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# THE CHARTERED ACCOUNTANT

JOURNAL OF THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

## UNION BUDGET 2023



ALSO  
IN THIS ISSUE  
**BANK  
AUDIT**



भारत 2023 INDIA

वसुधैव कुटुम्बकम्

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# Invitation to Write Articles

Chartered Accountants and other subject experts, with academic passion and flair for writing, are invited to share their expertise through the ICAI Journal – *The Chartered Accountant*. The article may cover any topic relevant to the accounting world covering auditing, finance, laws, strategy, taxation, technology and so on. While submitting articles, please keep following aspects in mind:

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- ❖ Articles should be original in nature
- ❖ An executive summary of about 100 words should accompany the article.
- ❖ Articles should not have been published or sent for publishing in any other print or electronic media.

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**The Institute of Chartered Accountants of India**

## Union Budget 2023-24: Vision for an Empowered and Inclusive Economy

**T**he Union Budget 2023-24, envisions to start the work towards realising the Vision of Amrit Kaal i.e. Indian@100 of developing an empowered and inclusive economy, being the first budget of this 25 years of journey. The Budget aspires to build technology-driven and knowledge-based economy with resilient public finances and a strong financial sector. To achieve the vision of a prosperous and inclusive India, support and engagement of all *Jan Bhagidari* through *Sabka Saath, Sabka Prayaas* is essential so that fruits of development reach all regions and citizens. Setting the tone to realise this vision the economic agenda emphasises on three strategic areas facilitating opportunities for the citizen, especially youth to meet their aspirations, providing strong impetus to growth and job creation and building strong and stable macro-economic environment.

Amongst the global uncertainties, India with its reform driven and citizen centric governance approach has emerged as a bright spot as the fastest growing economy globally. With the emphasis on leveraging technology to the core, the government in the last couples of years has built digital public infrastructure i.e. Aadhar, UPI and Co-win to serve the citizens as well as enable innovations in fintech, education and healthcare. The Government while building the digital infrastructure has slowly and steadily sowed seeds of growth by supporting entrepreneurial spirit through Startups and MSMEs, facilitating ease of doing which has anchored and steered the economy towards growth post covid amidst global turmoil. All these efforts and initiatives has culminated into India's rise as fifth largest economy, third largest startup ecosystem across the globe.

The recently announced budget for the fiscal year 2023-24, has laid out seven priorities titled 'Saptarishi', that aim to promote inclusive development, reach the last mile, promote infrastructure and investment, unleash the potential of the nation, drive green growth, harness the power of youth, and strengthen the financial sector. These priorities reflect the government's commitment to building a more resilient and prosperous nation. The Budget aims at fulfilling the aspirations of new emerging India as the economy is gaining traction. With its commitment to build an empowered and inclusive economy the Government has substantially boosted investments across the agricultural, social, education and health sectors promoting progressive growth and welfare of the economically weaker, rural and the urban middle class.

The Union Budget aims to leverage the technology by augmenting the Digital Public Infrastructure to unleash the innovation across the sectors and move towards Trust Based Governance. In this direction

more than 39,000 compliances have been reduced, and more than 3,400 legal provisions have been decriminalized to encourage entrepreneurship and attract foreign investment to the country. The Jan Vishwas Bill, a major undertaking included in the budget, aims to simplify the legal process and enhance the public's access to justice, which will cultivate a climate of transparency and trust throughout the nation.

To build the New India, making the youth future ready is essential for unleashing entrepreneurial spirit and facilitate job creation. Skill India Program is being expanded and National Apprenticeship program is being rolled out to build skilled human resources for the future which are aligned to the need of MSMEs and industry. The establishment of a National Digital Library will promote digital literacy and will be particularly crucial in bridging the digital divide and promoting equal access to educational resources. The Make AI in India and Make AI Work for India initiatives are designed to foster the growth of AI-based technologies and establish a conducive environment for AI-driven startups. This will not only spur innovation within the country but also generate employment prospects in the field of AI.

The direct taxes proposals are introduced to uphold tax continuity and stability, streamline and rationalize multiple provisions to minimize the burden of compliance and grant tax benefits to individuals. In last couple of years Income Tax Department has undertook various measures to make compliance easy and smooth. Going ahead, to further simplify and improve the tax filing process it is proposed to roll out next-generation Common IT Return Form for tax payer convenience. Further the proposals concerning indirect taxes are intended to advance exports, stimulate domestic manufacturing, improve domestic value addition, incentivize the use of green energy and mobility.

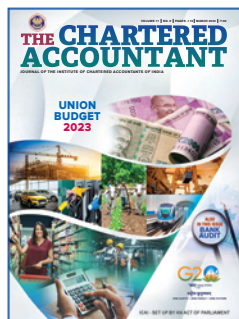
The budget aims to balance growth with fiscal prudence and the commitment of the Government to continue on the path of fiscal consolidation and targeting to reach to fiscal deficit below 4.5% by 2025-26 will strengthen the economy for the path ahead.

The budget has laid a vision and path to navigate the development of national economy. Our profession with its skill and expertise should strive to push the agenda of nation's growth to achieve the vision of Self-Reliant India.

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

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### THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

ICAI Bhawan, Post Box No.7100, Indraprastha Marg,  
New Delhi-110002, Tel: +91 (11) 39893989.  
E-mail: [eboard@icai.in](mailto:eboard@icai.in), Website: [www.icai.org](http://www.icai.org)

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# Profile

## Our New President



**CA. Aniket S. Talati**  
**President, ICAI (2023-24)**

A man with strong professional ethics, refined thought process, technical expertise and vision to embrace technology to lead the profession. On 12<sup>th</sup> February 2023, CA. Aniket S. Talati was elected as 71<sup>st</sup> President of The Institute of Chartered Accountants of India (ICAI) for the term 2023-24.

While serving the ICAI Council as a member since 2016 and then as Vice-President of the Institute in 2022-23, he earned respect for his formidable organizational skills and deep insight into the affairs of the profession. CA. Aniket S. Talati has contributed to the cause of the profession from various professional perspectives and is widely commended and credited for leading the Digital Transformation within ICAI. Numerous digital Initiatives launched under him stand testimony to this fact. His penchant for inspiring new ideas and innovations is evident in conceptualizing and devising a new futuristic CA Curriculum.

As President of ICAI, CA. Aniket S. Talati is also the Chairman of all the Standing Committees, i.e., Executive, Finance, and Examination Committees, as well as *ex-officio* members of all Non-standing Committees and Editor of ICAI Journal, *The Chartered Accountant*. During 2022, he was the Vice-Chairman of the Working Committee of the World Congress of Accountants, ICAI. He successfully hosted the most

magnanimous and historic World Congress of Accountants in Mumbai in 2022.

He also Chairs the ICAI research wing Accounting Research Foundation (ICAI ARF), Extensible Business Reporting Language (XBRL) India. He is the Director on the Board of the Indian Institute of Insolvency Professionals of ICAI (IIPI). He also represents the Institute as a member of the Insolvency Law Committee and as a Standing Committee of MCA for review of the implementation of the Insolvency & Bankruptcy Code, 2016.

CA. Aniket has been passionately representing India and the profession on international forums at several global meetings and conferences, striving to position India as Global Accounting Hub. Currently, he is the Technical Advisor to the ICAI's Nominee on the IFAC Board, PAIB Advisory Group of IFAC, besides being a Board member of SAFA (South Asian Federation of Accountants). Also, he represents ICAI on the Integrated Reporting and Connectivity Council (IRCC) and Board meetings of the Pan African Federation of Accountants (PAFA) and ASEAN Federation of Accountants (AFA).

Moving ahead with ICAI's role as a partner in Nation building being President ICAI, CA. Aniket S. Talati is supporting the Government and Regulators as a member of the Government Accounting Standards Advisory Board (GASAB) & Audit Advisory Board formed by the C&AG of India, Insurance Advisory Committee and Board of Insurance Regulatory & Development Authority of India (IRDAI) and SEBI's Primary Market Advisory Committee.

With his exceptional understanding, skills to blend new age thinking with the traditional approach, and ability to connect with all, CA. Aniket has an outstanding capability to pursue the agenda of inclusive growth, dealing with issues of Small and Medium Practitioners and taking the Institute and Indian accountancy profession to much greater heights on a global pedestal. During his stints with the ICAI, he led the cause of the profession from the front through various Committees of the Ahmedabad Branch & Western India Regional Council of the ICAI.

Bachelor of Commerce from Mumbai University and a Rank holder from Gujarat University, CA. Aniket S. Talati also holds a Master of Commerce. With strong expertise in technical matters, he has written numerous articles in various magazines and publications and addressed hundreds of seminars and conferences. ■



## Our New Vice-President



**CA. Ranjeet Kumar Agarwal**  
**Vice-President, ICAI (2023-24)**

A thorough academician, with a consistent pursuit towards achieving excellence and a technically affluent professional who has been significantly contributing to the cause of the profession, CA. Ranjeet Kumar Agarwal has been elected as the Vice-President of the Institute of Chartered Accountants of India for the term 2023-24.

CA. Ranjeet Kumar Agarwal is a practicing Chartered Accountant since last 24 years. He graduated from the prestigious Calcutta University. He is also a Company Secretary & DISA from ICAI. He was elected to the 23<sup>rd</sup>, 24<sup>th</sup> & 25<sup>th</sup> Central Council of the Institute of Chartered Accountants of India 3 times in a row. During his Chairmanship in 2013-14, the Eastern India Regional Council (EIRC) received the coveted award for the Best Regional Council.

During his distinguished stint, he has chaired many committees and has several accomplishments to his credit. As a visionary reformist, he had chaired the Professional Development Committee of ICAI, implemented Bank Branch Audit Software and conceptualised and implemented UDIN which was indeed a landmark initiative of ICAI. He was also the Convenor of Group constituted to implement UDIN concept in all SAARC Countries (Sri Lanka, Pakistan, Nepal, Bhutan, Bangladesh, Afghanistan & Maldives). He had also led the

ICAI Group that presented the FRRB Bill before Joint Parliamentary Committee (JPC).

An expert in Professional Ethics, he as the Chairman of the Ethical Standard Board of ICAI, was instrumental towards bringing the revised the Code of Ethics after a gap of 10 years and implemented the New Code of Ethics considered to be the guiding light for the accounting profession.

As the Vice Chairman, Board of Studies, he steered major refinements in the processes and their implementation. Out of the various groups formed for the dealing with the various aspects of CRET for the year 2021-22, he was the Convenor of the Group for Examination related matters. The ICAI Mobile App, which has become the most renowned online learning platform for students, was also launched under his tenure. In 2019 he was the Convenor of the Group Constituted for Review of the entitlement for engaging Articled Assistant(s).

Under his dynamic leadership as the Chairman of Committee for Members in Industry & Business (CMI &B) in 2022, both the Campus Placement Programmes for Newly Qualified Chartered Accountants and Experienced CAs secured an unprecedented success and witnessed the participation by highest number of recruiters and secured the largest number of offered vacancies. The committee had also organised first placement programme exclusively for women CAs. A new campaign titled CA Business Leaders 40 under 40 was also commenced wherein 40 CA achievers in Industry and Business under the age of 40 will be awarded. By the virtue of his able guidance, the committee had published two noteworthy publications namely the Coffee Table Book- 'Milestones- A Chronicle of Activities' and 'Tales of Triumph- Stories of Successful Chartered Accountants' which were highly appreciated by the fraternity.

He has also chaired Tax Audit Quality Review Board (TAQRB) of ICAI wherein he led the steps towards improvising the quality of Tax Audit conducted by members and during the year 2022-23, 80 reports were reviewed by the Board.

His accomplishments at International Front also include his recent appointment as the Technical Advisor to the Board member of SAFA (South Asian Federation of Accountants).

CA. Agarwal is a passionate leader and firmly believes in the inclusive development of the society. ■



**CA. Aniket S. Talati**  
President, ICAI

## Dear Professional Colleagues,

As I take over the baton of Presidency as 71<sup>st</sup> President of this great institution with its illustrious legacy upholding the public interest, I am overwhelmed with pride and elation. I am equally conscious of the great responsibility that this position brings along and will strive to work with full dedication, determination and passion to continue the profession's sagacious journey of excellence. I must complement members, students and my illustrious predecessors for their immense contribution over the years in earning the respect, goodwill and trust enjoyed by the profession. Today, I recall the excerpts from speech of Mr. K.C. Neogy, Minister for Commerce, 1949, *"Though the profession of Accountancy for the most part had been functioning away from public gaze, it was the handmaiden of the industrial and commercial development of the country...The legislature of the country had placed upon the Council great responsibility and it was expected that the Council would establish standards of professional efficiency and more so of professional integrity... would maintain a level of professional conduct and professional standards, which would bring resounding glory not only to the profession but to the country as well."* These words shall continue to guide and inspire me and our Council during the entire year.

As I board on this journey, I would like to thank 25<sup>th</sup> Council for reposing faith in me and giving me this lifetime opportunity to lead this great institution and profession. On a personal note, I would like to thank my father CA. Sunil H. Talati, past President, ICAI and my grandfather CA. H. M. Talati, past Central Council member for introducing me to this noble profession which today provided me an opportunity to contribute in service of our fraternity. I look forward to the support and guidance of my entire Team ICAI, as we work towards realising the vision of becoming the world's leading accounting body and supporting the agenda of inclusive, equitable, and sustainable economic growth of the nation.

I am thankful and grateful to my immediate predecessor CA. (Dr.) Debashis Mitra for his decisive leadership in taking path breaking initiatives and the professional camaraderie during 2022-23, it was indeed a learning for me as Vice-President.

Established in 1949, by an act of parliament, the foundation of ICAI is deeply ingrained with the virtues of Independence, Integrity and Excellence. Service to the Nation is in our blood and always inspires us to take newer initiatives in public interest. ICAI over the years has strengthened the role that the accountancy profession plays in providing high quality financial information, facilitating market discipline and fostering confidence of various stakeholders by being a prudential Regulator.

We will soon be celebrating the commencement of 75<sup>th</sup> year of the ICAI's existence that too at the time when India is celebrating "Azadi ka Amrit Mahotsav" commemorating 75 years of India's Independence. This is the time to celebrate our glorious journey as trustees of public interest and catalysing economic development of the country. The commitment to professionalism, trust and ethical values shall continue as in the past. Our thoughts, ideas and action will determine our future. I am proud to say, that the Indian CAs have transformed themselves from Auditors to trusted business advisers.

To propel India to the top ranks of global economic powers, we Chartered Accountants have a very crucial role to play. Working hand in hand with the Government, members have the responsibility to foster economic reforms in the country by providing valuable advice for smooth implementation and propagating various



## From the President

government schemes. For capacity building and empowering MSMEs towards Atmanirbharta, CAs need to guide MSMEs & Startups and help them to flourish. Members and students need to become brand ambassadors spreading financial and tax literacy in the country. Towards strengthening the sustainability ecosystem in the country, Members need to sensitize stakeholders and pave a path for smooth adaptation towards sustainable economy. The Institute should continue to actively partner in various Government Initiatives and support in defining road-maps and growth models for our economy.

Working towards achieving the objectives envisioned in Vision 2030, ICAI will go all out to increase the accounting profession's global outreach and footprint. Building on the success of World Congress of Accountants (WCOA) 2022, the Institute will strive to forge more collaborations with international organisations in the accounting and related fields providing greater mobility and professional opportunities to the Indian professionals.

Sharing vision of 'Amrit Kaal' to ascend to new heights of prosperity for India and its citizens, the Institute will continue to contribute towards efficient functioning and affluence of the Indian economy by upholding societal goals leading to inclusive growth. Participating actively in the G20 endeavours with the Government will be an important step in this direction.

The Institute will provide further impetus towards ensuring a robust, transparent, and efficient regulatory mechanism to increase stakeholder's trust and confidence. To strengthen Research and Development facilities at the Institute, the Institute will be exploit the potential of newer technologies such as AI, Data Analytics, Block Chain, Cloud Computing, etc. to the fullest. As part of our efforts to strengthen the ecosystem, ICAI will further raise awareness on ESG concerns globally by benchmarking the global best practices in Sustainability Reporting and Assurance Standards.

Additionally, enhancing the image and rebuilding the identity of ICAI will be a key focus area, whereby the public perception of Chartered Accountants and the profession will be enhanced by effectively projecting CAs as global professionals. I assure you that quality will continue to be at the heart of everything we do, be it in the academic, or the professional services. With a wonderfully dynamic and expert group of people around me, I am confident of achieving the planned initiatives.

As I communicate with you for the first time, I assure you that ICAI shall continue to set higher benchmarks of excellence and move closer to realising its vision of becoming the world's leading accounting body.

### Our New Vice-President

I congratulate my colleague CA. Ranjeet Kumar Agarwal on his election as Vice-President of the Institute for the year 2023-24. I am confident that his rich professional experience and organizational skills will greatly benefit the profession and also help me in taking profession to newer heights. I know him as a dedicated hard-worker bestowed with exceptional leadership skills and a futuristic vision. Together we shall aim to lay the foundation for next 25 years of ICAI.

Now let's have a look at some of the profession related developments since last edition:

### 73<sup>rd</sup> Annual Function

The Institute celebrated a year of historic milestones at its 73<sup>rd</sup> Annual Function on 7<sup>th</sup> February 2023 in Delhi magnanimously. The event was graced by Chief Guest Shri Arjun Ram Meghwal, Hon'ble Minister of State for Parliamentary Affairs and Culture. The event recognized and celebrated academic brilliance of the meritorious CA students, Regional Councils, Branches and overseas Chapters who were conferred awards for their outstanding accomplishments during the year. On the occasion the ICAI showcased its intellectual prowess by launching/releasing various publications & initiatives. A detailed report of the event is published separately in the journal.

### Engaging with Stakeholders

It is our belief and commitment to work with various stakeholders for the economic development of the nation and development of a resilient regulatory ecosystem. In this regard, I and CA. Ranjeet Kumar Agarwal, Vice President-ICAI met Shri Girish Chandra Murmu, Hon'ble Comptroller & Auditor General of India on 15<sup>th</sup> February, 2023 and discussed about various initiatives for ICAI partnering with the office of C&AG for enhanced contribution in Nation Building Initiatives.

