). The empirical literature on event studies pertaining to security offering and stock re-purchases conclude that equity increasing transactions result in stock price fall while leverage increasing transactions result in stock price rise. The same has been reviewed by Masulis (1988).

Several studies based on the relationship between firm and industry characteristics locate similar capital structures within industries. Bradely, Jarrell, and Kim (1984) showed that the relative leverage rankings are retained overtime. According to Titman and Wessels (1988), among others, found that leverage increased with non-debt tax shields, fixed assets, size of the firm and growth opportunities. Whereas the leverage decreased with profitability, research and development expenditures, advertising expenditures, uniqueness of the product and volatility.

The review of available literature reveals that the studies have not properly focused on the issue of factors responsible for influencing capital structure. Also, its determinants related to power sector belong to other countries and very limited especially in the context of India. The present study makes an attempt to understand the issue of determinants of capital structure in power sector of India.

Objective and Research questions

The main objective of the present study is to understand the factors responsible for capital structure determinants of selected 20 (twenty) Indian power sector companies for the period 01.04.2007 to 31.03.2017.

This study is conducted to answer the following two specific research questions:

1. How and to what extent selected Indian power sector companies determine their capital structure decisions controlled by the factors namely; asset tangibility (AT), profitability (PROF), growth (GROW), size (SIZE), cost of debt (COD), tax rate (TAXR), debt serving capacity (DSC), liquidity (LIQ) and financial distress (FINDIST)?
2. Which capital structure theory explains in better way about the capital structure choice of power sector companies in India?

Research implications

(a) Academic

In practice it is known that power sector is basically divided into two categories – technical and economic. This study will help in adding knowledge in the field of economies of the power sector.

(b) Policies

This study may help different government and other authorities or agencies to frame their policy initiatives for sustainable development. Further, by focusing economies of power

sector, the researcher tries to attract different government and non-government agencies to frame their policy documents for sustainable development, considering this type of special area where development has not taken place even after 75 years of independence of India.

(c) Research

Each and every study provides some extension for further research in its particular field of study. This study covers the economies of power sector which may provide an outline to the future researcher to undertake their research projects.

Research Methodology

Design, Sample and Model specifications for the study

This study has focused on the Indian power sector. Initially 20 (twenty) companies have been selected based on the financial data available in the period from 01.04.2007 to 31.03.2017, taken from Annual Reports of the selected companies. Data from Accord FinTech Private Limited have also been used.

The study is based on three *dependent variables* namely,

- (i) **Short-term debt ratio (STDR):** The ratio that indicates the relationship of short-term debt to total assets and also discloses the ability of the company to satisfy its immediate financial obligations.
- (ii) **Long-term debt ratio (LTDR):** The ratio that indicates the relationship of long-term debt to total assets.

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- (iii) **Total debt ratio (TDR):** The ratio that indicates the relationship of total debt to total assets.

and nine independent variables namely,

- (i) **Asset tangibility (AT):** The ratio that indicates the relationship of net fixed assets to total assets.
- (ii) **Profitability (PROF):** The ratio that indicates the relationship between earnings before interest and taxes to total assets or others including return on assets and return on sales i.e. profit margin.
- (iii) **Growth (GROW):** Growth is indicated by percentage change in assets.
- (iv) **Size (SIZE):** Size is an important determinant of capital structure of larger companies. It may absorb shocks of financial distress.
- (v) **Cost of debt (COD):** The cost of debt indicates the relationship of interest before tax to long-term debt.
- (vi) **Tax rate (TAXR):** The ratio that indicates the relationship of tax provision to profit before tax.
- (vii) **Debt serving capacity (DSC):** The debt serving capacity indicates the relationship of earnings before depreciation, interest and taxes to total interest.
- (viii) **Liquidity (LIQ):** The liquidity indicates the relationship of total current assets to total current liabilities.
- (ix) **Financial distress (FINDIST):** Financial

distress is an indicator that discloses the sensitiveness of revenue to declining economic activities, fixed costs at higher level, difficulty in conversion of current assets into liquid assets, etc. According to Rao and Jijo (2001), volatility of company's cash flow is used for observable risk of company and the probability of financial distress.

Model 1, Model 2 and Model 3: Selected Indian power sector companies and short-term, long-term and total debt

Hypothesis of **Model 1:** Short-term Debt, **Model 2:** Long-term Debt and **Model 3:** Total Debt to study and analyse the factors influencing capital structure of selected power sector companies by investigating the impact in capital structure decisions:

Results and Discussion

Coefficients and 't' values of the nine independent variables of **Model 1** is depicted in Table 1. It is found that 't' value for asset tangibility, profitability and size are 3.374, (-2.870) and 4.317 respectively. These values are significant at 0.05 level. Therefore, null hypotheses [(H_{011}) , (H_{012}) and (H_{014})] i.e. impact of asset tangibility, profitability and size on short-term debt and the determinants of capital structure are rejected. Hence, it can be concluded that asset tangibility, profitability and size cast direct or indirect influence on access of short-term debt i.e. capital structure of an organisation.

It is further observed in Table 1 that 't' value for growth, cost of debt, tax rate, debt serving capacity, liquidity and financial distress are (-1.302), (-1.375), (-1.560), (-1.482), (-1.732) and (1.283) respectively. These

| Null hypothesis | |
|-----------------------------------|--|
| H_{011} , H_{021} & H_{031} | No significant impact of Asset tangibility on short-term, long-term and total debt |
| H_{012} , H_{022} & H_{032} | No significant impact of Profitability on short-term, long-term and total debt |
| H_{013} , H_{023} & H_{033} | No significant impact of Growth on short-term, long-term and total debt |
| H_{014} , H_{024} & H_{034} | No significant impact of Size on short-term, long-term and total debt |
| H_{015} , H_{025} & H_{035} | No significant impact of Cost of debt on short-term, long-term and total debt |
| H_{016} , H_{026} & H_{036} | No significant impact of Tax return on short-term, long-term and total debt |
| H_{017} , H_{027} & H_{037} | No significant impact of Debt serving capacity on short-term, long-term and total debt |
| H_{018} , H_{028} & H_{038} | No significant impact of Liquidity on short-term, long-term and total debt |
| H_{019} , H_{029} & H_{039} | No significant impact of Financial distress on short-term, long-term and total debt |

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values are not significant at 0.05 level. Therefore, null hypotheses $[(H_{013}), (H_{015}), (H_{016}), (H_{017}), (H_{018})$ and (H_{019})

Table 1: Coefficients and 't' values of the nine independent variables of **Model 1:**

| Model | | Un-standardized Coefficients | | Standardized Coefficients | 't' | | Null hypothesis results |
|-------|------------|------------------------------|------------|---------------------------|-------------|-------------|-------------------------|
| | | B | Std. Error | Beta | Lower Bound | Upper Bound | |
| 1 | (Constant) | -.040 | .031 | | -1.286 | .200 | |
| | AT | .060 | .018 | .232 | 3.374 | .001 | Rejected |
| | PROF | -.118 | .041 | -.201 | -2.870 | .005 | Rejected |
| | GROW | -.001 | .001 | -.084 | -1.302 | .195 | Not rejected |
| | SIZE | .013 | .003 | .280 | 4.317 | .000 | Rejected |
| | COD | -.006 | .004 | -.088 | -1.375 | .171 | Not rejected |
| | TAXR | .000 | .000 | -.101 | -1.560 | .120 | Not rejected |
| | DSC | .000 | .000 | -.098 | -1.482 | .140 | Not rejected |
| | LIQ | .005 | .000 | -.111 | -1.732 | .085 | Not rejected |
| | FINDIST | .000 | .000 | .083 | 1.283 | .201 | Not rejected |

1. Dependent Variable: **STDR**

Coefficients and 't' values of the nine independent variables of **Model 2** are shown in Table 2. It is observed from the said table that 't' value for asset tangibility, profitability and size are 6.004, (-3.370) and 5.225 respectively. These values are significant at 0.05 level. Therefore, null hypothesis $[(H_{021}), (H_{022})$ and (H_{024})] i.e. impact of asset tangibility, profitability and size on long-

term debt; and the determinants of capital structure are rejected. Hence, it can be concluded that asset tangibility, profitability and size have direct or indirect influence on access of long-term debt i.e. capital structure of an organisation.

In Table 2, it is also observed that 't' value for growth, cost of debt, tax rate, debt serving capacity, liquidity and financial distress are (-1.379), (-1.589), (-1.867), (-1.760), (-1.747) and 1.294 respectively. These values are not significant at 0.05 level.

Therefore, null hypotheses for $[(H_{023}), (H_{025}), (H_{026}), (H_{027}), (H_{028})$ and (H_{029})] i.e. impact of growth, cost of debt, tax rate, debt serving capacity, liquidity and financial distress on long-term debt; and the determinants of capital structure are not rejected. Hence, it can be concluded that growth, cost of debt, tax rate, debt serving capacity, liquidity and financial distress do not have significant impact on access of long-term debt i.e. capital structure of an organisation.

Table 2: Coefficients and t values of the nine independent variables of **Model 2:**

| Model | | Un-standardized Coefficients | | Standardized Coefficients | 't' | | Null hypothesis results |
|-------|------------|------------------------------|------------|---------------------------|-------------|-------------|-------------------------|
| | | B | Std. Error | Beta | Lower Bound | Upper Bound | |
| 2 | (Constant) | -.094 | .043 | | -2.174 | .031 | |
| | AT | .146 | .024 | .379 | 6.004 | .000 | Rejected |
| | PROF | -.190 | .056 | -.217 | -3.370 | .001 | Rejected |
| | GROW | -.002 | .002 | -.081 | -1.379 | .170 | Not Rejected |
| | SIZE | .022 | .004 | .311 | 5.225 | .000 | Rejected |

“In Indian corporate sector, finance decisions and accomplishments not only affect the financial stability of the concerned private equity but also the financial health of the nation as a whole.”

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| | | | | | | |
|---------|-------|------|-------|--------|------|--------------|
| COD | -.009 | .006 | -.093 | -1.589 | .114 | Not rejected |
| TAXR | .000 | .000 | -.111 | -1.867 | .063 | Not rejected |
| DSC | .000 | .000 | -.107 | -1.760 | .080 | Not rejected |
| LIQ | -.005 | .000 | -.103 | -1.747 | .082 | Not rejected |
| FINDIST | .000 | .000 | .077 | 1.294 | .197 | Not rejected |

2. Dependent Variable: LTDR

Coefficients and t values of the nine independent variables of **Model 3** are presented in Table 3 which reveals that 't' value for asset tangibility, profitability and size are 5.420, (-3.350) and 5.340 respectively. These values are significant at 0.05 level. Therefore, the null hypothesis $[(H_{031}), (H_{032}) \text{ and } (H_{034})]$ i.e. impact of asset tangibility, profitability and size on total debt; and the determinants of capital structure are rejected. Hence, it can be concluded that asset tangibility, profitability and size have significant impact on access of total debt i.e. capital structure of an organisation.

In Table 3, it is also observed that 't' value for growth, cost

of debt, tax rate, debt serving capacity, liquidity and financial distress are (-1.460), (-1.628), (-1.903), (-1.774), (-1.865) and 1.340 respectively. These values are not significant at 0.05 level. Therefore, null hypothesis for $[(H_{033}), (H_{035}), (H_{036}), (H_{037}), (H_{038}) \text{ and } (H_{039})]$ i.e. impact of growth, cost of debt, tax rate, debt serving capacity, liquidity and financial distress on total debt; and the determinants of capital structure are not rejected. Hence, it can be concluded that growth, cost of debt, tax rate, debt serving capacity, liquidity and financial distress do not have any

significant impact on access of total debt i.e. capital structure of an organisation.

Table 3: Coefficients and t values of the nine independent variables of **Model 3**:

| Model | | Un-standardized Coefficients | | Standardized Coefficients | 't' | | Sig. | Null hypothesis results |
|-------|------------|------------------------------|------------|---------------------------|-------------|-------------|------|-------------------------|
| | | B | Std. Error | Beta | Lower Bound | Upper Bound | | |
| 3 | (Constant) | -.146 | .070 | | -2.084 | .039 | | |
| | AT | .214 | .039 | .345 | 5.420 | .000 | | Rejected |
| | PROF | -.307 | .092 | -.218 | -3.350 | .001 | | Rejected |
| | GROW | -.004 | .002 | -.087 | -1.460 | .146 | | Not rejected |
| | SIZE | .037 | .007 | .321 | 5.340 | .000 | | Rejected |
| | COD | -.016 | .010 | -.096 | -1.628 | .105 | | Not rejected |
| | TAXR | .000 | .000 | -.115 | -1.903 | .059 | | Not rejected |
| | DSC | .000 | .000 | -.109 | -1.774 | .078 | | Not rejected |
| | LIQ | -.005 | .000 | -.111 | -1.865 | .064 | | Not rejected |
| | FINDIST | .000 | .000 | .080 | 1.340 | .182 | | Not rejected |

3. Dependent Variable: TDR



Short-term debt raising is greatly influenced by asset tangibility, profitability, growth, cost of debt, tax rate and debt serving capacity whereas long term debt raising is also influenced by size in addition to short-term debt influencer while considering total debt for designing capital structure decisions of the selected Indian power sector companies.



If market prices are determined by rational investors then bankruptcy costs would not be required. This was argued in a study conducted by Haugen and Senbet (1978) supported by another study conducted by Ronn and Senbet (1995).



Conclusion

The findings of financing behaviour of the selected Indian power sector companies during the eleven and twelve plan periods *i.e.* 01.04.2007 to 31.03.2017 indicate the measures of the traditional factors. These factors are hypothesized to affect financing decision of Indian companies namely, asset tangibility, profitability, size, tax rate, and debt serving capacity have significant impact. Short-term debt raising is greatly influenced by asset tangibility, profitability, growth, cost of debt, tax rate and debt serving capacity whereas long term debt raising is also influenced by size in addition to short-term debt influencer while considering total debt for designing capital structure decisions of the selected Indian power sector companies.