I along with CA. Ranjeet Kumar Agarwal, Vice President-ICAI also met Dr. Manoj Govil, Hon'ble Secretary, Ministry of Corporate Affairs on

## From the President

16<sup>th</sup> February, 2023 wherein various matters related to CA Profession were discussed & ICAI assured its continuous support in various initiatives of the Ministry.

Myself and Vice-President along with Central Council Members CA. (Dr.) Sanjeev Kumar Singhal and CA. Pramod Jain met Dr. Ajay Bhushan Prasad Pandey, Chairperson, National Financial Regulatory Authority on 15<sup>th</sup> February, 2023 for working towards developing and maintaining high quality accounting and auditing reporting framework in the country.

### Global Collaborations for a Global Tomorrow

In the globalized era, it's essential to develop relations and collaborate with global accounting institutions to build professionals for the global economy. Today when India is doing commendable efforts to become *Vishwaguru* as manufacturing and knowledge hub of the world, the Indian Accountancy profession shall leave no stone unturned to emerge as global leader.

Collaborations with global counterpart enables Indian professionals to gain global insights, competitiveness, trust and global mobility of our profession. In this direction the institute has been constantly working towards globalization of the accounting profession by forging global connections.

#### • Union Cabinet approves for renewal of MoU with ICAEW

I am elated to inform you that Union Cabinet has approved the renewal of qualification reciprocity agreement with the Institute of Chartered Accountants in England & Wales (ICAEW). Through these pages, I extend heartfelt thanks to the Union Cabinet chaired by Shri Narendra Modi, Hon'ble Prime Minister of India for approving this recognition agreement. The association between ICAI & ICAEW dates back to 2008 and this collaboration with ICAEW will bring a lot of professional opportunities for Indian Chartered Accountants.

#### • Recognition of ICAI member as Associate member of Institute of Singapore Chartered Accountants (ISCA)

I am pleased to inform that in a recent development with consistent efforts ISCA, Singapore has recognised ICAI qualification as one of the professional qualifications for associate membership of ISCA, another

testimony of increasing brand equity of the profession globally. The recognition will be beneficial for all those members who are residing in Singapore and having six months of local work experience in Singapore.

#### • Ambassadors' Meet and MoU Signing with Invest India

An Interactive Ambassadors' meet was organized to promote inbound and outbound investment, make India investment friendly destination, collaborate with International accounting bodies for strengthening global financial ecosystem, promote accounting profession globally in alignment with the Government's vision to boost services export potential. The event was graced by Dr. Rajkumar Ranjan Singh, Hon'ble Minister of State for External Affairs and was attended by delegates from more than 25 embassies.

During the event, the MoU (extension) was signed with Invest India in continuation to the earlier MoU entered on 4<sup>th</sup> February, 2019 aimed to promote sustainable economic growth and investments in India, collaborate and promote India as an investment friendly destination.

On the occasion, ICAI got inducted into Asia Book of Records for its ICAI MSME Yatra and MSME SETU initiatives which were earlier made to India Book of Records.

#### • Training for officials from National Board of Accountants and Auditors (NBAA), Tanzania

With its commitment to the development of profession globally the ICAI conducted a five day training at ICAI Headquarters for the delegation of National Board of Accountants and Auditors (NBAA), Tanzania on areas such as Examination system, functioning of Members and Students Directorate, UDIN & Digital Learning Hub, Career Counselling for students, CPE, Sustainability and Ethics. The training was highly appreciated by the delegates.

### International Meetings and Engagements

#### • Delegation from Embassy of Estonia

The institute strives to form alliances for promoting trade, investment and export of services from India, I along with CA.(Dr.) Debashis Mitra, Immediate Past President and other Central Council members met Mr.



## From the President

Margus Solnson, Deputy Chief of Mission and Mr. Vinod Basliyal, Trade and Investment Representative, Embassy of Estonia in India visiting at ICAI Head Office, New Delhi on 3<sup>rd</sup> February, 2023 to work and collaborate in areas of mutual interest.

- **Visit to Abu Dhabi**

I along with CA. (Dr.) Debashis Mitra, Immediate Past President, ICAI attended the 34<sup>th</sup> Annual International Seminar on the theme "Transformation Redefined-Possibilities Infinite" in Abu Dhabi on February 4, 2023. It was pleasure to meet Hon'ble Indian Ambassador to UAE and HE Sheikh Nahyan, Minister of Tolerance during the seminar.

- **Strategy meeting of SAFA Board in Colombo, Sri Lanka**

The ICAI constantly aspires to develop the accounting profession globally and recently I alongwith, CA. Ranjeet K. Agarwal, Vice President, ICAI attended the Strategy meeting of SAFA Board on 18<sup>th</sup> February, 2023 which was Chaired by CA. Nihar N. Jambusaria as President, SAFA in Colombo, Sri Lanka to build the strategic roadmap for development of the profession in the South Asia region and also collectively raise our concerns on global forum for economic development of the region.

### Bank Audit

By now, many of you would be giving final touches to your plans and strategy for performing the important assignment of Bank Branch Audit. As such, the exercise of bank branch audit assumes a paramount importance for the banking industry, banking regulators and our members, as well as our nation as a whole. Confident of you performing this nationally important job diligently, I wish you all the best for a timely and effective completion of the audit in compliance with the relevant Standards on Auditing, guidelines of the RBI and keeping the broader national interest in mind.

### Union Budget & Post Budget Memorandum

The Union Budget 2023 being the first budget of the **Amrit Kaal** aspired to lay strong foundation to realize the vision of developed India. The budget has aimed to walk the tight rope by prioritizing growth as well as being fiscally prudent to realise the long-term vision of Self-reliant India. To unleash the economy the union budget has identified and outlined seven priority areas known as "Saptrishi"

which include inclusive development, reaching the last mile, infrastructure and investment, financial sector, youth power and green growth. The intent is to develop India into a knowledge-based economy powered by technology with a strong and resilient financial sector. As envisioned in the budget, ICAI shall be using technology as a catalyst for the development of profession and shall strive to work with government in areas of mutual interest like Education & Skills, Financial literacy, Public Finances etc., for inclusive and sustainable development. We shall be shortly submitting our Post-Budget memorandum to the Government so that expectations and outcomes envisioned in the budget are realised.

### Augmenting Infrastructure for Development

With the growing profession and envisioning the future, growth of the profession infrastructure is being strengthened across the country. During the last month Bhoomi poojan ceremonies of COE Kolkata, Latur, Ahmedabad and Raipur were held. These projects once established will help to promote awareness about ICAI and its developmental work amongst the society besides carrying of research, skill building training and better services to the members and students residing in these areas.

### Concluding Remarks

For generations, "Development" has been the focal point of discussion at various forums across the globe. However, now women led development has earned more than just a passing attention of the world leaders. As we celebrate International Women's Day on 8<sup>th</sup> March, let us work for empowering Women both socially and professionally, and harness their power for the development of society, profession and humanity. As rightly said by Swami Vivekananda, *"There is no chance for the welfare of the world unless the condition of women is improved. It is not possible for a bird to fly on only one wing."* For our profession to realize its potential in true essence, it is imperative that our women members actively participate in our success.

On the occasion of Holi, I convey my best wishes to you and your families. May this festival of colours be a harbinger of peace, progress and harmony. At this promising outset, let us strengthen our ties with new bonds, initiatives and move forward together.

My best wishes are with you all.

Jai Hind, Jai ICAI.



**CA. Aniket S. Talati**  
President, ICAI

New Delhi, 27<sup>th</sup> February, 2023

# The Institute of Chartered Accountants of India

## Members of the Twenty-Fifth Council (as on 12<sup>th</sup> February, 2023)



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

Not in Photograph : Govt. Nominees – Shri Manoj Pandey, Shri Sanjay Kumar, Shri Ritvik Ranjanam Padey, Shri Deepak Kapoor



## Photographs



The Chief Guest Shri Arjun Ram Meghwal, Hon'ble Minister of State for Parliamentary Affairs and Culture presenting a Memoir to CA.(Dr.) Debashis Mitra, the then President, ICAI in the presence of CA. Aniket S Talati, President (the then Vice President) and CA.(Dr.) Jai Kumar Batra, Secretary, ICAI during the 73<sup>rd</sup> Annual Function of ICAI at Vigyan Bhawan, New Delhi (7<sup>th</sup> February, 2023)



CA. Aniket S Talati, ICAI President and CA. Ranjeet Kumar Agarwal, ICAI Vice-President meeting with Shri Girish Chandra Murmu, Hon'ble Comptroller & Auditor General of India on ICAI partnering with the office of C&AG for enhanced contribution in Nation Building Initiatives (15<sup>th</sup> February, 2023)



CA. Aniket S Talati, ICAI President and CA. Ranjeet Kumar Agarwal, ICAI Vice-President had a meeting with Dr. Manoj Govil, IAS, Secretary, MCA and discussed various matters related to CA Profession & offered ICAI's continuous support in various initiatives of MCA. (16<sup>th</sup> February, 2023)



CA. Aniket S. Talati, ICAI President and CA. Ranjeet Kumar Agarwal, ICAI Vice-President meeting with Shri Ajay Bhushan Prasad Pandey, Chairperson, NFRA for working towards developing and maintaining high quality accounting and auditing reporting framework in the country. Also seen in the picture are Central Council members CA.(Dr.) Sanjeev Kumar Singhal and CA. Pramod Kumar Jain. (15<sup>th</sup> February, 2023)



ICAI President CA. Aniket S. Talati and ICAI Vice-President CA. Ranjeet Kumar Agarwal along with Central Council member CA. Piyush Chhajed met Shri Nitin Gupta, IRS, Chairman, CBDT and offered its continuous support in matters related to grievance redressal and increasing tax payer base, budget 2023 and other initiatives. (27<sup>th</sup> February, 2023)



CA. Aniket S. Talati ICAI President (the then Vice-President) and CA.(Dr.) Debashis Mitra the then President, ICAI seen with the delegation from Embassy of Estonia led by Mr. Margus Solnson, Deputy Chief of Mission in India at ICAI Head Office, New Delhi. Also present on the occasion are Central Council members CA. G C Misra, CA. Prasanna Kumar D., CA. Dheeraj Kumar Khandelwal, CA. Abhay Chhajed, CA. Piyush S Chhajed and CA. Vishal Doshi. (3<sup>rd</sup> February, 2023)





Group photograph on the occasion of Bhoomi Poojan ceremony of Centre of Excellence, Guwahati. Seen in the photo are CA. Aniket S. Talati ICAI President (the then Vice-President) and CA.(Dr.) Debashis Mitra the then President, ICAI, CA. Ranjeet Kumar Agarwal (now Vice-President, ICAI) with the Chief Guest Shri Ashok Singhal, Hon'ble Minister of Housing & Urban Affairs and Irrigation, Government of Assam. Also seen are Central Council members, EIRC Regional Council Members and Managing Committee members of the Guwahati branch. (8<sup>th</sup> February, 2023)



CA.(Dr.) Debashis Mitra the then President, ICAI at the Bhoomi Poojan Ceremony of Annexe Building, ICAI Bhawan at Kasba in Kolkata. Also seen are Central Council member CA. Sushil Kumar Goyal, EIRC Regional Council Members and Past Central Council member. (8<sup>th</sup> February, 2023)



CA. Aniket S. Talati ICAI President (the then Vice-President, ICAI) and CA.(Dr.) Debashis Mitra the then President, ICAI at the Bhoomi Poojan Ceremony of Latur Branch. Also seen are Central Council members CA. Umesh R Sharma, CA. Durgesh Kumar Kabra, CA. Purushottamlal Khandelwal, CA.(Dr.) Rajkumar S Adukia and Managing Committee members of the Latur branch. (2<sup>nd</sup> February, 2023)



CA.(Dr.) Debashis Mitra the then President, ICAI at the Bhoomi Poojan Ceremony of Raipur Branch. Also seen in the photo are Central Council members CA. Rajendra Kumar P., CA. (Dr.) Anuj Goyal, CA. G C Misra, CA. Abhay Chhajed and Managing Committee members of the Raipur branch. (9<sup>th</sup> February, 2023)



CA. Aniket S. Talati being anointed with Presidential Collar as the newly elected ICAI President in the 419<sup>th</sup> Council Meeting. Seen in the picture are Central Council members and Secretary, ICAI. (12<sup>th</sup> February, 2023)



CA.(Dr.) Debashis Mitra Immediate Past President, ICAI administering oath to CA. Aniket S. Talati, newly elected President ICAI and CA. Ranjeet Kumar Agarwal, newly elected Vice-President, ICAI at the Oath taking ceremony at ICAI Head office, New Delhi. (12<sup>th</sup> Feb, 2023)





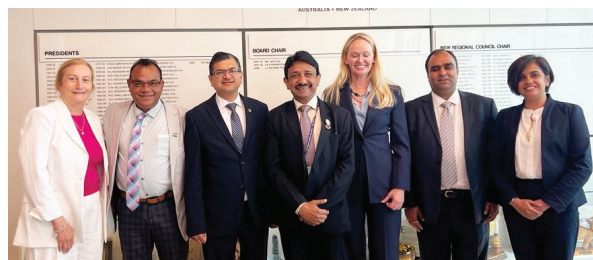


ICAI President CA. Aniket S. Talati (the then Vice-President, ICAI) along with CA.(Dr.) Debashis Mitra, the then Past President, ICAI at the Foundation stone laying ceremony of the Ahmedabad Branch. Seen in the picture are Govt. nominee Adv. Vijay Kumar Jhalani, Central Council members CA. (Dr.) Rajkumar S Adukia, CA. Vishal Doshi, CA. Piyush S Chhajed, CA. Purushottamlal Khandelwal, the then WIRC Chairman CA. Murtaza Kachwala, WIRC Regional Council Members and Managing Committee members of the Ahmedabad branch. (10<sup>th</sup> February, 2023)



Group Photograph on the occasion of 73<sup>rd</sup> Annual Function at Vigyan Bhawan, New Delhi. Seen in the photograph are CA.(Dr.) Debashis Mitra, the then President, ICAI, CA. Aniket S. Talati, President, ICAI (the then Vice-President) along with the ICAI Central Council members and Secretary, ICAI. (7<sup>th</sup> February, 2023).

CA. Aniket S. Talati ICAI President (the then Vice-President) along with CA.(Dr.) Debashis Mitra the then President, ICAI, CA. Ranjeet Kumar Agarwal (now Vice-President, ICAI) and Central Council members seen with the employees at the ICAI Social get-together ceremony organised by ICAI Officers Association and ICAI Employees Association at ICAI Noida. (6<sup>th</sup> February, 2023)



CA.(Dr.) Debashis Mitra, the then President ICAI meeting with the delegates of CAANZ at Sydney. (31<sup>st</sup> January, 2023)



ICAI Vice-President CA. Ranjeet Kumar Agarwal along with CA. (Dr.) Jai Kumar Batra, Secretary-ICAI met the delegation from National Board of Accountants & Auditors, Tanzania led by its Executive Director, CPA Mr. Pius A. Maneno & discussed matters of mutual interest to ICAI & NBAA. (20<sup>th</sup> February, 2023)



ICAI President CA. Aniket S. Talati and CA. Ranjeet Kumar Agarwal Vice-President, ICAI at the Interactive meet organised at Ludhiana branch. Seen in the photograph are ICAI Central Council members CA. Charanjot Singh Nanda, CA. Hans Raj Chugh, CA(Dr.) Sanjeev Kumar Singhal, NIRC Regional Council members and Managing Committee of the Ludhiana branch of NIRC of ICAI. (22<sup>nd</sup> February, 2023)





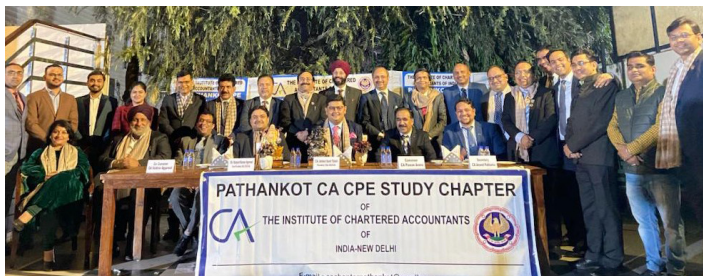
ICAI President CA. Aniket S. Talati and CA. Ranjeet Kumar Agarwal Vice-President, ICAI at the Interactive meet in Jalandhar. Seen in the photograph are ICAI Central Council members CA. Hans Raj Chugh, CA. Sanjay Kumar Agarwal, CA. Charanjot Singh Nanda, CA. (Dr.) Sanjeev Kumar Singhal, CA. (Dr.) Raj Chawla, CA. Pramod Jain, NIRC Regional Council members and Managing Committee of the Jalandhar branch of NIRC of ICAI. (23<sup>rd</sup> February, 2023)

ICAI President CA. Aniket S. Talati and CA. Ranjeet Kumar Agarwal Vice-President, ICAI at the Interactive meet organised at Jammu. Seen in the photograph are ICAI Central Council members CA. Charanjot Singh Nanda, CA. Hans Raj Chugh, CA. (Dr.) Sanjeev Kumar Singhal, CA. (Dr.) Raj Chawla, NIRC Regional Council members and Managing Committee of the Jammu branch of NIRC of ICAI. (22<sup>nd</sup> February, 2023)



ICAI President CA. Aniket S. Talati inaugurating the Seminar on GST at Chandigarh. Seen in the photograph are ICAI Central Council members CA. (Dr.) Sanjeev Kumar Singhal, CA. Sanjay Kumar Agarwal, CA. (Dr.) Raj Chawla, CA. Hans Raj Chugh, CA. Pramod Jain, NIRC Regional Council members and Managing Committee of the Chandigarh branch of NIRC of ICAI. (24<sup>th</sup> February, 2023)

ICAI President CA. Aniket S. Talati and CA. Ranjeet Kumar Agarwal Vice-President, ICAI seen with members at an Interactive meet at Pathankot. Seen in the photograph are ICAI Central Council members CA. Charanjot Singh Nanda, CA. Hans Raj Chugh, CA. Pramod Jain, CA. (Dr.) Raj Chawla, CA. (Dr.) Sanjeev Kumar Singhal, NIRC Regional Council members and members of the Pathankot CA CPE Study Chapter of NIRC of ICAI. (22<sup>nd</sup> February, 2023)



ICAI President CA. Aniket S. Talati and CA. Ranjeet Kumar Agarwal Vice-President, ICAI at inaugural ceremony in the Seminar at Amritsar. Seen in the photograph are ICAI Central Council members CA. Sanjay Kumar Agarwal, CA. Charanjot Singh Nanda, CA. (Dr.) Raj Chawla, CA. Pramod Jain, NIRC Regional Council members and Managing Committee of the Amritsar branch of NIRC of ICAI. (23<sup>rd</sup> February, 2023)



## Know Your Ethics



**1. Can a member in practice express his opinion on financial statements of any business or enterprise in which he, his firm, or a partner in his firm has a substantial interest?**

A. No, as per Clause (4) of Part I of the Second Schedule to the Chartered Accountants Act, 1949, a Chartered Accountant in practice shall be deemed to be guilty of professional misconduct, if he expresses his opinion on financial statements of any business or any enterprise in which he, his firm or a partner in his firm has substantial interest. 'Substantial interest' here has the same meaning as contained in the resolution passed by the Council in pursuance to Regulation 190A of the Chartered Accountants Regulations, 1988.