There are several macro-economic factors like capital formulation, stock market development, financial in stability of country, corporate tax, terrorism threat, foreign direct investment, and so on in influencing capital structure decisions. Further studies with longer timeline datasets

and additional firm specific factors like uniqueness factor (uniqueness of product), collateral value factor, carry forwards, discount rates, quality spreads, etc. may be developed for more understanding. These factors are not the core factors in financial structure decisions, but they might have effects, that needs to be studied carefully.

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There are several macro-economic factors like capital formulation, stock market development, financial in stability of country, corporate tax, terrorism threat, foreign direct investment, and so on in influencing capital structure decisions.

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Reference

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How well rounded are rules about rounding off numbers in financials statements? by Raman Jokhakar. *Bombay Chartered Accountant Journal*, October 2022, pp.42-44.

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Estimation of green GDP for India by Anupam Prakash, kaustav K. Sarkar and Amit Kumar. *RBI Bulletin*, October 2022, pp.149-163.

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Pre-packaged insolvency resolution process (PPIRP) under the insolvency & bankruptcy code (IBC) 2016: Why a non-starter? By Alekha Charan Rout and Girija Shankar. *Management Accountant*, October 2022, pp.88-93.

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Legal Decisions

Income Tax



LD/71/53 ITAT Delhi: ITA No.4755/Del/2015 The Dy. Commissioner of Income Tax Vs. M/s Gian Sagar Educational and Charitable Trust 21st October 2022

ITAT dismissed Revenue's appeal holding that onus of trust to prove creditworthiness of donors under Section 115BBC is not at par with Section 68 wherein genuineness along with creditworthiness is to be proved and once trust discloses the identity of donors in form of name and address, the said donations cannot be considered to be anonymous; ITAT noted that names and address of donors have not been proved wrong and the said fact was also accepted by the Revenue in assessment proceedings; Despite CIT's directions exercising revisional jurisdiction to make de novo assessment, Revenue did not make any further enquiry or investigation in respect of donations on the premise that the power to review its own order is restricted to rectify the mistake apparent on record is wrong and contrary to the directions of revisional authority.

LD/71/54 ITAT Delhi: ITA No. .6599/Del./2016 Havells India Limited Vs. The Dy. Commissioner of Income Tax 20th October 2022

ITAT deleted disallowance of alleged bogus purchases noting that said purchases cannot be treated to be not genuine on account of allegedly being an accommodation entry, since it is not supported by any cogent reasons; On the basis of the findings of the search operation on third parties who were accommodation entry providers, Revenue had concluded that the Assessee made bogus purchases and accordingly made addition Rs.40 Lacs; As per ITAT, a mere fact that certain parties did not respond to the enquiries made by Revenue u/s 133(6) would not by itself be sufficient to warrant addition of expenses and that apart from sending the notices, Revenue did not undertake any other exercise to support its contention that purchases were bogus.

LD/71/55 ITAT Mumbai: ITA No. 216/Mum/2022 Grasim Industries Limited Vs. The Dy. Commissioner of Income Tax 18th October 2022

ITAT set aside rectification order u/s 154 wherein the Revenue denied interest on refund u/s 244A; Revenue had denied the interest stating that since substantial portion of the refund arose as a result of the additional ground raised before the ITAT, the delay was attributable to the Assessee; ITAT noted section 244A(2) and observed that the delay in refund must be attributable to the Assessee and when there is a dispute about the period for which interest is to be declined, Chief Commissioner or Commissioner must take a call, however in the present case, none of these conditions are satisfied.

LD/71/56 Delhi High Court: ITA No. 905/2010 Commissioner of Income Tax Vs. Daikin Shri Ram Aircon Pvt. Ltd 17th October 2022

High Court upheld allowance of depreciation on acquisition of exclusive rights from Usha International Ltd. (UIL) for marketing and business booked as Goodwill and also on intellectual property (IP) rights viz., trademarks, logos, etc. acquired from SIEL Aircon Ltd.; Consideration for business rights acquired from UIL constitutes an intangible asset within the meaning of Section 32(1)(ii) which is eligible for claiming depreciation, and absence of registration of the assignment under the Trademark Act, 1999 does not disentitle the Assessee from asserting ownership in a trademark; Revenue did not dispute the fact that the business rights acquired by Assessee and the trademarks and logos are being used by the Assessee for its business.

LD/71/57 Supreme Court: Civil Appeal No. 2833/2016 Checkmate Services Private Limited Vs. Commissioner of Income Tax - 1 12th October 2022

Supreme Court held that deposit of employees' PF and ESI contribution u/s 36(1)(va) before the due date of that statute, is an essential condition for claiming deduction; SC observed that the leeway granted to Assesseees to allow deductions on deposits made beyond the due date, but before the date of filing the return, cannot apply in the case of amounts which are held in trust, as it is

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.

in the case of employees' contributions- which are deducted from their income. They are not part of the assessee employer's income, nor are they heads of deduction per se in the form of statutory pay out'.; Supreme Court held that the Alom Extrusions ruling relied upon by the assessee, did not consider the impact of deletion of second proviso and Section 2(24)(x) apart from the separate provisions in Section 36(1) for employer's contribution and employees' contribution.

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***LD/71/58 ITAT Mumbai: ITA No. 1338/
Mum/2021 The Dy. Commissioner of Income Tax
Vs. Swiss Finance Corporation (Mauritius) Ltd
07th October 2022***

Revenue had set-off the b/f short term and long term capital loss against capital gains for the year which were exempt under article 13(4) of India-Mauritius DTAA during AY 2015-16, and thus, resulted in allowance of those carry forward of losses to subsequent years; Revenue held that the Assessee should have first set off the b/f capital losses with the current year's capital gains before claiming exemption under Article 13(4) of the DTAA; ITAT held that assessee was entitled to claim benefit of Article 13(4) of DTAA in respect of entire current year short/long term capital gains and not net short-term/long term gain, thus without setting of brought forward short/long term capital gains and also permitted the assessee to carry forward the brought forwarded short/long term capital loss to subsequent years;

.....
***LD/71/59 ITAT Jaipur: ITA No. 310/JP/222
Bagaria Trade Impex Vs.
The Asst. Commissioner of Income Tax
27th September 2022***

ITAT ruled in assessee's favour against penalty levied u/s 270A holding that mere underreporting of interest income against which TDS was also not claimed cannot be considered as wilful misreporting, considering that no loss was caused to the Revenue; During assessment proceedings, the assessee had requested the Revenue to adjust the interest income not declared in return with the TDS reflected in Form 26AS against such income for adjustment of refund, and there was no intention to evade tax; As per ITAT the issue was apparently due to a bonafide mistake since the Chartered Accountant of Assessee was not able to detect this fact during audit also.

***LD/71/60 Calcutta High Court: WPA 20669 of
2022 Dinesh Kumar Goyal HUF Vs.
The Income Tax Officer 27th September 2022***

High Court (HC) ruled in favour of assessee on writ petition challenging reassessment proceedings by quashing order u/s 148A(d) by noting that the notice u/s 148A(b) was issued after expiry of three years from the end of relevant AY where the alleged escapement of income was less than Rs.50 Lacs; For AY 2016-17 notice u/s 148A(b) was issued alleging escapement of income of Rs. 37.40 lacs; HC noted that the since notice under the new reassessment regime was issued after the expiry of three years with the alleged escapement of income being mere Rs 37.40 Lacs, the order under Section 148A(d) as passed without jurisdiction and contrary to the provision of Section 149(1)(a) and (b).