However, in case of a company, under Section 141(3)(d)(i) of the Companies Act, 2013, a member cannot accept audit even if he or his partner holds a single share.

Further, in case of a company, under Section 141(3)(d)(i) of the Companies Act, 2013 read with the Companies (Audit and Auditors) Rules, 2014, the relative of an auditor cannot hold security or interest in the company of face value in excess of one lakh rupees.

**2. Whether the Chartered Accountant will be guilty of professional misconduct if he:**

(i). accepts the auditorship of a college, if he is working as a part-time lecturer in the college.

(ii). accepts the auditorship of a trust where his partner is either an employee or a trustee of the trust.

A. Yes, the Chartered Accountant will be guilty of professional misconduct in both the above-referred circumstances.

**3. Can a member accept the assignment of audit of a company in which he is a director?**

A. A member shall not accept the assignment of audit of a company for a period of two years from the date of completion of his tenure as Director, or resignation as Director of the said Company.

**4. Whether a member can accept audit of a company where the relative of the member is a director in the company?**

A. No, since a member is not eligible for appointment as an auditor of a company as per Section 141 (3) (f) of the Companies Act, 2013, if his relative is a director, or is in the employment of the Company as a director, or key managerial person.

**5. Can an auditor write the books of accounts of the auditee?**

A. No, Council directions under Paragraph

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## Know Your Ethics

2.15.1.4(xi) under Clause (4) of Part I of the Second Schedule to the Chartered Accountants Act, 1949, appearing in Volume-II of Code of Ethics prescribe that an auditor is not permitted to write the books of accounts of his auditee clients.

Further section 144 of the Companies Act, 2013 bars the auditor of a company to directly or indirectly render accounting and book keeping services to the said company, or its holding company or subsidiary company.

**6. Whether a member who is carrying out statutory audit and also rendering management consultancy services to his auditee clients can receive fees for such other services, which are in excess of the audit fees?**

- A. Yes. However, Chapter IX of the Council General Guidelines, 2008, specifies that a member of the Institute in practice shall be deemed to be guilty of professional misconduct, if he accepts the appointment as statutory auditor of Public Sector Undertaking(s)/Government Company(ies)/Listed Company(ies) and other Public Company(ies) having turnover of Rs. 50 crore or more in a year and accepts any other work(s) or assignment(s) or service(s) in regard to the same Undertaking(s)/Company(ies) on a remuneration which in aggregate exceeds the fee payable for carrying out the statutory audit of the same Undertaking/company.

Provided that in case appointing authority (ies)/regulatory body(ies) specify (ies) more stringent condition (s)/restriction(s), the same shall apply instead of the conditions/restrictions specified under these Guidelines.

Explanation :

1. The above restrictions shall apply in respect of fees for other work(s) or service(s) or assignment(s), payable to the statutory auditors and their associate concern(s) put together;
2. For the above purpose;
  - (I) The term "other work(s)" or "service(s)" or "assignment(s)" shall include Management Consultancy and all other professional services permitted by the Council pursuant to Section 2(2)(iv) of the Chartered Accountants Act, 1949, but shall not include:-
    - (i) audit under any other statute;
    - (ii) certification work required to be done by the statutory auditors; and
    - (iii) any representation before an authority.
  - (II) The term "associate concern" means any corporate body or partnership firm which renders the Management Consultancy and all other professional services permitted by the Council wherein the proprietor and/or partner(s) of the statutory auditor firm and/or their "relative(s)" is/are Director/s or partner/s and/or jointly or severally hold "substantial interest" in the said corporate body or partnership;
  - (III) The terms "relative" and "substantial interest" shall have the same meaning as are assigned under Appendix (9) to the CA Regulations;

3. In regard to taking up other work(s) or service(s) or assignment(s) of the undertaking/company referred to above, it shall be open to such associate concern or corporate body to render such work(s) or service(s) or assignment(s) so long as aggregate remuneration for such other work(s) or service(s) or assignment(s) payable to the statutory auditor(s) together with fees payable to its associate concern(s) or corporate body(ies) do/does not exceed the aggregate of fee payable for carrying out the statutory audit.

**7. Whether the fee received from limited review/ quarterly Audit of the same undertaking/company under the listing regulations should be included in the fee received for carrying out the "statutory audit of the same undertaking/company", while comparing the same with the fee from permissible non-audit services?**

- A. The one of exemptions to the general rule contained in Chapter IX of Council General Guidelines, 2008, mention "audit under any other statute". The limited/quarterly review would not be included in the same, as these are done in the same statute (i.e. Companies Act, 2013). Hence, limited Review/quarterly Audit shall be deemed to be included in the Statutory Audit.



## Know Your Ethics

8. **Whether fee from the professional services rendered for the Issuance of Accountant's Report under Income-tax Act, 1961, i.e. 3CEB report should be considered under exemption provided in Paragraph 9.2 (i) of Council General Guidelines, 2008, considering that such services are of the nature of assurance services?**
  - A. Certification work required to be done by the statutory auditors is exempt from the general rule contained in Chapter IX of Council General Guidelines, 2008 (Accordingly, the provisions of this Chapter will not apply to a certification which can be done by any CA in practice).
9. **Whether a statutory auditor can accept the system audit of same entity?**
  - A. Yes, the statutory auditor can accept the assignment of a system audit of the same entity, provided it did not involve any scrutiny/ review of financial data and information.
10. **Whether a Chartered Accountant is qualified to be appointed as statutory auditor of one associate company when he is the internal auditor of another fellow associate company.**
  - A. Yes, the statutory auditor of one associate company can accept internal audit of the fellow associate company, because there is no holding-subsidary relation between such companies, and therefore there is no violation of provisions of the Companies Act, 2013.
11. **Whether a member in practice will be liable, if he fails to disclose a material fact known to him which is not disclosed in a financial statement, but disclosure of which is necessary to make the financial statement not misleading?**
  - A. Yes, as per Clause (5) of Part I of the Second Schedule to the Chartered Accountants Act, 1949, a member in practice shall be deemed to be guilty of professional misconduct, if he fails to disclose a material fact known to him which is not disclosed in a financial statement, but disclose of which is necessary to make the financial statement not misleading.
12. **Whether a member in practice will be liable if he fails to report a material mis-statement known to him to appear in a financial statement with which he is concerned in a professional capacity?**
  - A. Yes, as per Clause (6) of Part I of the Second Schedule to the Chartered Accountants Act, 1949, a member in practice shall be deemed to be guilty of professional misconduct if he fails to report a material mis-statement known to him to appear in a financial statement with which he is concerned in a professional capacity.
13. **Whether a member in practice can accept the appointment as Special Invitee of a University offered to him on an honorary basis?**
  - A. Since the appointment as Special invitee of a university is honorary, and it is not of the nature of an office bearership or employment on salary on a full-time basis, it would not come within the ambit of prohibition of Clause (11) of Part -I of First Schedule of the Chartered Accountants Act, 1949. Hence, it is permissible for a member in practice to accept such position.
14. **Whether Chartered Accountants in practice can become financial advisors and receive Fees/commissions from financial Institutions such as Mutual Funds and Insurance Companies?**
  - A. It is not permissible for Chartered Accountants to become Financial Advisors and receive Fees/commissions from financial Institutions such as Mutual Funds and Insurance Companies.
15. **Can Chartered Accountants engage in investment advisory services?**
  - A. Pursuant to Section 2(2) (iv) of the Chartered Accountants Act, 1949, the Council has passed a resolution permitting a Chartered Accountant in practice to render an entire range of "Management Consultancy and other Services".  
  
Serial no. (xx) of Management Consultancy and other Services permit the members to engage in Investment counseling in respect of securities [as defined in the Securities Contracts (Regulation) Act, 1956 and other financial instruments.] (In doing so, the relevant provisions of the Code of Ethics must be kept in mind). However, the members are not allowed to engage in services of broking, underwriting, or portfolio management.

# Accounting treatment for advance payment made towards way leave charges as a part of laying city gas distribution network

## A. Facts of the Case

1. A Company (hereinafter referred to as 'the Company') limited by shares is domiciled in India and was incorporated on 23<sup>rd</sup> December 1998 under the erstwhile Companies Act, 1956. The Company is listed on the Bombay Stock Exchange (BSE) and National Stock Exchange (NSE).

2. The Company is in the business of city gas distribution. As a part of its operations for laying down city gas distribution network, the Company enters into way leave agreements with Indian Railways wherein way leave charges are charged by Indian Railways for allowing occasional or limited use of its land by a party for a specified purpose like passage, access to private houses and establishments, and laying underground pipelines.

3. The querist has stated that the Company has to enter into way leave agreements with Railways for 10 years by paying upfront payment with the following relevant terms (a copy of Memorandum Way-Leave Agreement entered into by the Company has been separately provided by the querist for the perusal of the Committee):

- As per clause 4 of the Agreement, Agreement will be valid for a defined period of 10 years and the way leave charges are to be paid in advance in the form of capitalised amount;
- As per clause 5, the amounts are to be fixed in advance for a block of 5 years.
- As per clause 2, the Company as a grantee of way leave facility has been allowed to lay the pipeline across railway land on the sole cost of the Company; which shall be maintained, repaired and renewed by the Company;
- As per clause 3, the legal ownership of the railway land still remains with the grantor; but the Company has been permitted to use such land for laying its pipeline. The Company shall not transfer or sublet the privilege granted by the way leave facility and use the facility granted only for defined intended purpose.

4. The querist has stated that Ind AS Transition Facilitation Group (ITFG) vide bulletin No. 22 clarified (Oct 2019) about lease term (under Ind AS 116, 'Leases') of way leave charges paid by an entity X (lessee) to Railway (entity Y) for a period of 10 years. ITFG noted that as per contractual terms, X had no tenancy right or interest in land and some of principal terms of way leave agreement are detailed below:

- Either party shall be at liberty to terminate arrangement by one month prior notice;
- In case, Y gives notice, X shall remove at its own cost the facility (transmission line);
- Y reserves full rights to enter upon pass through or use the land;
- X shall not enter upon the railway land without previous consent of Y;
- X shall use the facility granted only for the purpose for which it has been granted;
- X shall execute the work as per plan approved by Y;
- X shall not transfer / sublet the way leave rights.

In the above case, ITFG opined that where a lease agreement is entered into for 12 months or less, it qualifies as a short term lease. If X concludes that termination option would not be exercised, the agreement term would be 10 years, and consequently, lease will be a long term lease since Y is government owned entity and termination of agreement is meant to be exercised only in exceptional circumstances as there is no economic incentive for entity Y to terminate lease.

Thus, according to the querist, it is inferred that ITFG has well appreciated principal terms of way leave agreement and considered the same as lease under Ind AS 116.

5. The querist has informed that before introduction of Indian Accounting Standard (Ind AS) 116, 'Leases', the Company used to classify these way leave charges as 'Prepaid Expenses' under the heading of 'Other Non-Current Assets' and amortised the same in the Statement of Profit and Loss based on the life of Agreement.



6. The querist has also informed that during the CAG audit for financial year (F.Y.) 2019-20, the CAG opined that the aforesaid treatment of way leave under the heading of 'Other Non-Current Assets' is incorrect as the Company gets a right to use of the underlying assets, and accordingly, the Company should reflect the same under the heading 'Right-to-Use Assets' in the Statement of Financial Position in accordance with Ind AS 116.

7. Thereafter, from 01<sup>st</sup> April 2020, based on discussion with CAG auditors and statutory auditors for the F.Y. 2019-20, the Company agreed to reclassify the said prepayments prospectively. Accordingly, the carrying amount of way leave prepayments as were reflected under the heading 'Other Non-Current Assets' were reclassified to 'Right-To-Use Assets' in the Statement of Financial Position in accordance with Ind AS 116.

8. CAG Observation during accounts audit of F.Y. 2020-21

During the accounts audit of F.Y. 2020-21, another team of CAG opined that the change in accounting treatment done by the Company is incorrect as *'the Company only has a right to lay the underground pipeline and not the actual land with it in its physical form'*. Accordingly, they advised the Company to reclassify such prepayments as 'Intangible Assets' under Ind AS 38.

9. Due to difference in opinions raised by different CAG teams, the Company assured CAG that it will seek an opinion from the Expert Advisory Committee (EAC) of the ICAI for the appropriate accounting treatment of aforementioned payments towards way leave charges and till the time the matter is decided by the EAC, the Company will treat such items as 'Right-To-Use Assets' as per the provisions of Ind AS 116.

## B. Query

10. On the basis of above, Opinion of the Expert Advisory Committee has been sought by the querist so as to determine the appropriate accounting treatment for classification of prepayments towards way leave charges, i.e., whether to:

- (i) account for such prepayments as 'Right-To-Use Asset' as per Ind AS 116; or
- (ii) account for such prepayments as 'Intangible Asset' under Ind AS 38; or

(iii) account for such prepayments as 'Other Non-Current Asset'; or

(iv) any other accounting treatment as EAC may consider appropriate in the case.

## C. Points considered by the Committee

11. The Committee notes that the basic issue raised by the querist relates to the classification of advance payment made towards way leave charges for laying city gas distribution network. The Committee has, therefore, considered only this issue and has not examined any other issue that may arise from the Facts of the Case, such as, detailed aspects of accounting for such advance payments, accounting for any other charges paid for laying city gas distribution network, determination of term of lease/right, appropriateness of accounting as per previous GAAP and before financial year 2020-21, accounting for any other assets (e.g. pipeline etc.), application of Ind AS 8, 'Accounting Policies, Changes in Accounting Estimates and Errors', accounting in the books of Indian Railways (viz., the grantor of way leave facility), etc. Further, the Committee has expressed its opinion purely from the accounting perspective and not from the perspective of legal interpretation of Memorandum Agreement for permission of way leave facility etc. The Committee wishes to point out that the opinion expressed hereinafter is in the context of Indian Accounting Standards, notified by the Companies (Indian Accounting Standards) Rules, 2015 as amended from time to time.

12. With regard to the classification of payments for way leave, the first and foremost issue that needs to be examined is which standard should be considered and applied first. In this regard, the Committee notes that paragraph 9 of Ind AS 116, 'Leases' states, "At inception of a contract, an entity shall assess whether the contract is, or contains, a lease. ...". From this, the Committee is of the view that the Company should first examine whether the contract in the extant case is or contains a lease as per the requirements of Ind AS 116. It is only when the contract in the extant case is not and does not contain a lease, the Company should consider the requirements of other Ind ASs including Ind AS 38, 'Intangible Assets'. In this regard, the Committee further notes that paragraphs 3 and 4 of Ind AS 116 provides the scope exceptions to the Standard as follows:

"3. An entity shall apply this Standard to all leases, including leases of *right-of-use assets* in a *sublease*, except for:

- (a) leases to explore for or use minerals, oil, natural gas and similar non-regenerative resources;
  - (b) leases of biological assets within the scope of Ind AS 41, *Agriculture*, held by a lessee;
  - (c) service concession arrangements within the scope of Appendix D, *Service Concession Arrangements*, of Ind AS 115, *Revenue from Contracts with Customer*;
  - (d) licences of intellectual property granted by a lessor within the scope of Ind AS 115, *Revenue from Contracts with Customers*; and
  - (e) rights held by a lessee under licensing agreements within the scope of Ind AS 38, *Intangible Assets*, for such items as motion picture films, video recordings, plays, manuscripts, patents and copyrights.
- 4 A lessee may, but is not required to, apply this Standard to leases of intangible assets other than those described in paragraph 3 (e)."

From the above, the Committee is of the view that none of the exceptions given in paragraph 3 (a) to (e) of Ind AS 116 are applicable in the extant case. The contract with the Railways in the extant case provides to the Company, rights to underground space wherein the gas pipelines are to be laid and such underground space is tangible. Therefore, the scope exclusion given under paragraph 4 of Ind AS 116 relating to rights to or lease of an intangible asset, is also not applicable. Accordingly, if the contract in the extant case is or contains a lease, the Company should apply the requirements of Ind AS 116.

13. In this context, the Committee notes the following clauses from Memorandum Agreement of terms and conditions for permission of way leave facility:

- "2. That no work shall be commenced or preceded without previous sanction and supervision of the concerned Railway Officers not below the rank of Divisional Engineer or any officer deputed by him. The grantee of way leave facility for laying of 1x762mm Ø U/G ms easing pipe for passing of 1x408mm Ø CNG carrier pipe near L-Xing No-4 SPL at KM 28/1-2 on GZB-SRE sec across Railway land shall be bound all the times at his own

cost expenses and observe and carry out all rules and regulation which are already in force or which may there after be prescribed from time to time in future by the Govt. (Grantor). The grantee shall obey all such directions or orders of restrictions as may from time to time be given by said officers or his deputy duly authorized by him in relation to construction, lying down, deviation, shifting, stoppage, abandonment, alteration, repair or removal or with regard to time and manner of the work way leave facility for laying of 1X762mm Ø U/G MS casing pipe for passing of 1X406mm Ø CNG carrier pipe near L-Xing No-4 SPL at KM28/1-2 on GZB-SRE sec.