.....
***LD/71/61 Madras High Court: T.C.A.Nos.272 &
275 of 2022 Sundaram Finance Limited Vs.
The Jt. Commissioner of Income Tax
26th September 2022***

High Court held that bad debts recovered by the Assessee, which were written-off by the amalgamating companies was rightly taxed in assessee's hands being the amalgamated company; As per High Court, section 41 has to be considered as a complete code by itself and Section 41(1) cannot be read in isolation with Section 41(4); Recovery of the debt is a right transferred along with the numerous other rights comprising the subject of the transfer and if the law permits the transferor to treat the whole or part of the debt as irrecoverable and to claim a deduction on that account, then the same right should be recognised in the transferee.

.....
***LD/71/62 ITAT Chennai: ITA No. 482/Chny/2020
Sudalaimani Palanivelrajan Vs.
The Dy. Commissioner of Income Tax
20th September 2022***

ITAT remitted the matter to Revenue for fresh assessment noting that when valuation of the property was referred to the DVO, Revenue ought to have waited for the DVO's report to ascertain the fair market value of the property for the purposes of Section 56(2)(vii)(b); Assessee had purchased a property for 80.83 lacs whereas stamp value of same was 2.83 Crores and matter was referred to DVO on assessee's request; Since the valuation report was not forthcoming, even when the assessment proceedings was getting time barred, revenue had made differential addition of 2.01 crores in its assessment order, which was upheld by CIT(A) also.

Disciplinary Case

Charge against Respondent is that he failed to exercise due care while certifying Form 32 in the matter of appointment of an additional Director of the Company as minutes of Board meeting has been signed by someone other than the Chairman of the said Board meeting – Held, Respondent not guilty of any professional negligence -- In terms of Section 193 of Companies Act, 1956 Minutes of the Meeting can be signed either by the Chairman of the same meeting or by the Chairman of the subsequent meeting -- No negligence can be attributed on the part of the Respondent in certifying Form-32.

Held:

The Committee noted that it was true that minutes of Board meeting dated 1st February, 2008 has been signed by 'X' on 9th February, 2008 i.e. at subsequent Board meeting of the Directors of the Company. The Committee also noted that 'Z' was elected as the Chairman of the meeting dated 1st February, 2008, the minutes of the said meeting had thereafter been signed by 'X' who was the Chairman of Board meeting held on 9th February, 2008. Further, on perusal of further Board minutes, it was specifically noted that the said trend of the minutes being signed and confirmed by the

Chairman of the subsequent meeting was continued thereafter as is evident from the Board minutes of 9th February, 2008 having been got signed by 'Z' at the next meeting held on 29th March, 2008 who was the Chairman of said meeting and not by 'X' who was the Chairman of meeting held on 9th February, 2008.

The Committee perused the provisions of Section 193 of Companies Act, 1956 and noted that as per the said provisions, the Minutes of the Meeting can be signed either by the Chairman of the same meeting or by the Chairman of the subsequent meeting. In view of this Section, the Committee is of the view that no negligence can be attributed on the part of the Respondent, because in terms of provisions of aforementioned Section 193 of the Companies Act, 1956, the Respondent's certification of Form 32 of cannot be termed as professional negligence. Therefore, the Respondent is not guilty of Professional Misconduct falling within the meaning of Clause (7) Part I of Second Schedule to the Chartered Accountants Act, 1949(as amended).

M/s. R.S. Badola & Co., Vs CA. M/s. S.C. Bapna & Associates [PR-23/2011-DD/22/2011/DC/323/14]

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



1. NOTIFICATIONS

1. 'H P Electricity Regulatory Commission' notified for exemption under section 10(46) - Notification No. 116/2022, dated 19-10-2022

In exercise of the powers conferred by section 10(46), the Central Government vide this notification has notified for the purposes of the said clause, 'H P Electricity Regulatory Commission' (PAN AAJH0378N), in respect of the specified income arising to that Commission subject to satisfaction of conditions laid therein from the FY 2022-23 to FY 2026-27.

The detailed Notification can be downloaded from the link below:

<https://incometaxindia.gov.in/communications/notification/notification-116-2022.pdf>

2. 'Kerala State Electricity Regulatory Commission' notified for exemption under section 10(46) - Notification No. 117/2022, dated 19-10-2022

In exercise of the powers conferred by section 10(46), the Central Government vide this notification has notified for the purposes of the said clause, 'Kerala State Electricity Regulatory Commission' (PAN AAALK1634N), in respect of the specified income arising to that Commission subject to satisfaction of conditions laid therein from the FY 2022-23 to FY 2026-27.

The detailed Notification can be downloaded from the link below:

<https://incometaxindia.gov.in/communications/notification/notification-117-2022.pdf>

3. *'Krea University, Sricity, Chittoor, A.P.' notified under section 35(1)(iii) - Notification No. 118/2022, dated 28-10-2022*

In exercise of the powers conferred by section 35(1)(iii) read with Rules 5C and 5E, the Central Government vide this notification has approved 'Krea University, Sricity, Chittoor, A.P. (PAN: AAFAK4100P)' under the category of 'University, College or other institution' for research in 'Social science or Statistical research' for the purposes of aforesaid provisions and is applicable from AY 2023-24 to AY 2027-28.

The detailed Notification can be downloaded from the link below:

<https://incometaxindia.gov.in/communications/notification/notification-118-2022.pdf>

4. *'Teacher Retirement System of Texas' notified as the pension fund under section 10(23FE) - Notification No. 119/2022, dated 31-10-2022*

In exercise of powers conferred by sub-clause (iv) of clause (c) of the Explanation 1 to section 10(23FE), the Central Government has specified the pension fund, namely, 'Teacher Retirement System of Texas' (PAN: AAATT9387R), as the specified person for the purposes of the said clause in respect of the eligible investment made by it in India on or after 31.10.2022 but on or before 31.03.2024 subject to the fulfilment of the conditions as specified therein.

The detailed Notification can be downloaded from the link below:

<https://incometaxindia.gov.in/communications/notification/notification-119-2022.pdf>

5. *Central Government notifies Special Courts in Himachal Pradesh u/s 280A - Notification No. 120/2022, dated 11-11-2022*

In exercise of the powers conferred by section 280A(1) of the Income-tax Act, 1961 r.w.s. 84 of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015, the Central Government, in consultation with the Chief Justice of the High Court of Himachal Pradesh, Shimla, vide this notification has designated the specified Courts in the State of Himachal Pradesh as Special Courts for the areas within their territorial jurisdiction.