3. That it is distinctly understood by the grantee that the grantor shall retain the full legal title of ownership, right of access and inspection and have full control over the use and disposal of the Railway land for which temporary permission is given to the grantee only for the limited purpose of having laid down across the Railway land without conferring upon the grantee any right of possession or occupation of the land."

- "8. That it is clearly understood by the party, the land is not licensed to the party for any of the purpose but only a permission granted in the form of way leave for a limited use of the land for way leave facility for laying of 1X762mm Ø U/G ms casing pipe for passing of 1X406mm Ø CNG carrier pipe near L-Xing No-4 SPL at KM 28/1-2 on GZB-SRE sec without conferring upon the party any right of possession or occupation of the land and without in any way affecting the Railway's title, possession, Control, use of the land and right to enter upon etc. without any notice to the party."

- "12. That the Railway administration may terminate this way leave permission at any time without assigning any reason and also without being held responsible to pay any compensation and on receipt of such notice, the party shall remove all crossing materials at its own cost and shall also make good any damage thereby occasioned to the surface or underground."



"14. That the grantee shall not transfer in any way this way leave facility/right without prior approval of the Railway."

"17. That the event of the Northern Railway desiring to execute new works, on Railway land necessitating the alteration or shifting of way leave facility for laying of 1x762mm Ø U/G ms casing pipe for passing of 1x406mm Ø CNG carrier pipe near L-Xing No-4 SPL at KM28/1-2 on GZB-SRE sec the grantee shall agree to carryout these alteration or shifting under the supervision of the said officer or the Northern Railway concern or his deputy or that he shall raise no objection to the work being done by the Railways or said officers at the cost of the grantee if in the opinion of the Railway such works are required to be done by the Railway. In either event, the grantee shall have no claim against the Govt. or Railway owing to interruption in the services."

14. The Committee now examines whether the contract of right of way leave in the extant case can be considered as a 'lease' within the scope of Ind AS 116, 'Leases'. In this context, the Committee notes the following paragraphs from Ind AS 116:

**"Lease** 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."

**"9 At inception of a contract, an entity shall assess whether the contract is, or contains, a lease. A contract is, or contains, a lease if the contract conveys the right to control the use of an identified asset for a period of time in exchange for consideration. Paragraphs B9–B31 set out guidance on the assessment of whether a contract is, or contains, a lease."**

**"B9** To assess whether a contract conveys the right to control the use of an identified asset (see paragraphs B13–B20) for a period of time, an entity shall assess whether, throughout the *period of use*, the customer has both of the following:

- (a) the right to obtain substantially all of the economic benefits from use of the identified asset (as described in paragraphs B21–B23); and
- (b) the right to direct the use of the

identified asset (as described in paragraphs B24–B30)."

**"B13** An asset is typically identified by being explicitly specified in a contract. However, an asset can also be identified by being implicitly specified at the time that the asset is made available for use by the customer.

**B14** Even if an asset is specified, a customer does not have the right to use an identified asset if the supplier has the substantive right to substitute the asset throughout the period of use. A supplier's right to substitute an asset is substantive only if both of the following conditions exist:

- (a) the supplier has the practical ability to substitute alternative assets throughout the period of use (for example, the customer cannot prevent the supplier from substituting the asset and alternative assets are readily available to the supplier or could be sourced by the supplier within a reasonable period of time); and
- (b) the supplier would benefit economically from the exercise of its right to substitute the asset (ie the economic benefits associated with substituting the asset are expected to exceed the costs associated with substituting the asset)."

**B15** If the supplier has a right or an obligation to substitute the asset only on or after either a particular date or the occurrence of a specified event, the supplier's substitution right is not substantive because the supplier does not have the practical ability to substitute alternative assets throughout the period of use."

*"Portions of assets*

**B20** A capacity portion of an asset is an identified asset if it is physically distinct (for example, a floor of a building). A capacity or other portion of an asset that is not physically distinct (for example, a capacity portion of a fibre optic cable) is not an identified asset, unless it represents substantially all of the capacity of the asset and thereby provides the customer with the right to obtain substantially all of the economic benefits from use of the asset.

### Right to obtain economic benefits from use

B21 To control the use of an identified asset, a customer is required to have the right to obtain substantially all of the economic benefits from use of the asset throughout the period of use (for example, by having exclusive use of the asset throughout that period). A customer can obtain economic benefits from use of an asset directly or indirectly in many ways, such as by using, holding or sub-leasing the asset. The economic benefits from use of an asset include its primary output and by-products (including potential cash flows derived from these items), and other economic benefits from using the asset that could be realised from a commercial transaction with a third party.

B22 When assessing the right to obtain substantially all of the economic benefits from use of an asset, an entity shall consider the economic benefits that result from use of the asset within the defined scope of a customer's right to use the asset (see paragraph B30). For example:

- (a) if a contract limits the use of a motor vehicle to only one particular territory during the period of use, an entity shall consider only the economic benefits from use of the motor vehicle within that territory, and not beyond.
- (b) if a contract specifies that a customer can drive a motor vehicle only up to a particular number of miles during the period of use, an entity shall consider only the economic benefits from use of the motor vehicle for the permitted mileage, and not beyond."

### "Right to direct the use

B24 A customer has the right to direct the use of an identified asset throughout the period of use only if either:

- (a) the customer has the right to direct how and for what purpose the asset is used throughout the period of use (as described in paragraphs B25–B30); or
- (b) the relevant decisions about how and for what purpose the asset is used are predetermined and:

- (i) the customer has the right to operate the asset (or to direct others to operate the asset in a manner that it determines) throughout the period of use, without the supplier having the right to change those operating instructions; or
- (ii) the customer designed the asset (or specific aspects of the asset) in a way that predetermines how and for what purpose the asset will be used throughout the period of use.

*How and for what purpose the asset is used*

B25 A customer has the right to direct how and for what purpose the asset is used if, within the scope of its right of use defined in the contract, it can change how and for what purpose the asset is used throughout the period of use. In making this assessment, an entity considers the decision-making rights that are most relevant to changing how and for what purpose the asset is used throughout the period of use. Decision making rights are relevant when they affect the economic benefits to be derived from use. The decision-making rights that are most relevant are likely to be different for different contracts, depending on the nature of the asset and the terms and conditions of the contract."

### "Protective rights

B30 A contract may include terms and conditions designed to protect the supplier's interest in the asset or other assets, to protect its personnel, or to ensure the supplier's compliance with laws or regulations. These are examples of protective rights. For example, a contract may (i) specify the maximum amount of use of an asset or limit where or when the customer can use the asset, (ii) require a customer to follow particular operating practices, or (iii) require a customer to inform the supplier of changes in how an asset will be used. Protective rights typically define the scope of the customer's right of use but do not, in isolation, prevent the customer from having the right to direct the use of an asset."



From the above, the Committee notes that a contract is, or contains, a lease if it conveys the right to control the use of an identified asset for a period of time in exchange for consideration. Further, to assess whether a contract conveys the right to control the use of an identified asset for a period of time, an entity shall assess whether, throughout the period of use, the customer has the (i) right to obtain substantially all of the economic benefits from use of the identified asset and (ii) right to direct the use of the identified asset.

In the extant case, the permission to use underground space is explicitly specified in the contract/agreement along with the specific dimensions (path, width, etc.) and is physically distinct from the remainder of the land (eg, area on the surface of the land). *Thus, an identified asset exists in the extant case.*

Further, the Committee notes that as per paragraph B14, even if an asset is specified, a customer does not have the right to use an identified asset if the supplier has the substantive right to substitute the asset throughout the period of use. A supplier's right to substitute an asset is substantive only if (a) the supplier has the practical ability to substitute alternative assets throughout the period of use; and (b) the supplier would benefit economically from the exercise of its right to substitute the asset. In this regard, the Committee notes that clause 17 of the Memorandum Agreement provides that "in the event of the Northern Railway desiring to execute new works on Railway land necessitating the alteration or shifting of way leave facility, the grantee shall agree to carry out alteration or shifting facility at its own cost". This clause seems to suggest that the Railways has substitution rights in case of Northern Railway executing new works on Railway land which necessitate alteration/shifting of the way leave facility. However, in this regard, the Committee also notes paragraph BC114 of Basis for Conclusions to International Financial Reporting Standard (IFRS) 16, 'Leases', issued by the International Accounting Standards Board (IASB), which *inter alia* provides as follows:

"...Some substitution rights are not substantive because the contract restricts when a supplier can substitute the asset. For example, if a contract states that a supplier can substitute the asset only on a specified future date or after the occurrence of a specified event, that substitution right is not substantive because it

does not give the supplier the practical ability to substitute the asset throughout the period of use. ... "

From the above, the Committee is of the view that since in the extant case, the Railways has the right of substitution only on the occurrence of a specified event in future (viz., Northern Railway executing new works), substitution right is not substantive because it does not give the supplier the practical ability to substitute the asset throughout the period of use. Thus, as per the requirements of paragraph B15, *the supplier does not have the substantive right to substitute the asset throughout the period of use in the extant case.*

With regard to right to obtain substantially all the economic benefits from use of the identified asset throughout the period of use, the Committee notes that paragraph B21 of Ind AS 116 specifies that a customer can have that right, for example, by having exclusive use of the identified asset throughout the period of use. In this regard, the Committee notes that in the extant case, the Company has exclusive right to use the specified underground space throughout the period of use (although within the defined scope of its right to use the underground space) and therefore, *the Company has the right to obtain substantially all of the economic benefits from the use of identified asset.*

With regard to right to direct the use of the asset, the Committee notes that paragraph B24 of Ind AS 116 specifically provides that where the relevant decisions about how and for what purpose the asset is used are predetermined (as in the extant case, how and for what purpose the specified underground space will be used is predetermined), an entity has the right to direct the use of an identified asset throughout the period of use only if it has the right to operate the asset or if it designed the asset in a way that predetermines how and for what purpose the asset will be used throughout the period of use. In this regard, the Committee notes from the Memorandum Agreement that the Company has the right to operate the specified underground space by having the right to lay down the pipelines, to inspect, repair and maintain them. The Company can make all the decisions about the use of the specified underground space although within the defined scope of the contract/agreement. Therefore, the Committee is of the view that in the extant case, *the Company has the right to direct the use of identified asset throughout the period of use.*

The Committee also notes that there are various clauses in the 'Memorandum Agreement' which provides some rights to the Railways in relation to the underground space in the extant case, for instance, right of access and inspection, etc. The Committee, considering paragraph B30 of Ind AS 116 is of the view that these are in the nature of protective rights to protect the Railways' interest in the asset, to protect its personnel or to ensure compliance with laws or regulations. These clauses define the scope of the customer's right of use but do not, in isolation, prevent the customer, viz. (the Company) from having the right to direct the use of an asset.

Therefore, the Committee is of the view that the arrangement in the extant case contains lease and the prepayments made towards way leave charge should be accounted for as per the requirements of Ind AS 116. As the arrangement contains lease, the question of applying other standards, for example, Ind AS 38 does not arise.

### D. Opinion

15. In view of the above, the Committee is of the following opinion on issues raised in paragraph 10 above:

- (i) The arrangement in the extant case contains lease as discussed in paragraph 14 above. Thus, the prepayments made towards way leave charges should be accounted for as 'right-of-use' asset per the requirements of Ind AS 116.

- (ii) As the arrangement contains lease, the question of applying other standards does not arise. Therefore, Ind AS 38, 'Intangible Assets' is not applicable in the extant case.
- (iii) & (iv) In view of (i) above, answers to these questions do not arise.

1.	The Opinion is only that of the Expert Advisory Committee and does not necessarily represent the Opinion of the Council of the Institute.
2.	The Opinion is based on the facts supplied and in the specific circumstances of the querist. The Committee finalised the Opinion on October 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 <a href="https://icai-cds.org/">https://icai-cds.org/</a> .
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 <a href="mailto:eac@icai.in">eac@icai.in</a> .





## 73<sup>rd</sup> ANNUAL FUNCTION

*Treading the path of Excellence, Independence and Integrity the Institute of Chartered Accountants of India (ICAI), established by an Act of Parliament in 1949 has carved its imprint with indelible ink as an outstanding institution upholding the public interest and promoting ideals of Credence, Accountability and Trust by reinventing and realigning itself with the changing times. On 7<sup>th</sup> February, 2023, ICAI commemorated its 73<sup>rd</sup> Annual Function at New Delhi celebrating and rejoicing the spirit of excellence & meritocracy as well as significant milestones achieved during the year. The event was graced by Chief Guest Shri Arjun Ram Meghwal, Hon'ble Minister of State for Culture and Parliamentary Affairs in the presence of CA. (Dr.) Debashis Mitra, the then President, , CA. Aniket Sunil Talati the then Vice-President and now the President, Central and Regional Council Members of ICAI and office bearers of several branches and overseas chapters. The event acknowledged the academic brilliance of the meritorious CA students, outstanding Regional Councils, Branches and overseas Chapters who were conferred awards for their outstanding accomplishments during the year. Various ICAI publications and initiatives were also launched on the occasion. We present herewith a brief report of the Annual Function. Read on...*



**I**n its sagacious journey of more than 7 decades, the Institute is recognized as an institute of prominence and amongst the largest and leading accounting body globally, with over 3.60 lakh members and over 7.5 lakh students having a presence across 78 cities globally and 167 branches nationally, taking forward its agenda of professional and academic excellence while supporting the economic development in process. The Annual function witnessed a good number

of members, students and other stakeholders coming together to celebrate the stellar growth and accomplishments of the ICAI and its constituents, making it strive towards emerging as best profession and accounting body globally. The function was a full house and attended by more than 1600 members. In addition, thousands of members and students attended the event virtually and became part of celebrations. The occasion not only highlighted the accomplishments of the years

but also provided the glimpses of the promising future the profession and the presence of members in large numbers was a testimony to the fact.

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

### Welcome address



**ICAI Secretary CA.(Dr.) Jai Kumar Batra**, welcomed the Chief Guest, all the dignitaries, esteemed guests and the members of the profession to the 73<sup>rd</sup> Annual function. Dr. Batra said that ICAI's contribution in promoting public interest has been remarkable since

its inception ICAI is committed to bring paradigm shifts in the accounting profession by undertaking path breaking initiatives. Since its inception with the support from the Ministry of Corporate Affairs and as partner in nation building we are working hand in hand with the government for the economic development of the country. During the annual function we recognize the significant accomplishments made as well as appreciate the efforts of regional councils, branches and foreign chapters. He further stated that the ICAI shall continue to take all measures to achieve the Vision and mission of the ICAI for the development of the profession.

Earlier during the day eminent tax expert CA.(Dr.) Girish Ahuja gave an enthralling lecture on the Union Budget 2023 wherein deliberated on the various facets of the new budget and its various perspectives for the professionals and individuals.

### Be Fearless, Be Innovative – Reach New Horizons



**CA. (Dr.) Debashis Mitra**, the then President addressed the gathering on annual function. He said that the accountancy profession is continuously transforming itself and creating value through continuous innovation. The Institute's logo the Garuda,

the Eagle and the Profession takes pride in flying beyond barriers in pursuit of Excellence, Independence & Integrity. The Garuda in the ICAI Emblem symbolizes qualities of a Garuda and a Chartered Accountant i.e., being fearless, decisive, strong and innovative and ability to face

challenges. Today by being fearless, innovative and ability to overcome challenges the accountancy profession has grown to become the leading accountancy institution globally with 167 branches, 44 overseas chapters and presence in 77 global cities.

It is attitude of being fearless and innovative that has led the Institute and profession to reach new heights and milestones during the year. This Council has been very special and with collective will and leadership we have organized the historic and most successful World Congress of Accountants (WCOA) in the history of the IFAC. During the start of year due to the pandemic we were unsure about the WCOA from there to hosting the biggest world congress the journey has been phenomenal where more than 10000 delegates from 120 countries participated, 150 speakers in 40 sessions delivered talks over the 4 days during the Congress. The World Congress of Accountants has brought enormous goodwill and respect for the profession and today the Indian accounting profession is counted amongst the global leaders in accountancy profession.

With bold and decisive decision making, we have taken long strides this year and accomplished history making milestones. For the first-time ever in the 70 years history of the institute examination results for final and intermediate were declared simultaneously on same day. I feel elated and proud when the hon'ble Supreme Court quoted the ICAI examination system is worth learning for other institutions.

This year the scale of doing things has been very large the MSME Yatra covered 75 cities in 75 days creating awareness about MSMEs inducted into India Book of Records for its huge impact. Similarly our career counselling initiatives amongst the students across India were appreciated and ICAI entered into Asia Book of Records for counselling more than 160000 students. ICAI understands the significance of education in development of society and as a leading educator organised National Education Summit –CA (NESCA) in association with Association of Indian Universities, NCERT and NCTE to work towards uniform commerce education in the country where Vice Chancellors and Deans from 25 states participated.

Our profession has been talking about sustainability since long back the 3Ps People, Profit and Planet and initiatives are being taken to bring them in mainstream. The institute constituted Sustainability Reporting Standards Board in



2020 and now we are developing standards for Sustainability Reporting. Infact to nudge the profession and other stakeholders ESG talkshows are being organized to promote adoption of non-financial reporting in the country.

At the ICAI, it is always about promoting nation's interest and nation first approach. In all our endeavours our motive is to uphold public trust. Trust is made up of three things: credibility and accountability and self-interest and the profession always take necessary measures to increase credibility and accountability and minimize its self-interest to promote trust. As India now has leadership of G-20, ICAI will take all steps to leverage the position for the development of economy.

With its commitment to the three virtues of Independence, Excellence and Integrity our profession shall continue to contribute in the nation's growth story.