The detailed Notification can be downloaded from the link below:

<https://incometaxindia.gov.in/communications/notification/notification-120-2022.pdf>

6. *CBDT amends Income-tax authorities posts pertaining to faceless assessment proceedings - Notification No. 121/2022, dated 14-11-2022*

In exercise of the powers conferred by sub-sections (1), (2) and (5) of section 120, the CBDT has made the amendments as specified vide this notification in the notification No. 61/2022 dated 10.06.2022 pertaining to reversion/deployment and re-designation of existing posts of Income-tax Authorities to facilitate the conduct of Faceless Assessment proceedings under section 144B.

The detailed Notification can be downloaded from the link below:

<https://incometaxindia.gov.in/communications/notification/notification-121-2022.pdf>

7. *CBDT amends jurisdiction of Income-tax authorities - Notification No. 122/2022, dated 14-11-2022*

In exercise of the powers conferred by section 118 and sub-sections (1) and (2) of section 120, the CBDT vide this notification has made the specified amendments in the Notification No. 51/2014 dated 22.10.2014 pertaining to changes in jurisdiction of Income-tax authorities.

The detailed Notification can be downloaded from the link below:

<https://incometaxindia.gov.in/communications/notification/notification-122-2022.pdf>

8. *CBDT amends notification specifying chain of command of Income-tax authorities - Notification No. 123/2022, dated 14-11-2022*

In exercise of powers conferred by section 118, the CBDT vide this notification has made specified amendments in the Notification No. 60/2022 dated 10.06.2022 pertaining to revision/deployment and re-designation of existing posts of Income-tax Authorities specifying chain of command/hierarchy therein.

The detailed Notification can be downloaded from the link below:

<https://incometaxindia.gov.in/communications/notification/notification-123-2022.pdf>

9. *CBDT amends notification specifying jurisdiction of Income-tax authorities - Notification No. 124/2022, dated 14-11-2022*

In exercise of the powers conferred by sub-sections (1) and (2) of section 120, the CBDT vide this notification has made specified amendments in the Notification No. 50/2014 dated 22.10.2014 pertaining to specification of jurisdiction of certain Income-tax authorities. Changes have been made in specified jurisdiction of Mumbai region/charge.

The detailed Notification can be downloaded from the link below:

<https://incometaxindia.gov.in/communications/notification/notification-124-2022.pdf>

II. CIRCULARS

1. *CBDT extends due date for furnishing Return of Income for the Assessment Year 2022-23 - Circular No. 20/2022, dated 26-10-2022*

The CBDT had extended the due date of furnishing of Return of Income under sub-Section (1) of Section 139 of the Income-tax Act, 1961 for the Assessment Year 2022-23, for the category of assessee for whom the due date is 31.10.2022, to 07.11.2022 vide this Circular.

The detailed Circular can be downloaded from the link below:

<https://incometaxindia.gov.in/communications/circular/circular-20-2022.pdf>

<https://incometaxindia.gov.in/Lists/Press%20Releases/Attachments/1111/Press-Release-CBDT-extends-due-date-for-furnishing-Return-of-Income-for-the-AY-2022-23.pdf>

2. *CBDT extends due date for filing of TDS statement in Form 26Q for the second quarter of Financial Year 2022-23 - Circular No. 21/2022, dated 27-10-2022*

Considering the difficulties in filing of TDS statement in the revised and updated Form 26Q, the CBDT had extended the due date of filing of Form 26Q for the second quarter of Financial Year 2022-23 from 31.10.2022 to 30.11.2022.

The detailed Circular can be downloaded from the link below:

<https://incometaxindia.gov.in/communications/circular/circular-21-2022.pdf>

<https://incometaxindia.gov.in/Lists/Press%20Releases/Attachments/1112/Press-Release-CBDT-extends-due-date-for-filing-of-TDS-statement-in-Form-26Q-for-the-second-quarter-of-FY-2022-23.pdf>

3. *CBDT condones delay in filing Form No.10A for which the extended due date was 31.03.2022 - Circular No. 22/2022, dated 01-11-2022*

As per the provisions of the Income-tax Act, 1961, Form 10A was required to be filed electronically by 30.06.2021, which was extended to 31.08.2021 and further extended to 31.03.2022 by Circular No. 16/2021. With a view to avoid genuine hardship to taxpayers, the CBDT has condoned the delay in filing of Form 10A up to 25.11.2022 in respect of certain provisions of section 12A / section 10(23C) / section 80G / section 35.

The detailed Circular can be downloaded from the link below:

<https://incometaxindia.gov.in/communications/circular/circular-no-22-2022.pdf>

<https://incometaxindia.gov.in/Lists/Press%20Releases/Attachments/1116/PressRelease-CBDT-condones-delay-in-filing-Form-No-10A.pdf>

4. *Explanatory Notes to the provisions of the Finance Act, 2022 - Circular No. 23/2022, dated 03-11-2022*

The Finance Act, 2022 as passed by the Parliament, received the assent of the President on 30.03.2022 and has been enacted as Act No. 6 of 2022. This circular explains the substance of the provisions of the Finance Act 2022 relating to direct taxes.

The detailed Circular can be downloaded from the link below:

<https://incometaxindia.gov.in/communications/circular/circular-23-2022.pdf>

III. PRESS RELEASES/INSTRUCTIONS/OFFICE MEMORANDUM/ORDER

1. *Draft common Income-tax Return - request for inputs from stakeholders and the general public - Press Release, dated 01-11-2022*

The proposed draft ITR takes a relook at the return filing system in tandem with international best practices. It proposes to introduce a common ITR by merging all the existing returns of income except ITR-

7. However, the current ITR-1 and ITR-4 will continue. This will give an option to such taxpayers to file the return either in the existing form (ITR-1 or ITR-4) or the proposed common ITR, at their convenience. The inputs on the draft ITR form may be sent electronically at the email address dirtpl4@nic.in with a copy to dirtpl1@nic.in, latest by 15.12.2022

The complete text of the above Press Release can be downloaded from the link below:

<https://incometaxindia.gov.in/Lists/Press%20Releases/Attachments/1117/PressRelease-CBDT-releases-draft-Common-ITR-Form-for-public-consultation-1-11-22.pdf>

<https://incometaxindia.gov.in/communications/circular/common-itr.pdf>

2. Search and seizure action by Income Tax Department in Jharkhand - Press Release, dated 08-11-2022

A search and seizure action was initiated by the ITD on few business groups engaged in coal trading/ transportation, execution of civil contracts, extraction of iron ore and production of sponge iron, on 04.11.2022. Those searched include two politically exposed persons and their associates. The searches were carried out at more than 50 premises spread over Ranchi, Godda, Bermo, Dumka, Jamshedpur, Chaibasa, Patna, Gurugram, and Kolkata.

The complete text of the above Press Release can be downloaded from the link below:

<https://incometaxindia.gov.in/Lists/Press%20Releases/Attachments/1118/Press-Release-Search-and-seizure-action-by-ITD-in-Jharkhand-dated-08-11-2022.pdf>

3. Order u/s 119 of the Income-tax Act, 1961 - Extension of time to file Form ITR-A - Order, dated 26-09-2022

The provisional figures of Direct Tax collections up to 10.11.2022 continue to register steady growth. Direct Tax collections up to 10.11.2022 show that gross collections are at Rs. 10.54 lakh crore which is 30.69% higher than the gross collections for the corresponding period of last year. Direct Tax collection, net of refunds, stands at Rs. 8.71 lakh crore which is 25.71 % higher than the net collections for the corresponding period of last year. This collection is 61.31% of the

total Budget Estimates of Direct Taxes for F.Y. 2022-23.