### Presenting a Memoir of Accomplishments



As a symbol of our love, affection and respect CA. Aniket Sunil Talati, the then Vice President and the current President along with the Chief Guest Shri Arjun Ram Meghwal Hon'ble Minister of State for Culture and Parliamentary Affairs presented a coffee table book as memoir of accomplishments to CA.(Dr.) Debashis Mitra, the then President, a collection of important milestones and the journey during the year on behalf of the entire Council.

### Address by Chief Guest



The Chief Guest Shri Arjun Ram Meghwal, Hon'ble Minister of State for Parliamentary Affairs and Culture addressed the august gathering at the Annual Function. The Chief guest emphasised on his long-term relationship with the institute and he is elated

by the progress and growth achieved by the profession over the time especially in the development of nation. Addressing the audience hon'ble Minister applauded the profession for its contribution in the success of GST, one of the major tax reforms and its smooth execution in the country by building a support ecosystem and knowledge dissemination amongst the stakeholders, today GST is emerging as catalyst to economic growth.

He also said and praised the ICAI "WE CARE" initiative for social empowerment of Senior citizen members that the Institute had initiated to establish contact and communication with senior members of the profession who are past age of 75 years to give them dignity, respect and affection as also for their welfare. With India Chairing the G-20 presidency, the Hon'ble Minister called upon the institute to actively participate in various G-20 programmes to position India as global talent hub. Similarly the profession should also enthusiastically participate in these global opportunities of G-20 and Shanghai Cooperative Summit (SCO) to showcase the efforts of Chartered Accountancy fraternity in economic development at international forum.

Hon'ble Minister added that Liberty, Equality and Fraternity are the three main pillars of our Constitution and Fraternity is vital aspect and stated "I am glad that ICAI is very well taking these words meticulously and have diligently created an esteemed close knit fraternity not only in India but also abroad."

### Vote of Thanks



CA. Aniket Sunil Talati, the then Vice-President, ICAI delivered the vote of thanks and on behalf of the entire profession expressed gratitude to the Hon'ble Minister for his time and support to ICAI in its various endeavours. During his address he acknowledged the leadership of the then President CA.(Dr.) Debashis Mitra and the entire Central Council for their noteworthy guidance as well as ICAI officials led by CA. (Dr.) Jai Kumar Batra, Secretary, ICAI for their wholehearted efforts in organising the historic World Congress of Accountants 2022 and various other significant achievements during the year 2022-23 like induction into Asia Book of Records for Career

Counselling programme, India Book of Records for MSME yatra, First Women CAs Placement, Establishment of Social Audit Institution, launch of SRMM V2.0, development of Social Audit standards, ESG Reporting standards, National Call Centre to name a few. We will keep working hard and thankful to everyone in the Team ICAI my entire Central Council, Regional Councils, 167 branches, 44 Chapters, 34 Representative offices, members students and employees.

## Launches and Releases

The various Committees of the institute launched/ released its various initiatives/publications on the 73<sup>rd</sup> Annual function. The details of the same are as under:

### Name of Publication/Course/Portal

1. Tales of Triumph - Stories of Successful Chartered Accountants
2. Milestones - A Chronicle of Activities
3. Study Report on Industries in West Bengal
4. Significant Judicial and Advance Rulings in GST: A Compilation
5. Handbook on Blocked Credit under GST
6. Handbook on Exempted Supplies under GST
7. Compendium of Opinions - Volume XLI
8. Compendium of Opinions - Volume XLII
9. Withholding Taxes under Section 195 and Form No. 15CA/CB
10. Technical Guide on Expatriates Taxation (Revised 2023)
11. Diploma in International Taxation Paper 1 International Taxation -Transfer Pricing Revised 2022Edition
12. Diploma in International Taxation Paper 2 International Taxation Practice (Part 1) Revised 2022Edition
13. Financial and Tax literacy for Start-Ups
14. Educational Material on Ind AS 21, The Effects of Changes in Foreign Exchange Rates
15. Export Promotion measures in India
16. Doing Business in India by Foreign Companies
17. Export Incentive in India - Evolution of Export Incentives and their Future Outlook
18. Peer Review Manual Volume I
19. Peer Review Manual Volume II
20. Handbook on Peer Review Forms
21. Handbook for Company Form of Organisation: Compliances by Small Companies
22. Questions and Answers (Q&A) on filing Lot-1 Company Forms on MCA 21 Version-3 Portal
23. Questions and Answers (Q&A) on filing Company Incorporation Forms on MCA 21 Version-3 Portal
24. Technical Guide on Internal Audit of Textile Industry (2023 Edition)
25. Technical Guide on Internal Audit of Retail Industry (2023 Edition)
26. Technical Guide on Internal Audit of Educational Institutions (2023 Edition)
27. Technical Guide on Internal Audit of Coal Industry
28. Code of Ethics Volume-III (Case Law Referencer) (Revised 2023)
29. Judicial Pronouncements In Valuation Series-2
30. Technical Guide on Valuation of Assets in Extractive Industries
31. Coffee Table Book on ICAI MSME Yatra & Setu
32. Coffee Table of Book on ICAI Startup Samvad
33. A toolkit for SHG Facilitator (Revised 2023)
34. Frequently asked Questions (FAQs) For NPOs on FCRA Laws (Revised 2023)
35. Transition to Accrual Accounting: Models & Learnings for Urban Local Bodies (An ICAI-ICAI ARF Study for NITI Aayog) January 2023
36. Handbook on Enterprise Management of Corporate Debtor by Resolution Professional
37. Judicial Pronouncements under Insolvency and Bankruptcy Code, 2016- Series 4
38. Summary of Amendments in Regulations under The Insolvency and Bankruptcy Code in 2022
39. Meetings of Committee of Creditors-A Handbook for the Guidance of Insolvency Professionals



40. Implementation Guide to Standard on Auditing (SA) 230, Audit Documentation (Revised 2022 Edition)
41. Implementation Guide on Reporting under Rule 11(e) and Rule 11(f) of the Companies (Audit and Auditors) Rules, 2014
42. Implementation Guide to Standard on Auditing (SA) 580, Written Representations
43. Technical Guide on Digital Assurance
44. Treatise on Report on Income Tax Dues
45. Handbook on Taxation of Private Trust of Income-tax Act, 1961
46. Handbook on Estimated Income Scheme under Income-tax Act, 1961
47. Handbook on Disallowance of Expenses under Income-tax Act, 1961
48. Handbook on FAQ's on House Property under Income-tax Act, 1961
49. Treatise on Section 194- R under Income-tax Act, 1961
50. Handbook on Income Tax-Tax Collection at Source
51. Handbook on Landmark Judgements on Income Tax of ITAT-2022
52. Handbook on Landmark Judgements on Income Tax of High Court- 2022
53. Handbook on Landmark Judgements on Income Tax of Supreme Court-2022
54. SAM (Significant Audit Matters) Annual Series Vol.-1 2023)
55. Compendium of Social Audit Standards (Effective Date: 4<sup>th</sup> February 2023)
56. Standard on Sustainability Assurance Engagement (SSAE) 3000 - Assurance Engagement on Sustainability Information
57. FAQs on Sustainability Reporting - Heart of Good Governance
58. A primer on the concept of social Stock Exchange - Strengthening the social Fabric
59. Sustainability Reporting Maturity Model (SRMM) Version 2.0
60. SARANSH - Last Mile Referencer for Accounting
61. SARANSH - Last Mile Referencer for Auditing
62. SARANSH - Last Mile Referencer for Cost Accounting and Strategic Decision Making
63. Policy Document -A Catalyst in Nurturing the young Mind For a Bright Tomorrow

## Awards to Best Regions and Branches

Category of Awards	First Prize - Gold Shield and Certificate	Second Prize - Silver Shield and Certificate
Best Regional Council	Western India Regional Council (WIRC) of ICAI jointly with Southern India Regional Council (SIRC) of ICAI	Eastern India Regional Council (EIRC) of ICAI
Best Students' Association	Western India Chartered Accountants Students Association (WICASA)	Southern India Chartered Accountants Students Association (SICASA)
Best Branch of Regional Council (Mega Category)	Indore Branch of CIRC of ICAI	Bengaluru Branch of SIRC of ICAI jointly with AHMEDABAD BRANCH OF WIRC OF ICAI
Best Branch of Regional Council (Large Category)	Ludhiana Branch of NIRC of ICAI	Baroda Branch of WIRC of ICAI
Best Branch of Regional Council (Medium Category)	Vijayawada Branch of SIRC of ICAI	Agra Branch of CIRC of ICAI

## 73<sup>rd</sup> ANNUAL FUNCTION

Best Branch of Regional Council (Small Category)	Salem Branch of SIRC of ICAI	Tirupur Branch of SIRC of ICAI
Best Branch of Regional Council (Micro Category)	Sivakasi Branch of SIRC of ICAI	Bilaspur Branch of CIRC of ICAI
Best Branch of Students' Association (Mega Category)	Ahmedabad & Pune Branch of WICASA of WIRC of ICAI jointly	Bangalore Branch of SICASA of SIRC of ICAI
Best Branch of Students' Association (Large Category)	Indore Branch of CICASA of CIRC of ICAI	The Coimbatore Branch of SICASA of SIRC of ICAI
Best Branch of Students' Association (Medium Category)	Vadodara & Aurangabad Branch of WICASA of WIRC of ICAI jointly	Rajkot Branch of WICASA of WIRC of ICAI jointly with Jodhpur Branch of CICASA of CIRC of ICAI
Best Branch of Students' Association (Small Category)	Ahmednagar Branch of WICASA of WIRC of ICAI	Jalgaon Branch of WICASA of WIRC of ICAI jointly with Siliguri Branch of EICASA of EIRC of ICAI.
Best Branch of Students' Association (Micro Category)	Anand Branch of WICASA of WIRC of ICAI	Bilaspur Branch of CICASA of CIRC of ICAI

### Overseas Chapter Awards

S.No	Name of the Chapter of ICAI	Position
Category I (More than 500 Members)		
1	UAE (Abu Dhabi) Chapter	Joint 1 <sup>st</sup>
	UAE (Dubai) Chapter	
2	Kuwait Chapter	2 <sup>nd</sup>
Category II (101 to 500 Members)		
1	Bahrain Chapter	1 <sup>st</sup>
2	Oman (Muscat) Chapter	Joint 2 <sup>nd</sup>
	Singapore Chapter	
3	Canada (Toronto) Chapter	Joint 3 <sup>rd</sup>
	Australia (Melbourne) Chapter	
Category III (Upto 100 Members)		
1	British Columbia, Vancouver Chapter	1 <sup>st</sup>
2	The Netherlands (Amsterdam) Chapter	2 <sup>nd</sup>
3	Kenya (Nairobi) Chapter	3 <sup>rd</sup> Jointly
	Malaysia (Kuala Lumpur) Chapter	
	Tanzania (Dar Es Salaam) Chapter	



## UNION BUDGET

# Union Budget 2023-24: A way forward for Inclusive and Sustainable Development



### **Dr. Rajeev Kumar**

Author is an Academician. He may be reached at [eboard@icai.in](mailto:eboard@icai.in)

**After a sharp recovery from COVID-19 Indian economy is estimated to grow at 7 percent rate in the current fiscal year according to the advance estimates of the Central Statistics Office. It shows the strength and resilience of the economy. It has sharply escalated to become the fifth largest economy in the world. Apart from that it is evident from different global indices that India has significantly improved its governance and ease of doing business. The G20 presidency for the year 2023 is a matter of pride for the country.**

**T**he Union budget for the fiscal year 2023-24 has come with a vision of a prosperous and inclusive India. It aims to prioritise infrastructure development, investment, green growth, empowerment of youth, the financial sector, fiscal

management, and unleashing the potentials of Indian economy. The budget highlights the need to continue wide-ranging reforms and implement sound policies, along with the efforts of all and inclusion of all in the process of development. In the direction of *sabka saath sabka prayas* the budget proposes to create opportunities for youth, create jobs, and provide stimulus to economic growth with macroeconomic stability. Budget announcements show that government is committed to provide better quality of life and dignified life for all. The budget is in consonance with the vision for *Amrit Kaal* wherein economic growth must be technology driven with strong public finances and a robust financial sector.

### **Priorities of the Budget 2023-24**

The first budget of the *Amrit Kaal* sets priorities for seven mutually complimentary activities:

1. Inclusive development
2. Reaching the last mile
3. Infrastructure and investment
4. Unleashing the Potential
5. Green growth
6. Youth power
7. Financial sector

#### **1. Inclusive development**

While the economy is growing at a fast pace after the pandemic, it is proposed that the fruits of development must reach all sections of society and all regions of the country. In this direction, the budget places priority on inclusive development to transmit the benefits of developments to farmers, women, youth, Scheduled Castes (SCs), Scheduled Tribes (STs), Other Backward Castes (OBCs), persons with disabilities, and the economically weaker section. Apart from that, regions like Jammu and Kashmir, Ladakh, and the North East have been given special attention. As one of the positive gestures, the scheme of free foodgrain distribution has been extended for all Antyodaya and priority households for the budgeted year without requiring any contribution from States.

#### **2. Reaching the last mile**

In this direction, the Union Budget emphasises the development of the North-Eastern states, tribal areas, drought-prone areas, and providing financial assistance to poor prisoners. Assistance under the Aspirational Districts and Blocks Programme, which

## UNION BUDGET

was launched in 2018, will be extended for the saturation of essential public services such as health, education, nutrition, water resources, agriculture, financial inclusion, skill development, and basic infrastructure. The budget proposes Rs. 15,000 crores over the next three years to implement development action plans for particularly vulnerable tribal groups to provide them access to safe housing, clean drinking water, education, sanitation, sustainable livelihood opportunities, and better connectivity. Further, 38,800 teaching and non-teaching staff will be recruited over the next three years for the existing 740 Eklavya Model Residential Schools, which serve tribal children. Another remarkable disbursement is an increase of 66 percent to over Rs 79,000 crore under the PM Awas Yojana, which will benefit poor people across the country for their housing needs. As a novel gesture, poor prisoners who are incarcerated due to a lack of funds will be given financial assistance to meet their

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**The budget proposes Rs. 15,000 crores over the next three years to implement development action plans for particularly vulnerable tribal groups to provide them access to safe housing, clean drinking water, education, sanitation, sustainable livelihood opportunities, and better connectivity.**

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requirement of a penalty or bail surety amount.

### 3. Infrastructure and investment

India has witnessed fast infrastructure development in the last few years, except during the pandemic phase. This budget carries forward this trend in infrastructure development. Investment for infrastructure development is coming from the public as well as the private sectors. Public-private partnerships (PPP) have gotten a boost under the leadership of the current government, which has transformed the physical infrastructure of the country. As a matter of fact, infrastructure is an essential requirement of economic development and modernization. Investment in infrastructure boosts economic activities, production, and supply, and at the same time creates employment, income, and demand.

The budget hikes capital expenditure by 37 percent to an amount of Rs. 10 lakh crores over the revised estimates of capital expenditure in the budget of 2022-23 and 33 percent over the budget estimates of 2022-23, which is estimated to be a huge 3.3 percent of GDP. It shows the commitment of the government towards high economic growth, job creation, and the creation of a conducive environment for private investment. Apart from its own capital expenditure, the central government gives grants to state governments for the creation of capital assets. Thus, the total central capital expenditure and grants for the creation of capital assets, which is called effective capital expenditure, is going

to increase to 4.5 percent of GDP. Massive developments in roads, railways, urban infrastructure, power, logistics, regional connectivity, urban sanitation, and sustainable cities will be achieved through PPP. In line with one of the recommendations of the fourteenth finance commission, the budget proposes to prepare cities to improve their creditworthiness so that they can raise funds from the financial markets through municipal bonds. Except for the massive municipal corporations of a few major metropolitan cities, it appears to be a difficult task in the near term. However, the proposed Urban Infrastructure Development Fund, which is like the existing Rural Infrastructure Fund, is likely to be an effective mechanism for urban infrastructure development in Tier 2 and Tier 3 cities.

### 4. Unleashing the Potential

The budget emphasises the commitment of the government to provide good, transparent, and accountable governance in the country. In this direction, furtherance of existing Mission Karmayogi for capacity building plans for civil servants, setting up of three Centres of Excellence for Artificial Intelligence towards the vision of Make AI in India, preparation of National Data Governance Policy, simplification of know your customer (KYC) policy, common business identifier through Permanent Account Number (PAN) for enhancing ease of doing business, unified return filing process for various tax authorities, upgradation of E-court system are some of the major policies and proposals in the budget. Vivad se Vishwas I



## UNION BUDGET

and II are two interventions to provide major relief to MSMEs.

### v. Green growth

India has continuously shown its commitment to green growth, and serious steps are being taken to achieve net zero carbon emissions by the year 2070. This budget also envisages an environmentally conscious lifestyle under the vision for LiFE. The green hydrogen mission is a very important step in this direction to achieve low carbon intensity and decrease fossil fuel consumption. This will also reduce our dependence on imported petroleum products and thus help reduce the burgeoning size of our current account deficit. An allocation of Rs. 35,000 crores has been proposed for capital investment in energy transition, energy security, and net-zero carbon objectives. Renewable energy, energy storage systems, the extension of vehicle replacement policy for government vehicles, green credit programs, and renewable energy evacuation are some of the major policies and programmes being initiated towards green growth.

PM-PRANAM, GOBARDhan scheme, Bhartiya Prakritik Kheti Bio-Input Resource Centers, MISHTI and Amrit Dharohar, circular economy, are other programmes, policies,

and actions to encourage natural and organic farming systems. Environmentally sustainable and responsive actions by individuals and companies are expected.

### vi. Youth power

The budget takes forward the National Apprenticeship Promotion Scheme, and envisages Pradhan Mantri Kaushal Vikas Yojana 4.0 and Skill India Digital Platform towards the empowerment of youth in the country.