The complete text of the above Press Release can be downloaded from the link below:

<https://incometaxindia.gov.in/Lists/Press%20Releases/Attachments/1119/Press-Release-DTC-for-FY-2022-23-up-to-10-11-2022-dated-12-11-2022.pdf>

4. Setting up of Units under sub-section (3) of section 144B of the Income-tax Act, 1961 - Order, dated 14-11-2022

In pursuance of sub-section (3) of section 144B of the Income-tax Act, 1961, the CBDT had made the certain specified amendments in the Office Order - 2 of even number (F No. 187/3/2020-ITA-I) dated 10.06.2022. This order has come into effect from 14.11.2022.

The complete text of the above Office Order can be downloaded from the link below:

<https://incometaxindia.gov.in/Lists/Latest%20News/Attachments/553/Setting-up-of-Units-under-section-144B-of-ITA-1961-14-11-22.pdf>



GST NOTIFICATIONS

1. Extension of due date for filing Form GSTR-3B

The due date for furnishing return under sub-section (1) of section 39 read with rule 61(1) (i) of the CGST Rules, 2017 i.e., Form GSTR-3B for the month of September, 2022 was extended to 21.10.2022.

Notification No. 21/2022-CT dt. 21.10.2022

2. Amendment in Form GSTR-9

Para 7 of the instructions pertaining to Form GSTR-9 have been amended to incorporate the extended date of 30th November, 2022 i.e., instead of earlier mentioned period "between April, 2022 to September, 2022", "April, 2022 to October, 2022 filed upto 30th November, 2022" have been substituted.

Notification No. 22/2022-CT dt. 15.11.2022

CIRCULARS

1. Clarification on 'date of applicability' of refund related Notifications

Circular has been issued to clarify on the date of applicability of the notifications pertaining to refund in case of inverted duty structure:

a) **Notification No. 14/2022 CT dt. 05.07.2022** was issued to amend the formula related to calculation of refund of unutilised input tax credit in case of inverted duty structure prescribed under rule 89(5) of the CGST Rules, 2017 w.e.f. 05.07.2022. In order to clarify the date of its applicability, the circular has been issued to reiterate that the new formula shall be applicable only in case of refund applications filed on or after 05.07.2022. Therefore, the refund applications filed before 05.07.2022 shall be dealt as per the formula as it existed before the amendment made vide above notification.

b) **Notification No. 9/2022 CT (R) dt. 13.07.2022** was issued to place restriction on refund of unutilised input tax credit on account of inverted duty structure in case of certain goods. The Circular has clarified that restriction imposed by the above notification shall apply prospectively. Hence, restriction imposed by the said notification would be applicable in respect of all refund applications filed on or after 18.07.2022 and would not apply to the refund applications filed before 18.07.2022.

Circular No. 181/13/2022-GST dt. 10.11.2022

2. Guidelines for verifying Transitional Credit

As per the directions of the Hon'ble Supreme

Court in the case of *Union of India vs. Filco Trade Centre Pvt. Ltd.* dated 22.07.2022 & 02.09.2022 that the common portal be opened for filing prescribed forms for availing transitional credit through TRAN-1 and TRAN-2 for two months from 01.10.2022 to 30.11.2022 for the aggrieved registered assesseees, **Circular No. 180/12/2022-GST dt. 09.09.2022** was issued specifying that the declaration in FORM GST TRAN-1/TRAN-2 filed/revised by the applicant shall be subjected to necessary verification by the concerned tax officers. The guidelines for verifying the same have been issued through **Circular No. 182/14/2022-GST dt. 10.11.2022**.

Circular No. 182/14/2022-GST dt. 10.11.2022

CUSTOMS

NOTIFICATION

1. Amendment of Project (Import) Regulations, 1986

The Project (Import) Regulations, 1986 have been amended vide Project Imports (Amendment) Regulations, 2022 w.e.f. 20.10.2022. The amendment can be accessed at:

Notification No. 54/2022-Customs dt. 19.10.2022



FEMA Updates

Summary Information on few Compounding Orders issued after 1st March 2020

| Sr. No. | Party Name | Nature of Contravention | Date of Order | Compounding Fees (Rs.) |
|---------|---|---|---------------|------------------------|
| 1. | Madri Tourism India Pvt Ltd. | Contraventions under Para 3.1.I.A.2 of FEMA Notification 395 for non-allotment of equity instruments to person resident outside India within 60 days from date of receipt of consideration. | 27-10-2022 | 60,838 |
| 2. | Singhvi Jewels | Contraventions under Regulations 5(1) and 15(iii) of FEMA Notification NO. 120 for making overseas investment without prior RBI approval and delay in filing of APR. | 02-09-2022 | 2,02,875 |
| 3. | Brain League Intellectual Property Services P. Ltd. | Contraventions under Regulation 15(iii), 16(1)(iii) and 16(1)(iv) of FEMA Notification NO. 120 for delay in filing of APR, disinvestment without obtaining valuation report and disinvestment despite Indian party having outstanding dues from JV or WOS | 09-09-2022 | 1,88,477 |

Matter on Direct and Indirect Taxes is contributed by Direct Taxes Committee, GST & Indirect Taxes Committee of ICAI respectively. FEMA updates by CA. Manoj Shah, CA Hinesh Doshi and CA. Sudha G. Bhushan.

Virtual Certificate Course on Concurrent Audit of Banks

The concurrent audit system of banks has become very crucial and important for banks. The main objective of the system is to ensure compliance with the audit systems in banks as per the guidelines of the Reserve Bank of India and importantly, to ensure timely detection of lapses/ irregularities. In view of the core competence of the chartered accountants in the area of finance and accounting, risk management, understanding of the internal functioning and controls of banks, etc., the banking sector has been relying extensively on them to comply with these requirements of the regulator. The Internal Audit Standards Board of ICAI conducts 11 days Certificate Course on Concurrent Audit of Banks through Digital Learning Hub. The purpose of the *Certificate Course on Concurrent Audit of Banks*

is to provide an opportunity to the members to understand the intricacies of concurrent audit of banks thereby improving the effectiveness of concurrent audit system in banks, and also the quality and coverage of concurrent audit reports.

The course is open for the members of the Institute of Chartered Accountants of India

Please refer link for further details of the Course:
https://www.icai.org/post.html?post_id=15262

FEES DETAILS: Rs. 5,900/- (including GST)

The details of the forthcoming batches of the Virtual Certificate Course on Concurrent Audit of Banks to be organized by the Internal Audit Standards Board through Digital Learning Hub is as follows:

| Location | Scheduled Dates | Course Structure and other details |
|----------|---|--|
| BATCH 83 | December 5- 15, 2022 (3:00 to 6:00 PM) | Structured_IASB_Certificate Course Concurrent Audit of Banks BATCH - 83 |
| BATCH 84 | December 20-31, 2022 (3:00 to 6:00 PM) | Structured_IASB_Certificate Course Concurrent Audit of Banks BATCH - 84 |

Online Certificate Course on Internal Audit

Internal Audit is a vibrant, rapidly growing, globally recognised profession that is helping organisations manage their risk, governance and compliance processes.