### 5. Financial Sector

The processes of financial inclusion, faster and better delivery of services, easy access to credit, and enhanced participation in financial markets have been going on at a fast pace over the last few years. In this direction, the budget announces the implementation of a revamped credit guarantee for MSMEs, the setting up of a National Financial Information Registry to serve as a central source of financial information, a comprehensive review of financial sector regulations, capacity building in securities markets, and the development of digital public infrastructure, etc.



**The budget takes forward the National Apprenticeship Promotion Scheme, and envisages Pradhan Mantri Kaushal Vikas Yojana 4.0 and Skill India Digital Platform towards the empowerment of youth in the country.**



### Fiscal Aspects of the Union Budget 2023-24

Budget for 2023-24 projects total receipts of Rs. 45,03,097 crores out of which Rs. 17,86,816 crores are estimated to be from borrowing and other liabilities. Total budgeted expenditure for the year 2023-24 is 45,03,097 crores. Total capital expenditure is estimated to be Rs. 10,00,961 crores, which is about 22 percent of total size of the budgeted expenditure and it. Figure 1 shows the sources of income for the central government. It shows that borrowing and other liabilities are about 34 percent of total budgeted receipts while non-debt capital receipts are only 2 percent of total. All other



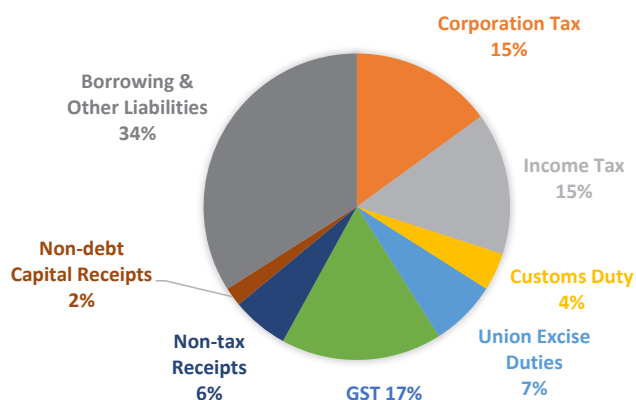
**The budget emphasises the commitment of the government to provide good, transparent, and accountable governance in the country.**



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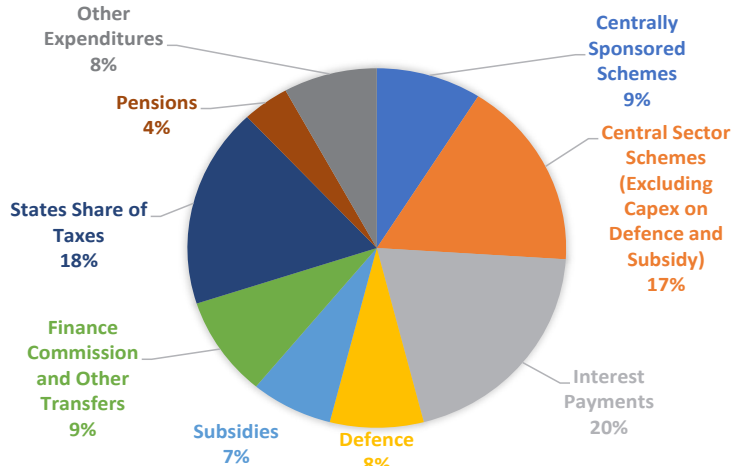
income comes from revenue receipts, which include tax receipts and non-tax receipts. Thus, corporation income tax and personal income tax each has a projected share of 15 percent, while GST and other consumption taxes have a 17 percent share. Union excise duties and customs duties also have significant contributions of 7 and 4 percent, respectively.

**FIGURE 1: SOURCES OF RECEIPTS OF CENTRAL GOVERNMENT (BUDGET OF 2023-24)**



On the expenditure side, Figure 2 shows that in the estimates of the budget, the largest item of expenditure for the central government is interest payments. It alone will consume 22 percent of total budgeted expenditures in the coming fiscal year. Expenditure on central sector schemes and centrally sponsored schemes will be 17 and 9 percent of total expenditure, respectively. It is to be noted that many of the central schemes are concentrated in a select few central ministries like the Ministry of Health & Family Welfare, Ministry of Agriculture, Ministry of Education, Ministry of Rural Development and Ministry of Women & Child Development. An enhanced expenditure on central schemes has a direct impact on the welfare of people across the country. So, a high fraction of total expenditure on central schemes reflects the commitment to inclusive development in the budget.

**FIGURE 2: ITEMS OF EXPENDITURE OF CENTRAL GOVERNMENT (BUDGET OF 2023-24)**



About seven percent of total expenditure and 19.7 percent of revenue expenditure will be incurred on subsidies (Figure 7). Major subsidy expenditure of the government is incurred on food, fertilizer, and fuel. The government has been trying to reduce the subsidy bill to create scope for capital expenditure within the overall fiscal space while being committed to achieving sustainable fiscal targets. In the budget of 2022-23 total expenditure on food, fuel, fertilizer, and agriculture subsidies was reduced to Rs. 3,17,866 crores. However, in the revised estimates, it has reached Rs. 5,97,864 crores. For the year 2023-24, the subsidy bill is pruned to Rs. 3,74,707 crores which is a drastic cut in subsidies. The cut in subsidy is across food, fuel, fertilizer, and agriculture. It may affect the welfare of people adversely. We need to be mindful that agriculture and allied activities proved to be very resilient during the pandemic phase, and Mahatma Gandhi National Rural Employment Guarantee Scheme (MGNREGS) effectively helped poor people in fighting pandemic phase. A drastic cut in subsidies to agriculture and allied activities is a cause of concern. Despite substantial reduction in food subsidies, continuation of free food under Antyodaya and priority households under the PM Garib Kalyan Anna Yojana for one more year is a welcome move. It will really help billions of people in the country who are still facing hardships created by the pandemic.

As far as health sector expenditure is concerned, it has been marginally hiked from 1.96 percent of revised estimates for 2022-23 to 2.02 percent of budget estimates



## UNION BUDGET

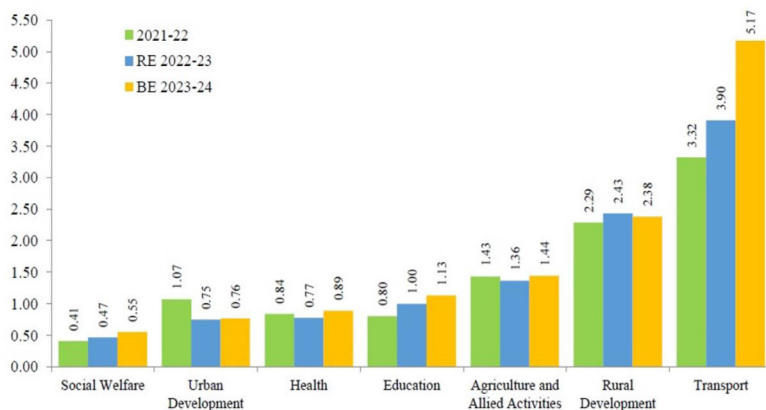
of 2023-24 but a meagre 0.31 percent of GDP allocation, that too in the post pandemic phase, when the country should consider developing a robust health infrastructure to deal with any health crisis, is worth pondering (Figure 3). Within health sector, allocations have been increased under National Health Mission, Ayushman Bharat (Pradhan Mantri Jan Arogya Yojana), Pradhan Mantri Ayushman Bharat Health Infrastructure Mission and National Digital Health Mission but funds have been drastically cut for the Pradhan Mantri Swasthya Suraksha Yojana.

Relative to 2022-23 (Revised estimates), higher allocations have been given for social welfare, education, urban development, and transport, while allocations have been reduced for rural development.

Shakti, Health and Family Welfare (including AYUSH), Human Resource Development, Labour and Employment, Minority Affairs, Social Justice and Empowerment, Tribal Affairs, Housing and Urban Affairs, Women and Child Development, Youth Affairs and Sports, Agriculture and Farmers Welfare, Environment,

has been falling since 2020-21 barring the year 2022-23 when it was raised marginally. In comparison to revised estimates of 2022-23 this share has been reduced from 24 percent of total budget of 2022-23 to 21.2 percent of the budget of 2023-24 which is a drastic reduction ('walking the tightrope An Analysis of Union Budget 2023-24', CBGA Delhi, 2023). This analysis casts a doubt over the claims of budget promising inclusive development. Nevertheless, we need to be very cautious before reaching any conclusion. A careful assessment of detailed expenditure within these ministries is required to assess its social welfare implications.

**FIGURE 3: TRENDS OF MAJOR ITEMS OF CENTRAL GOVT. EXPENDITURE (in Rs. Lakh Cr.)**



Source: Union Budget 2023-24 Documents

Centre for Budget and Governance Accountability (CBGA) in its analysis of the budget of 2023-24 has sorted fifteen ministries, which can broadly be referred to as the social sector ministries. These ministries include Ministries of Culture, Jal

Forest and Climate Change, Rural Development, Consumer Affairs, Food and Public Distribution (includes food subsidy). On the basis of budgetary allocations to these fifteen ministries it has been shown that share of these ministries in total budget

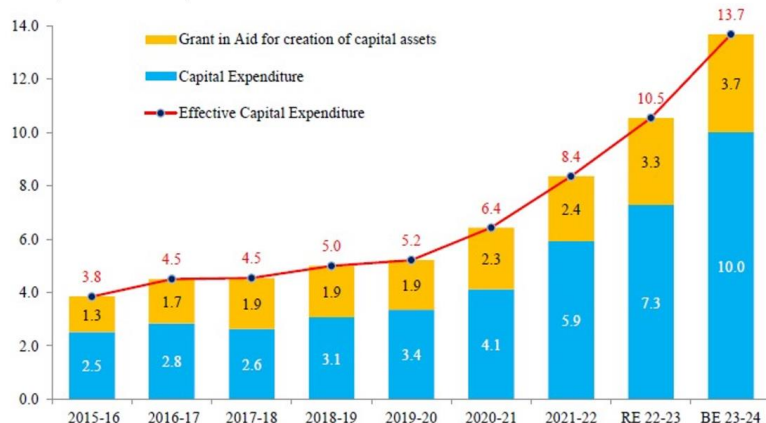
Figure 4 shows trends in the capital expenditure of the central government in absolute values. Capital expenditure has been rising very steeply since 2019-20, which is a very positive indication and a healthy change in the fiscal profile of the central government. As a share of budget, it is estimated to be about 22 percent, while as a share of GDP it is going to be over 3.3 percent. In the last five years, capex has gone up by more than 160 percent. It clearly shows the commitment

## UNION BUDGET

of the government to achieve high economic growth and a \$5 trillion economy target through capital expenditure and infrastructural development.

consistently reduced along the lines of the FRBM Act until the onslaught of the COVID-19 pandemic, due to which expansionary fiscal policies

**FIGURE 4: TRENDS IN CAPITAL EXPENDITURE OF CENTRAL GOVERNMENT (in Rs. Lakh Cr.)**



In view of the rising proportion of capital expenditure, it is obvious that revenue expenditure is falling. Government is committed to reduce revenue deficit and fiscal deficit to reduce the burden of public debt as mandated under the Fiscal Responsibility and Budgetary Management (FRBM) rules. Hence, the government is constrained financially, and raising the proportion of capital expenditure without reducing the share of revenue expenditure is not possible. However, it is to be seen that the cut in revenue expenditure should largely come from a reduction in non-developmental types of revenue expenditure.

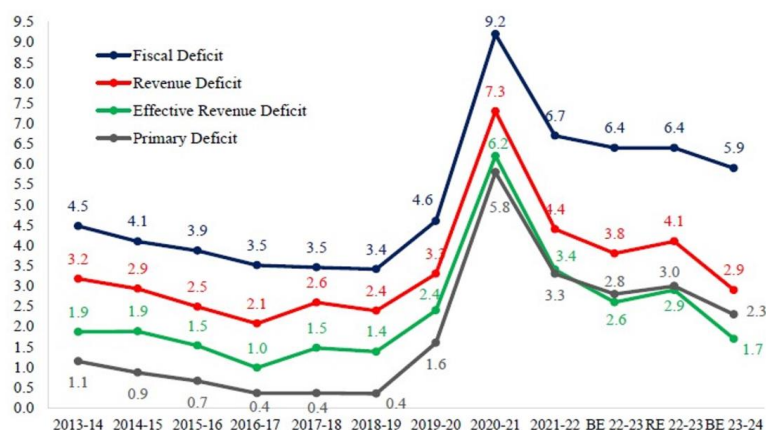
Figure 5 shows trends in the four types of deficits (fiscal deficit, revenue deficit, effective revenue deficit, and primary deficit) of the central government. The trend lines show that deficits were being

were followed and deficits, government borrowings, and public debt increased. Sharp peaks in the trend lines are visible in the Figure 5 over the year 2020-21, and beyond that a reverse trend is also visible. Post pandemic government has been trying to reduce its deficits to bring them down to the levels recommended in

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Post pandemic government has been trying to reduce its deficits to bring them down to the levels recommended in FRBM rules.”

FRBM rules. According to the targets of the FRBM Act, 2003, as revised by the Fifteenth Finance Commission, the central government should reduce the fiscal deficit to 4% of GDP by the year 2025-26. With this, the Commission noted that Center's overall liabilities will decrease from 62.9% of GDP in 2020-21 to 56.6% in 2025-26 through a fiscal consolidation route. Unfortunately, due to the pandemic the goal is still distant. Even amidst the anxiety and anticipation of recession, the budget has proposed a reduction in the fiscal deficit from 6.4 (2022-23 RE) to 5.9 (2023-24 BE) through a sharp reduction in revenue deficit and effective revenue deficit. This is a right move.

**FIGURE 5: TRENDS IN THE DEFICITS OF CENTRAL GOVERNMENT (% OF GDP)**

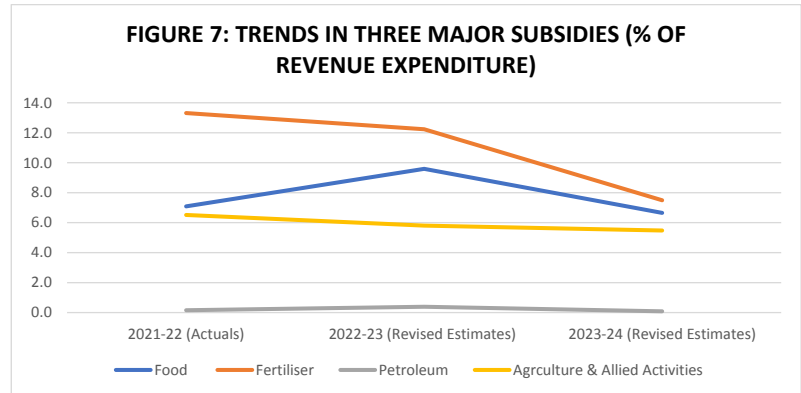


Source: Union Budget 2023-24 Documents



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The government has reaffirmed its seriousness about achieving a fiscal deficit of 4.5 percent of GDP by the year 2025-26. A corrected fiscal stance will create scope for fiscal expansion if a recession strikes. Further, with a decrease in government borrowing as a proportion of GDP, debt GDP ratio will fall and reduced burden of interest payments will lessen pressure on the revenue account. States governments will be allowed to incur a fiscal deficit up to 3.5 percent of Gross State Domestic Product, of which 0.5 percent will be meant for power sector reforms. Figure 6 shows the deficit financing pattern of central government. Market borrowing is the largest source of financing followed by securities against small savings and provident fund. Net market borrowing of Rs. 11.8 lakh crores will be raised through dated securities, while gross market borrowings of Rs. 15.4 lakh crores are estimated. Drawing down of cash balances is proposed to be negative for 2023-204.

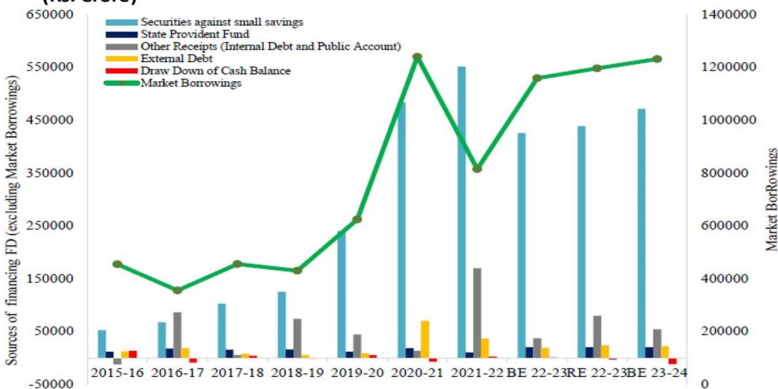


**Conclusion:** India has witnessed a sharp recovery from the pandemic, and the upcoming year is likely to witness robust domestic demand and a spurt in crowding of private investment through enhanced government capital expenditure. The government is committed to carrying out reforms in various spheres of the economy. High rate of inflation, widening current account deficits, exchange rate depreciation, and unemployment are some of the challenges the economy is currently facing. On the positive side, Indian economy has bright prospects for economic growth and employment creation.

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The government has reaffirmed its seriousness about achieving a fiscal deficit of 4.5 percent of GDP by the year 2025-26.”

The budget for 2023-24 provides a roadmap for India to become a \$5 trillion economy while ensuring inclusive development. The continued emphasis on capital expenditure is critical to achieving the \$5 trillion economy goal. The budget goes well with the vision for Amrit Kaal. It sets seven priorities that will steer the economy into a phase of high and inclusive growth through massive expenditure on infrastructure and enhanced expenditure for poor and marginalised sections. It also prioritises the empowerment of youth, green growth through environmentally friendly behaviour of individuals and firms, and natural and organic agricultural practices. The saptrishi priorities are set in the budget without compromising fiscal prudence. Overall, the budget for 2023-24 is very well designed to further strengthen the economy. ■■■

**FIGURE 6: SOURCES OF DEFICIT FINANCING OF CENTRAL GOVERNMENT (Rs. Crore)**



Source: Union Budget 2023-24 Documents

## UNION BUDGET

# Comments / Views on the (some specific Provisions) Finance Bill 2023



### CA. R T Goel and CA. Vijaykumar Chhallani

Authors are members of the Institute. They may be reached at [rtoelpune@gmail.com](mailto:rtoelpune@gmail.com) and [eboard@icai.in](mailto:eboard@icai.in)

Some Highlights out of Budget of 2023-24 are discussed hereunder:

#### 1) Tax Rates and New Tax Regime

1.1) Finance bill make changes in new regime under section 115 BAC was introduced from AY 21-22.

The basic exemption limit of Rs. 250,000 has been enhanced to Rs. 3,00,000 and income tax rates have been revised under sub section 1A to Section 115 BAC is inserted with a from AY 2024-25 for new regime.

Basic Up to rupees 3,00,000	nil
Rs. 3,00,001 to 6,00,000	5%
Rs. 6,00,001 to Rs. 9,00,000	10%
Rs. 9,00,001 to Rs. 12,00,000	15%
Rs. 12,00,001 to Rs. 15,00,000	20%
Above Rs. 15,00,000	30%

The above-mentioned rates mentioned are applicable to all Individuals, HUF, BOI whether incorporated or not (AOP other than co-operative society). The Education Cess continues at unchanged rate of 4%.

The surcharge liability on Total Income exceeding rupees 5 Crores has been reduced to 25% from 37 % effective from AY 24-25. However reduced surcharge liability is applicable only if one is opting for new regime.

There is no change either in basic exemption limit or tax rates for opting existing / old tax regime.

The new regime shall become *by default* from AY 24-25. The option for old regime will be required to be selected every year before *due date* of filing the IT return.

It appears that the Government desires to switch over fully to new regime in coming years.

#### 1.2) Tax on income of certain new manufacturing co-operative societies

This budget has introduced a new section 115 BAE which is in line with section 115 BAB introduced in October 2019, which is applicable to new manufacturing domestic companies.

A newly set up and registered co-operative society on or after 01.04.2023 has commenced manufacturing or production of an

This note is on few selected clauses of Finance Bill 2023 in respect of Income Tax Act 1961(excluding the Income from Business/ Profession. The Finance Bill 2023 / Budget presented by the Hon Finance Minister demonstrated the efforts taken by the Government in balancing the Inflation and Growth is commendable. Similarly, the Saptarishi theme of the Budget to reflect Inclusive Development, Developing Infrastructure in all segments of economy with an eye on Centenary Year of Independence will go a long way during the Amrit Kaal in making the Strong Economy having Global recognition.



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**The new regime shall become by default from AY 24-25. The option for old regime will be required to be selected every year before due date of filing the IT return.**



article or thing on or before 31.03.2024, shall be taxed @ 15% without any deductions under chapter VIA (other than 80JJA) and certain provisions of section 32 to section 35.

It is important to note that-

- (i) new manufacturing business should not be formed by splitting any existing business.
- (ii) new business does not use any plant and machinery, previously used for any purpose.
- (iii) new business should manufacture a new article or thing and will not include activities like mining, software development, bottling of gas cylinders, conversion of marble block, etc or any other business as may be notified by the Government.

In case of income derived from other manufacturing businesses will be taxed at the rate of 22% and income from other activities will be taxed at the rate of 30%.

### 2) Exemptions And Deductions

- 2.1) The rebate under section 87A was allowed maximum

to the extent of Rs. 12,500/- of income tax liability on income up to Rs. 5,00,000/-.

Now the above rebate is increased to Rs. 25,000/- and income of Rs. 7,00,000/- respectively w.e.f., from AY 24-25 and is applicable for new regime as provided in newly inserted sub section (1A) of section 115BAC.

The rebate u/s 87A for old regime is unchanged to the maximum of Rs. 12,500/-.

- 2.2) The clause 10D of Section 10 is proposed to be amended as under-

The amount received will be exempted on the maturity of any insurance policy/ policies issued after 01.04.23 along with bonus allocated on such policy provided the annual premium paid during the term does not exceeds Rs. Five lakhs. This provision shall not apply for Unit linked insurance policies and also the sum received at the time of death.

It appears from the proposals in bill, that in case the insurance premium paid during any of the financial year on one or more policies, is more than Rs. 5 lakhs, then the amount received at the maturity (including bonus) will be taxable income in the year of receipt.

In case the annual insurance premium is up to Rs. 5 lakhs, then the amount received on maturity along with bonus will continue to be exempted, as earlier.

Hence if this proposal becomes Act, it will be a

harsh provision for the income tax payer and may result in diminution of interest in Insurance Policies, as a mode of investments.

- 2.3) The new clause (12C) of section 10 is proposed to be inserted to exempt the amount paid from the Agniveer Corpus Fund to the person enrolled under Agni path Scheme or to his/ her nominees.

The contribution by the Central Government to the Agniveer Corpus Fund account of an individual enrolled in the Agnipath Scheme shall be considered as a salary under Section 17.

*This is welcome and justifiable exemption proposed in the Budget.*

- 2.4) The exemption given under clause (22B) of Section 10 shall not be applicable to the income of News Agency other than notified News agency, w.e.f. 01.04.2024. It appears that income of notified news agencies like PTL, etc shall be taxable from AY 24-25.
- 2.5) A new clause 46A to section 10 has been



**This budget has introduced a new section 115 BAE which is in line with section 115 BAB introduced in October 2019, which is applicable to new manufacturing domestic companies.**



## UNION BUDGET



**The new clause (12C) of section 10 is proposed to be inserted to exempt the amount paid from the Agniveer Corpus Fund to the person enrolled under Agni path Scheme or to his/ her nominees.**

inserted to exempt the income of any Body or Authority or Board or Trust established or constituted by / under a Central or State Act having object of planning, development or improvement of Cities, Towns, villages, housing accommodation, etc, which also includes regulating/ developing any activity for the benefit of general public.

2.6) The income of SEZ units as specified u/s 10AA, shall continue to be exempted provided the proceeds from sale of goods or services are realised in convertible foreign exchange, within 6 months from end of previous year or in such extended period as may be approved by Competent authority, i. e. RBI or Authorised Dealer. Further it is provided that for claiming exemption u/s 10AA such unit has to file Return of Income on or before due date u/s 139(1).

2.7) It is proposed to substitute clause (4E) of the section 10, w.e.f. AY 24-25 to exempt any income accrued or arisen to, or received by a non-resident as a result of—

- (i) transfer of non-deliverable forward contracts or offshore derivative instruments or over-the-counter derivatives; or
- (ii) distribution of income on offshore derivative instruments, entered into with an offshore banking unit of an IFSC referred to in subsection (1A) of section 80LA, which fulfils such conditions as may be prescribed.

2.8) The new section 80CCH is proposed to be inserted for deduction of an amount paid to a person called Agniveer as referred in “Agnipath Scheme” to allow deduction for amount contributed by the Government to the individual account of Agniveer Corpus Fund as well as Contribution from Agniveer Corpus Fund to such account. This will be applicable from AY 23-24.

The deductions for contributions made to the Agniveer Corpus Fund shall be allowed under Section 80CCH in both existing and new tax regimes.

2.9) *Charitable or Religious Trust*

Application of funds by a charitable or religious trust before 01-04-2021, out of corpus, loans or borrowings shall not be considered an application when such amount is deposited back or invested in the corpus, or the loan or borrowing is repaid.

Repayment of loan or investment/depositing back into corpus shall be

considered an application for charitable or religious purposes only within 5 years of application from the corpus or loan.

The donations by a trust or institution to another trust or institution shall be treated as the application of up to 85% of such donations.

Three name-based funds (Jawaharlal Nehru Memorial Fund, Indira Gandhi Memorial Trust, and Rajiv Gandhi Foundation) have been removed from the list of eligible funds for a deduction under Section 80G.

The trusts and institutions that have commenced the activities shall make the application directly for regular registration instead of provisional registration.

The submission of an application for registration containing false or incorrect information, or if it is incomplete, shall be considered a specified violation and result in the cancellation of the registration of trusts or institutions by PCIT/CIT.



**Three name-based funds (Jawaharlal Nehru Memorial Fund, Indira Gandhi Memorial Trust, and Rajiv Gandhi Foundation) have been removed from the list of eligible funds for a deduction under Section 80G.**



## UNION BUDGET

The provisions of accreted tax under Section 115TD are extended to trusts or institutions if they fail to apply for re-registration.

To claim accumulation of income, the trusts or institutions shall file Form 9A and Form 10 at least 2 months before the due date of filing of return of income i.e. in the current context on or before 31<sup>st</sup> August.

The trusts or institutions cannot claim the benefit of exemption provisions by filing an updated return of income, it means whatever amount is claimed in the original Return of Income that only will be considered for exemption.

### 3) Capital Gains

- 3.1) The scope of "consideration received" in section 45 (5A) is modified to include "any consideration received in cash or by a cheque or draft or by any other mode" w.e.f. AY24-25.

It appears that it is expansion of mode of consideration received for working of Capital Gain. This will be applicable mainly to Joint Development agreement.

- 3.2) A new clause u/s 47 is inserted to clarify that Conversion of physical gold into Electronic Gold Receipts and vice-versa by a SEBI-registered Vault manager shall not be considered a transfer for capital gains.
- 3.3) The proposed insertion of clause (ii) to the section 48 so as to provide that the cost of acquisition of the asset or the cost of

improvement thereto shall not include the deductions claimed on the amount of interest under clause (b) of section 24 or under the provisions of Chapter VIA of the Act.

It appears that it is a clarificatory provision with object of avoiding double deduction, which is logical amendment.

- 3.4) The transfer of capital assets due to the relocation of an offshore fund to IFSC, will not be treated as transfer of capital asset, In respect of such relocation up to 31-03-2025.
- 3.5) In respect of "Market Linked Debentures", a new section 50AA is inserted to treat the full value of the consideration received or accruing as a result of the transfer or redemption or maturity of the "Market Linked Debentures" as reduced by the cost of acquisition of the debenture and the expenditure incurred wholly or exclusively in connection with transfer or redemption of such debenture, as capital gains arising from the transfer of a *short-term* capital asset.

It is important to note that no deduction shall be allowed in computing the income chargeable under the head "Capital gains" in respect of any sum paid on account of securities transaction tax.

### 3.6) Capital gain u/s 54 in respect of investment in Residential House

It is proposed to restrict the exemption on investment of Capital gain on acquisition/

purchase/ construction of new residential house to the extent of Rs. 10 crores, irrespective of the actual value of investment in new house.

Similarly, there will be restriction on the amount deposited in Capital Gain Deposit Scheme 1988 to the extent of Rs. 10 crores.

The proposed restriction will attract Capital Gain Tax liability on Capital Gain which is in excess of Rs. 10 crores, even if total capital gain is invested in new asset.

### 3.7) Capital gain arising from transfer of any capital asset (other than Residential house) u/s 54F in respect of investment in Residential House

It is proposed to restrict the exemption on investment of Capital gain on acquisition/ purchase/ construction of new residential house to the extent of Rs. 10 crores, irrespective of the actual value of investment in new house.

Similarly, there will be restriction on the amount deposited in Capital Gain Deposit Scheme 1988 to the extent of Rs. 10 crores.

The proposed restriction will attract Capital Gain Tax liability on excess of over Rs. 10 crores, even if total capital gain is invested in the new asset.

The section 54F is also proposed to amend in similar lines of section 54, by proposing restriction of Rs. 10 crores on investment in new asset (residential

## UNION BUDGET

house). In short it is proposed to insert a proviso to provide that the amount of net consideration in excess of rupees ten crores will not be taken into account for the purposes of sub-section (4) of 54F, i. e. for computing Capital Gain.

As we are aware that for claiming deduction/ exemption of Capital Gain under this section exemption will be available only in the proportion of total investment in new asset divided by consideration received.

This can be illustrated simply as under-

Net Consideration on sale of plot	Rs. 15 crores
Capital gain (after indexation)	Rs. 8 crores
Investment in new residential house	Rs. 12 crores
New restriction proposed for investment in new asset	Rs. 10 crores
Capital Gain exempted (8 / 15 X 10)	Rs. 5.33 crores (pro-rata)
Balance capital gain taxable (8-5.33)	Rs. 2.67 crores

3.8) The sections 54EA, 54EB, 54EC, 54ED have been amended by omission of sub section (3) clause (a) in all the sections mentioned above.

It appears that in all the sections mentioned above clause 3 or 3(a)(b) says that if any cost to acquire is capitalised then again such shall not be allowed as deduction u/s 88. By virtue of omission of section

88, this is consequential amendment.

### 4) Income from other sources

4.1) The Private Ltd company and closely held Public Company ( Companies in which Public is not substantially interested) which receives value of shares more than face value, the aggregate consideration in excess of fair market value of such shares from any person (the word *being a resident* is omitted) shall be taxable u/s 56(2) w.e.f. 01.04.2023. Accordingly, it will cover all investors including non-resident.

4.2) If the unit holder having units in business trust receives any sum (other than interest, dividend from special purpose vehicle) from the Business Trust, the same shall be taxable w.e.f. AY 24-25. So also, any redemption amount is received by unit holder from Business Trust, the same shall be taxable after reducing the cost of acquisition, subject to condition that cost does not exceed the sum received.

4.3) The clause (xiii) sub section (2) of section 56 is proposed to be inserted as under-

Amount received (in excess of aggregate amount of insurance premium paid) will be taxable on the maturity of any insurance policy/ policies issued after 01.04.23 along with bonus allocated on such policy/ policies of which the annual *premium is paid during the term of such policy/ policies exceeds Rs. Five lakhs*. This



**It is proposed to restrict the exemption on investment of Capital gain on acquisition/ purchase/ construction of new residential house to the extent of Rs. 10 crores, irrespective of the actual value of investment in new house.**



provision shall not apply for Unit linked insurance policies and also the sum received at the time of death.

### 5) Set Off and carry forward of losses

5.1) The definition of 'strategic disinvestment' in Section 72A is amended w.e.f. AY 23-24 to provide that the sale of shareholding by the Central or State Governments, or a public sector company in another public sector company or a company which results in the reduction of its shareholding below 51%, and transfer of control to the buyer.

It is further explained that requirement of transfer of control referred to in sub-clause (b) may be carried out by the Central Government or the State Government or the public sector company or any two of them or all of them.

5.2) Section 72AA is amended to allow the carry forward of accumulated losses and unabsorbed depreciation

## UNION BUDGET

in the event of the merger of a banking company with another banking company within 5 years of the strategic disinvestment, w.e.f. AY 24-25.

- 5.3) As per proposed amendment to Section 79, the Eligible start-ups can set off and carry forward the losses incurred during the 7 years of incorporation even in case of a change in shareholding, provided 100% of shareholders continue during the relevant period. The time limit of 7 years is increased to 10 years.

It reveals that in case of eligible start up as referred to in section 80IAC, additional 3 years period is given for carry forward of losses.

### 6) Miscellaneous Provisions

- 1) The clause (viii) of Section 9(1) is proposed to substitute so as to also include person not ordinarily resident in India. In short, any resident pays an amount outside India, to NRI or not ordinary Resident the same shall be treated as income accruing or arising in India.

- 2) *The Rent-free or concessional accommodation* provided by an employer to an employee will be taxable in case valuation of accommodation provided as per prescribed method of valuation of such accommodation is in excess of amount recovered / recoverable from the employee.

It appears that the Rent Free or Concessional Accommodation, hereinafter will be charged at fair value.

- 3) The new income tax authority under section 2(19B) and Section 117 of IT Act, named as Joint Commissioner of Income Tax (Appeals) is added and the authority of Additional Commissioner of Income Tax (Appeals) has been omitted.

- 4) Bill seeks to amend section 92BA of the Income-tax Act relating to meaning of 'specified domestic transaction'.

It is proposed to insert a new clause (vb) to the said section to include the transaction between the cooperative society and the other person with close connection within the meaning of 'specified domestic transaction'.

This is consequential to the insertion of new section 115 BAE, which relates to newly incorporated Co-operative Societies conducting manufacturing activities.

- 5) In section 92D of the Income-tax Act, in sub-section (3), for the words "period of thirty days", the words "period of ten days" shall be substituted.

It is proposed to amend the said sub-section (3) and the proviso to reduce the said period from thirty days to ten days for furnishing any information or document, extendable by a further period of not exceeding thirty days.

- 6) Section 115BB of the Act provides for the rate of tax on winnings from lotteries, crossword puzzles, races including horse races, card games and other games of any sort or gambling or betting of any form or nature. It is seen that deductors are deducting tax under section 194B and 194BB of the Act by applying the threshold of Rs 10,000/- per transaction

and avoiding tax deduction by splitting a winning into multiple transactions each below Rs 10,000/-.

It is amended to include the aggregate amount of winning in a financial year and not to each instance.

Similarly for Section 115BB shall not apply for any winnings from any online games.

- 7) The new section 115BBJ is proposed to be inserted relating to tax on winnings from online games, to provide that, where the total income of an assessee includes any income by way of winnings from any online game, the income-tax payable shall be the aggregate of –

- (i) the amount of income-tax calculated on net winnings from such online games during the previous year, computed in the manner as may be provided by rules, shall be taxed @30%.
- (ii) the amount of income-tax with which the assessee would have been chargeable had his total income been reduced by the net winnings referred to in clause (i).

This amendment will be applicable from AY 24-25.

- 8) As per amended section 269SS and 269T, Primary Agricultural Credit Societies (PACS) and Primary Co-Operative Agricultural and Rural Development Banks (PCARD) are allowed to accept deposits or grant loans to their members in cash up Rs. 2 lakhs. This increased limit of Rs. 2 lakhs also apply to the repayment of such loans or deposits.





## UNION BUDGET

### Budget Analysis – Sections 115 onwards except NRI taxation



#### Tax Rates

Earlier, The New Tax Scheme (NTS) was to be opted by Individual or HUF. In case of assessee having business income, this scheme once opted cannot be changed. In other cases, the same could be changed every year at the option of the Assessee. However, under the proposed amendment, TNS has been made default scheme. An Assessee will now will have to opt for old Tax scheme if it wants to go for the same.