The Institute is committed to develop its members as internal audit professionals by providing them with the knowledge, skills and expertise essential to succeed in the profession.

The Institute has much to offer in the area of best-practice tools, techniques and practices, which can be deployed to help organisations achieve their objectives.

Certificate Course on Internal Audit has been completely revamped by Internal Audit Standards Board, ICAI with new topics and heavy dose of information technology, being launched in a contemporary format to serve the needs of all stakeholders.

The course is open for the members of the Institute of Chartered Accountants of India

Please Refer link for further details of the Course:
https://www.icai.org/post.html?post_id=7606

FEES DETAILS: Rs. 5,900/- (including GST)

First complete E-learning on Internal Audit: <https://learning.icai.org/committee/audit-of-banks/internal-audit>

Then make payment to join Certificate Course on Internal Audit

The details of the forthcoming batches of the Online Certificate Course on Internal Audit being to be organized by the Internal Audit Standards Board through Digital Learning Hub is as follows:

| Location | Scheduled Dates | Course Structure and other details |
|----------|--|---|
| BATCH 1 | December 1- 10, 2022 (2:00 to 5:00 PM) | https://www.icai.org/post.html?post_id=7606 |

Chairman
 Internal Audit Standards Board, ICAI
 E-mail: cia@icai.in;



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Chartered Accountants of India
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For Registration: Login with your Membership Number & Date of Birth

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Link to view and read

FAQs <https://www.icai.org/post/faq-icai-bos-mobileapp>

Apple Play Store(version 1.7)
<https://apple.co/3ASDM9v>
Android Play Store(version 1.18)
<https://cutt.ly/tmpGroW>



APPLE APP STORE



ANDROID PLAY STORE

Glimpses of Press Clippings published in November 2022



चंडीगढ़ सिटी 02-11-2022

आईसीएआई ने आयोजित किया सुपर मेगा करियर काउंसलिंग कार्यक्रम



नई दिल्ली | इंस्टीट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया (आईसीएआई) ने माध्यमिक, वरिष्ठ/ उच्च माध्यमिक, स्नातक/ स्नातकोत्तर छात्रों के साथ-साथ भारत एवं विदेश में अन्य हितधारकों के बीच सीए पाठ्यक्रम पर विशेष ध्यान देने के साथ वाणिज्य शिक्षा को बढ़ावा देने के उद्देश्य से कैरियर परामर्श पर समिति का गठन किया। इस वर्ष, समिति ने 1242 करियर परामर्श कार्यक्रम शुरू किए हैं और देश भर में फैले 4 लाख छात्रों को परामर्श दिया है। समिति ने आईसीएआई की क्षेत्रीय परिषदों और शाखाओं के सहयोग से 31 अक्टूबर, 2022 को अखिल भारतीय आधार पर सुपर मेगा करियर परामर्श कार्यक्रम का आयोजन किया। इस सुपर मेगा ड्राइव में प्रधानाध्यापकों, शिक्षकों और करियर काउंसलरों के साथ लगभग 1,30,000 छात्रों ने भाग लिया। कार्यक्रम का आयोजन चार क्षेत्रीय परिषदों सहित 85 शाखाओं द्वारा किया गया था।

TUESDAY | NOVEMBER 15, 2022

MONEY

BHOPAL

ICAI to host Carbon Neutral World Congress of Accountants in India

FPJ BUREAU / Mumbai

The Institute of Chartered Accountants of India will host the 21st World Congress of Accountants from November 18-21 in Mumbai. The theme is "Building Trust Enabling Sustainability", the accountants' organisation said at a press conference on Monday.

Held once every four years, the congress is popularly known as the "Olympics of Accountancy Profession". It is one of the most prestigious global events of professional accountants organised under the aegis of the International Federation of Accountants, the global organisation for the accountancy profession. For the first time in the 118 years of its existence, it is being held in India.

Debashis Mitra, President ICAI, addressed the media today at ICAI Bhawan, shared details of the preparations being made for



the congress. "The focus area of WCOA is centred around Sustainability and ICAI is making all efforts to make it a Carbon-Neutral event," he said. With around 8,000 tonnes of carbon credits, WCOA aims to build a carbon neutral conference. There will also be a great deal of tech innovation at the conference with three robots deployed to welcome guests, coordinate sessions and much more, he added.

This time there are going to be the highest number of participants in the congress' history. Mitra said. More than 9,000 global think tanks from over 100 coun-

tries will attend the conference.

The four-day event will have more than 35 insightful sessions. Om Birla, Lok Sabha Speaker, Piyush Goyal, Commerce Minister, Bhagwat Kishanrao Karad, Minister of State for Finance, Devendra Fadnis, Dy CM of Maharashtra and Girish Chandra Murmu, Comptroller & Auditor General of India, are among some of the eminent speakers at the event. Among the industrialists attending will be Mukesh Ambani, Chairman & MD of Reliance Industries Ltd, Gautam Adani, Chairman of Adani Group among others.

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SATURDAY - NOVEMBER 19 - 2022

Accountants must come up with global partnership model, says Om Birla

KR Srivats
New Delhi

The global accountants' community must come up with a model and framework of global partnership inspiring cooperation on all worldwide issues, Lok Sabha Speaker Om Birla said on Friday.

Speaking at the 21st World Congress of Accountants in Mumbai — being held for the first time in India — Birla urged accountants to evolve a system of regular interaction and share their innovative and best practices to pave the way for a prosperous world with international cooperation.

GLOBAL CHALLENGES

"We are facing several global challenges. The problems posed by Covid-19 pandemic, climate change, economic challenges are affecting all the countries and a solution can be found only through interaction at global platform," Birla said.

In this age of globalisation, international cooperation is the most effective way to secure the future of humanity, he added.

The latest edition of World Congress of Accountants (WCOA) 2022 — which got inaugurated on Friday — is seeing participation from over 10,000 professional ac-



Om Birla, Lok Sabha Speaker

countants, including 6,500 delegates attending the event physically. Among the physical attendees, as many as 1,800 were foreign delegates from over 120 countries, said Debashis Mitra, President, Institute of Chartered Accountants of India (ICAI). Birla said the World Congress — jointly organised by the International Federation of Accountants (IFAC) and ICAI — highlights the importance of knowledge-based economy and significance of accounting at the global level.

Birla highlighted that technological developments have placed a great responsibility on global accountants community. "Globalisation and digital economy have posed new challenges before us. As financial experts, you understand it better. You have the potential to guide the world in finding a solution to these challenges with your wise counsel."

BUSINESS

ACCOUNTANCY

'Sustainability reporting standards key'

ENS ECONOMIC BUREAU
@ New Delhi

FINANCE Minister Nirmala Sitharaman has appealed to chartered accountancy professionals to develop sustainability reporting standards for better corporate governance and a sustainable world.

She said sustainability is laid on three pillars — socio-economic, environmental and economic factors, which translate into people, planet and profit. Sitharaman, speaking at the inauguration of the 21st World Congress of Accountants (WCOA) organised by ICAI in Mumbai, commended the efforts of IFRS Foundation to form the International Sustainability Standard Board with an objective of developing global sustainability standards. The focus of the World Congress of Accountants, being held for the first time in India, is sustainability as is evident from its theme Building Trust Enabling Sustainability. Addressing a congregation of over 6,500 accountants from across the world, she expressed hope that the delegates will discuss the issue of transparency, trust and sustainability over the course of the 4-day event.

10 New Delhi, Monday 21 November 2022

FOCUS NEWS

India is a bright shining spot in the world economy amidst global economic uncertainty: Goyal

New Delhi, Focus News: Union Minister for Commerce and Industry, Consumer Affairs, Food and Public Distribution and Textiles, Shri Piyush Goyal today said that India is a bright shining spot in the world economy amidst global economic uncertainty. He was addressing the 21st World Congress of Accountants in Mumbai. Union Commerce Minister said that India has demonstrated that despite the prevailing volatility, uncertainty, complexity, ambiguity in the world, our country has the leadership, capabilities and the skill that is required to navigate the economic recovery. "Despite the pandemic challenges, very reasonable measures were taken to sustain the Indian economy where a strong focus was on the macroeconomic fundamentals. Our Government focussed on inclusive well-being of all sections of society." The Union Commerce Minister said that the world today is looking up to Indian economy to steer growth and to show the way. "The world recognises India's strong economic fundamentals, demographic dividend, an unmatched consumer base, skillsets and management abilities of India's youth." Speaking about the G-20 presidency, the Commerce Minister said that our theme for the G20 Presidency is 'Vasudhaiva Kutumbkam'. "India believes that the world is one family. India cares for the whole world and it is in this context that we have placed the theme of our Presidency as One Earth, One Family, One Future. While the world focuses on consumption led growth, India focuses on sustainability and respects nature. India believes in inter-generational equity and that it is incumbent on each one of us to leave behind a better planet than the one we have inherited." The Union Minister said that we are working with a vision to make India a developed nation by 2047 and to take prosperity to every Indian. "Prime Minister Shri Narendra Modi and the people of India have envisioned a future where we wish to see India a developed nation as we celebrate 100 years of Independence". Addressing the Chartered Accountants at the World Congress of Accountants, the Union Minister said Chartered Accountants are custodians of this vision. "CAs will be required to validate the progress of this mission, to recognise whether all that is promised and agreed amongst nation, is being implemented. We certify the true and fair picture." He added "In the global economic recovery as the world prepares itself for better energy security, food security, as we see the future where innovation and technology is going to drive growth, it is the responsibility of all of us as CAs to work with the Government & Institutions". The 21st World Congress of Accountants 2022 is being hosted by The Institute of Chartered Accountants of India in Mumbai in Hybrid mode. This theme for the WCOA 2022 is 'Building Trust Enabling Sustainability'.



जलते दीप

चार्टर्ड अकाउंटेंट आर्थिक जगत के इंजन और शिल्पकार : ओम बिरला

■ लोकसभा अध्यक्ष ने लेखकों की 21वीं विश्व काँग्रेस को संबोधित किया

■ चोरी, मुम्बई

लोक सभा अध्यक्ष ओम बिरला ने शुक्रवार को मुम्बई में लेखकों की 21वीं विश्व काँग्रेस को संबोधित किया।

इस अवसर पर बिरला ने कहा कि चार्टर्ड अकाउंटेंट आर्थिक जगत के इंजन हैं और विश्व आर्थिक जगत के शिल्पकार भी हैं। अर्थतन्त्र में उनके योगदान के कारण बिरला ने चार्टर्ड अकाउंटेंट को आर्थिक जगत का खनि मुनि भी कहा। बिरला ने चार्टर्ड अकाउंटेंट की निम्नलिखित प्रक्रिया का उल्लेख करते हुए कहा कि चार्टर्ड अकाउंटेंट बनने को जो परीक्षा होती



विषयसमीक्षा का सबसे बड़ा उदाहरण है।

चार्टर्ड अकाउंटेंट की भूमिका रेखांकित करते हुए लोकसभा अध्यक्ष ने कहा कि नए इन्वेन्शन, नई सोच और नई तकनीक के अनुभव काम करने की शक्ति और समर्थन चार्टर्ड अकाउंटेंट में है। उनके द्वारा लागू सरकारीयक परिवर्तन के माध्यम से एक समृद्ध समाज एवं राष्ट्र का निर्माण संभव है।

बिरला ने यह भी कहा कि अपने वाले समय में किसी भी देश और दुनिया को अर्थव्यवस्था में ही रहे बदलाव को जलाने में रहते हुए नए इन्वेन्शन, नई सोच और नई तकनीक के अनुभव काम करने की शक्ति और समर्थन उन्हें है और वे विश्व अर्थव्यवस्था की पूर्ति हैं। उनके कर्तव्य से आर्थिक जगत में सरकारीयक परिवर्तन हुआ है और समाज में आर्थिक, सामाजिक परिवर्तन से रहे हैं।

जानी है, वह करीब विषयसमीक्षा होती है। आज तक उनकी परीक्षा प्रणाली पर कोई सवाल नहीं उठे, यह आईसीएआई की प्रभाविकता और

businessline.

MONDAY - NOVEMBER 21 - 2022

Accounting profession must be in step with new disruptive business models: CAG Murmu

■ KR Srivats
New Delhi

The accounting profession not only has to keep itself abreast with the technological changes, but also be in step with the new disruptive business models of the 21st Century, said GC Murmu, Comptroller and Auditor General of India (CAG).

Addressing the 21st World Congress of Accountants, organised by the CA Institute in Mumbai, Murmu highlighted that the economy is going through massive transformation with evolution of new and innovative tools in doing business.

"These will challenge the conventional accounting traditions and thinking. For example, there is this issue



GC Murmu, Comptroller and Auditor General of India

of new balance sheet, where companies that hardly have any physical assets or employees, have revenue streams of billions of dollars. A case in point is the cab and hotel room aggregators," said Murmu.

GLOBAL VALUE CHAIN. He also said that there are many other challenges that

impact the global value chain, especially international transactions - an example being the emergence of crypto currency and the challenges of capturing untraceable financial transactions - which will be a huge challenge in financial audits.

"Today, we need to constantly search for credible tools to meet the challenges emanating from the development in trade and tariff systems and emergence of digital assets necessitating credible accounting environment."

"We need accountants who can contribute in creating sustainable businesses by taking advantage of emerging tools and innovations in public financial management to foster inclusive growth," Murmu added. Murmu also under-

scored the need for sustainable IT governance and prudent financial management to enact large public programmes transparently without running into cost and time delays.

"Accounting and audit professionals must take note of these developments to complement the government's efforts. We have to ensure that we discharge our duties with high ethical, technical and professional standards. Digital assurance will allow auditors to validate for an entire population, which will improve efficient workflow and build trust in financial statements."

It is time, therefore, for the accountancy profession to take steps towards building high-quality integrated reporting and performance statements," Murmu added.

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