#### Section 115BAC

**N**ew Regime - Changes in slab and tax rates

1	Up to 300000	Nil
2	from 300000 to 600000	5%
3	From 600001 to 900000	10
4	From 900001 to 1200000	15
5	From 1200001 to 1500000	20
6	Above 1500000	30

New Tax regime will be the default tax regime.

Earlier under NTS, Standard Deduction was not available to the assessee. However, now Standard deduction from salary of Rs. 50000 extended to new tax regime.

Under new tax regime, the

#### CA. Kusai Goawala

Author is member of the Institute. He may be reached at [eboard@icai.in](mailto:eboard@icai.in)

highest surcharge rate of 37% on income above Rs. 5 Cr has been reduced to 25%

The alternate tax regime of section 115BAC is now applicable to AOP (other than co operative society), BOI and Artificial Juridical Person.

#### 115BAD

This section applies to Co-operative Societies. The tax is applicable at 22% subject to conditions and option exercised by the assessee.

However, under Finance Bill, manufacturing Cooperative Societies

In section 115BAD of the Income-tax Act, in sub-section (1), after the words "provisions of this Chapter," the words, figures and letters "other than those mentioned under section 115BAE," shall be inserted.

#### 115BAE – Insertion of new provision – New Tax Regime for Cooperative Society engaged in manufacturing activities

Tax on income of certain new manufacturing co-operative societies

Tax rate is 15% subject to fulfillment of certain conditions. For Short Term Capital Gains on which no depreciation is allowed at 22%

#### 115BB – Since separate provision is provided (115BBJ) for Online Gaming Income, the same is excluded from this section

This section dealt with income from winnings from lotteries, crossword puzzles, races including horse racing, card games and other games of any sort or gambling or betting of any form. However, under the Finance Bill 2023, Online Gaming is removed from the above section and separate provision is made under Section 115BBJ.

#### 115BBJ – Inserted for taxing the income from online gaming

Amount of income-tax calculated on net winnings from such online games at the rate of thirty per cent.; and

#### 115JD – Alternate Minimum Tax

Sub section 7 has been substituted as follows:

"The provisions of this section shall not apply to a person, where--

- (i) such person has exercised the option referred to in sub-section (5) of section 115BAC or sub-section (5) of section 115BAD or sub-section (5) of section 115BAE; or

## UNION BUDGET

- (ii) income-tax payable in respect of the total income of such person is computed under sub-section (1A) of section 115BAC."

Non applicability extended to person who has exercised option u/s. 115BAE and 115BAC(1A)

115UA – Tax on income of unit holder and business trust

Sub section 3A has been inserted to exclude the unit holder from its purview whose tax liability determined as per newly inserted provision of section 56(2)(xii).

115UB – Added Investment fund regulated under International Financial Services Centers Authority (Fund Management) Regulations, 2022.

132 – Sub section 2, following has been inserted

- In new added sub clause, the authorized officer may requisition the services of any person or entity as may be approved by Principal Chief Commissioner or the Chief Commissioner or the Principal Director General or Director General, in accordance with the procedure, as may be prescribed, in this regard.
- Earlier it was limited to police officer or any officer of the Central Government or both.

132 - Sub section 9D, following has been inserted

- The authorized officer may, during the course of the search or seizure

or within a period of sixty days from the date on which the last of the authorization for search was executed, make a reference to (ii) any other person or entity or any valuer registered by or under any law for the time being in force, as may be approved by the Principal Chief Commissioner or the Chief Commissioner or the Principal Director General or Director General, in accordance with the procedure, as may be prescribed, in this regard

- Earlier it was limited to Valuation Officer referred to in section 142A.

132 – Explanation 1, substituted w.e.f. 1-4-22 as follows:

- For the purpose of sub sections (9A), (9B) and (9D), the last of authorization for search (earlier "execution of an authorization for search") shall be deemed to have been executed, -
- (a) In the case of search, on the conclusion of search as recorded in the last panchnama drawn in relation to any person in whose case the warrant of authorization has been issued; or
- (b) In the case of requisition under section 132A on the actual receipt of the books of account or other documents or assets by the authorized officer.

(for (a) and (b), earlier reference has been given to section 153B(2))

135A – Faceless collection of information

Proviso has been added – "Provided further that the Central Government may amend any direction, issued under this subsection on or before the 31<sup>st</sup> day of March, 2022, by notification in official Gazette".

140B - subsection 4, following word added/omitted:

- In opening para, the word "as the case may be" omitted
- In clause (a), in sub clause (ii), the word "if any" added.

142 (2A) – Scope of departmental audit extended to inventory. Direction to get inventory valued by cost accountant has been inserted.

148 – Return of income u/s. 148 need to be filed within the period of 3 months from the end of the month in which such notice is issued or such period as may be allowed by the AO

Also proviso added – "provided also that any return of income, required to be furnished beyond the period allowed shall not be deemed to be a return under section 139.

149 – When the period for issue of notice u/s. 148 expires on 31<sup>st</sup> day of March of such financial year, a period of 15 days shall be excluded for the purpose of computing the period of limitation for issuing of notice u/s. 148 in case of search u/s 132 and requisition u/s 132A after 15<sup>th</sup> day of March.

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151 – Section for issue of notice

The words “where there is no Principal Chief Commissioner or Principal Director General” omitted.

153 – Time limit for completion of assessment

Assessment u/s. 143 or 144  
– Completion period of nine months has been substituted.

### Section 155

#### Sub-Section 11(A)

(a) “After the words, figures and letter

“section 10A or” at both the places where they occur, the

words, figures and letters  
“**section 10AA** or” shall be **inserted** with effect from the **1<sup>st</sup> day of April, 2024**;

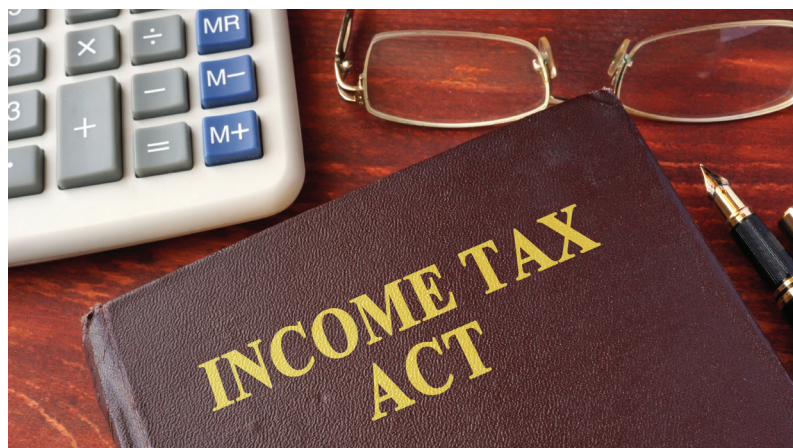
**Law-** Where in assessment deduction under section 10A or section 10B or section 10BA has not been allowed on the ground that such income has not been received in convertible foreign exchange in India/ having been converted into convertible foreign exchange outside India/ has not been brought into India



The AO shall amend the order of assessment so as to allow deduction under section 10A or section 10B or section 10BA.

**Impact-** Now 10AA has been inserted so the Assessee can claim deduction on that such income has not been received in convertible foreign exchange in India/ having been converted into convertible foreign exchange outside India/ has not been brought into India under this sub-section also.

(b) After sub-section (18), the following sub-section shall be inserted, namely:–



**“(19) Where any deduction in respect of any expenditure incurred for the purchase of Sugarcane has been claimed by an assessee, being a co-operative society engaged in the business of manufacture of sugar, and such deduction has been disallowed wholly or partly in any previous year commencing on or before the 1<sup>st</sup> day of April, 2014, the Assessing Officer shall, on the basis of an application made by such assessee in this regard, recompute the total income of the assessee for such previous year after allowing deduction to the extent such expenditure is incurred at a price which is equal to or less than the price fixed or approved by the Government for that previous year, and the provisions of section 154 shall, so far as may be, apply thereto, and the period of four years specified in sub-section (7) of that section shall be reckoned from the end of previous year commencing on the 1<sup>st</sup> day of April, 2022.”;**

**Co-operative Society (Engaged in manufacturing of Sugar)**



Deduction in respect of any expenditure incurred for the purchase of sugarcane has been

disallowed in any previous year commencing on or before 1<sup>st</sup> day of April 2014.



The AO shall allow deduction to the extent such expenditure is incurred at a price equal to or less than the price fixed by the Govt. for that PY.



The provision of section 154 shall, so far as may be, apply thereto, and the period of four years specified in sub-section (7) of that section shall be reckoned from the end of previous year commencing on the 1<sup>st</sup> day of April 1, 2022.

(c) after sub-section (19) and before the Explanation, the following sub-section shall be inserted with effect from the 1<sup>st</sup> day of October, 2023, namely:–

**“(20) Where any income has been included in the return of income furnished by an assessee under section 139 for any assessment year (herein referred to as the relevant assessment year) and tax on such income has been deducted at source and paid to the credit of the Central Government in accordance with the provisions of Chapter XVII-B in a subsequent**



## UNION BUDGET

financial year, the Assessing Officer shall, on an application made by the assessee in such form, as may be prescribed, within a period of two years from the end of the financial year in which such tax was deducted at source, amend the order of assessment or any intimation allowing credit of such tax deducted at source in the relevant assessment year,<sup>68</sup> and the provisions of section 154 shall, so far as may be, apply thereto and the period of four years specified in subsection (7) of that section shall be reckoned from the end of the financial year in which such tax has been deducted:

**Provided that the credit of such tax deducted at source shall not be allowed in any other assessment year.'**

### Substitution of new section for section 170A

For section 170A of the Income-tax Act, the following section shall be substituted, namely:--

- '170A. (1) Notwithstanding anything to the contrary contained in section 139, in a case of business reorganisation, where prior to the date of order of a High Court or tribunal or an Adjudicating Authority as defined in clause (1) of section 5 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as order in respect of business reorganisation), as the case may be, any return of income has been furnished by an entity to which such order applies under the provisions of section 139 for any assessment year relevant to the previous year to which such order applies, the successor

shall furnish, within a period of six months from the end of the month in which the order was issued, a modified return in such form and manner, as may be prescribed, in accordance with and limited to the said order. 31 of 2016.

- (2) Where the assessment or reassessment proceedings for an assessment year relevant to a previous year to which the order in respect of the business reorganisation applies,--
  - (a) have been completed on the date of furnishing of the modified return in accordance with the provisions of sub-section (1), the Assessing Officer shall pass an order modifying the total income of the relevant assessment year determined in such assessment or reassessment, in accordance with such order and taking into account the modified return so furnished;
  - (b) are pending on the date of furnishing of the modified return in accordance with the provisions of subsection (1), the Assessing Officer shall pass an order assessing or reassessing the total income of the relevant assessment year in accordance with the order of the business reorganisation and taking into account the modified return so furnished.

- (3) Save as otherwise provided in this section, in an assessment or reassessment made in respect of an assessment year under this section, all other provisions of this Act shall apply and the tax shall be chargeable at the rate or rates as applicable to such assessment year. Explanation. – In this section, the expressions –
  - (i) “business reorganisation” means the reorganisation of business involving the amalgamation or demerger or merger of business of one or more persons;
  - (ii) “successor” means all resulting companies in a business reorganisation, whether or not the company was in existence prior to such business reorganisation.'

### Section 192A

**In section 192A of the Income-tax Act, the second proviso shall be omitted**

**Impact-** Earlier any person entitled to receive any amount on which tax is deducted under this section shall furnish his PAN otherwise tax shall be deducted at the maximum marginal rate.



Now this proviso has been removed: Tax will not be deducted at the maximum marginal rate.

### Section 193

In section 193 of the Income-tax Act, in the proviso, clause (ix) shall be omitted.

## UNION BUDGET

**Impact-** Any interest payable on any security issued by a company, where such security is in dematerialized form and is listed on a recognized stock exchange in India- **TDS** should be **deducted** on the interest payable.

### Section 194B

In section 194B of the Income-tax Act, --

- (i) for the marginal heading, the **following marginal heading shall be substituted, namely:--**

“Winnings from lottery or crossword puzzle, etc.”;

- (iii) for the words “in an amount exceeding ten thousand rupees”, the words **“or from gambling or betting of any form or nature whatsoever, being the amount or the aggregate of amounts exceeding ten thousand rupees during the financial year”** shall be substituted;

- (iv) after the proviso, the following shall be inserted with effect from the 1<sup>st</sup> day of July, 2023, namely:--

‘Provided further that nothing contained in this section shall apply to deduction of income-tax on winnings from any online game on or after the 1<sup>st</sup> day of July, 2023.

Explanation—For the purposes of this section, “online game” shall have the meaning assigned to it in clause (iii) of the Explanation to section 115BBJ.’

### Insertion of new section 194BA

After section 194B of the Income-tax Act, the following section shall be inserted with

effect from the 1<sup>st</sup> day of July, 2023, namely:--

‘194BA. (1) Notwithstanding anything contained in any other provisions of this Act, any person responsible for paying to any person any income by way of winnings from any online game during the financial year shall deduct income-tax on the net winnings in his user account, computed in the manner as may be prescribed, at the end of the financial year at the rates in force:

Provided that in a case where there is a withdrawal from user account during the financial year, the income-tax shall be deducted at the time of such withdrawal on the net winnings comprised in such withdrawal, as well as on the remaining amount of net winnings in the user account, computed in the manner as may be prescribed, at the end of the financial year.

- (2) In a case where the net winnings are wholly in kind or partly in cash, and partly in kind but the part in cash is not sufficient to meet the liability of deduction of tax in respect of whole of the net winnings, the person responsible for paying shall, before releasing the winnings, ensure that tax has been paid in respect of the net winnings
- (3) If any difficulty arises in giving effect to the provisions of this section, the Board may, with the previous approval of the Central Government, issue guidelines for the purposes of removing the difficulty
- (4) Every guideline issued by the Board under sub-

section 3 shall, as soon as may be after it is issued, be laid before each House of Parliament, and shall be binding on the income tax authorities and on the person liable to deduct income-tax.

Explanation.-- For the purposes of this section--

- (a) “computer resource”, “internet” and “online game” shall have the meanings respectively assigned to them in section 115BBJ;
- (b) “online gaming intermediary” means an intermediary that offers one or more online games;
- (c) “user” means any person who accesses or avails any computer resource of an online gaming intermediary;
- (d) “user account” means account of a user registered with an online gaming intermediary.’

Amendment of Section 194BB

### Change in Heading

“Being the amount or aggregate of amounts exceeding ten thousand rupees during the financial year”

Earlier-(In an amount exceeding ten thousand rupees)

### Amendment of Section 194N

In section 194N of the Income-tax Act, after the second proviso, the following proviso shall be inserted, namely:--

“Provided also that where the recipient is a **co-operative society**, the provisions of this section shall have effect, as if for the words **“one crore rupees”**,

## **UNION BUDGET**

the words “**three crore rupees**” had been substituted.”

### **Amendment of Section 194R**

**Rule-** Any person responsible for providing to a resident, any benefit or perquisite, whether convertible into money or not, arising from business.

In section 194R of the Income-tax Act, the Explanation shall be numbered as Explanation 1 thereof, and after Explanation 1 as so numbered, the following Explanation shall be inserted, namely:--

“Explanation 2. – For the removal of doubts, it is clarified that the provisions of sub-section (1) shall apply to **any benefit or perquisite, whether in cash or in kind or partly in cash and partly in kind.**”

### **Amendment of Section 196A**

**Rule-** Payment to Non-Resident in respect of units of a Mutual Fund shall deduct Income-Tax at the rate of **twenty percent**

In section 196A of the Income-tax Act, in sub-section (1), the following proviso shall be inserted, namely:--

“Provided that where an agreement referred to in subsection (1) of section 90 or sub-section (1) of section 90A applies to the payee and if the payee has furnished a certificate referred to in sub-section (4) of section 90 or subsection (4) of section 90A, as the case may be, then, income tax thereon shall be deducted at the rate of twenty per cent. Or at the rate or rates of income-tax provided in such agreement for such income, whichever is lower.”

**Impact-** If payee furnished a certificate referred in sub-

section (4) of section 90



Then income tax shall be deducted at the rate of **twenty percent or rate in such agreement, whichever is lower.**

### **Amendment of Section 197 (Certificate for deduction at lower rate)**

In section 197 of the Income-tax Act, in sub-section (1), after the figures and letters “194LA,”, the figures and letters “194LBA,” shall be inserted.

### **Amendment of Section 206AB.**

In section 206AB of the Income-tax Act, in sub-section (3), for the proviso, the following proviso shall be substituted, namely:--

“Provided that the specified person shall not include--

- (i) a non-resident who does not have a permanent establishment in India; or
- (ii) a person who is **not required to furnish the return** of income for the assessment year relevant to the said previous year **and is notified by the Central Government in the Official Gazette** in this behalf.”

### **Amendment of Section 206C**

In section 206C of the Income-tax Act, in sub-section (1G), with effect from the 1<sup>st</sup> day of July, 2023,--

- (i) in the long line, for the word, “five”, the word “**twenty**” shall be substituted;
- (ii) in the first proviso, for the words, “and is for a purpose other than purchase of overseas tour

program package”, the words “**and is for the purposes of education or medical treatment**” shall be substituted;

- (iii) in the second proviso, for the words “is for a purpose other than purchase of overseas tour program package”, the words “**is for the purposes of education or medical treatment**” shall be substituted.

### **Amendment of Section 206CCA**

In section 206CCA of the Income-tax Act, in sub-section (3), for the proviso, the following proviso shall be substituted, namely:

“Provided that the specified person shall not include--

- (i) A non-resident who does not have a permanent establishment in India; or
- (ii) a person who is **not required to furnish the return** of income for the assessment year relevant to the said previous year and is **notified by the Central Government in the Official Gazette** in this behalf.

### **Amendment of Section 241A**

In section 241A of the Income-tax Act, the following proviso shall be inserted, namely:

“Provided that the provisions of this section **shall not apply** from the **1<sup>st</sup> day of April, 2023.**”.

### **Amendment of Section 244A**

In section 244A of the Income-tax Act,--

- (a) in sub-section (1), in clause (a), after sub-clause (ii), the following proviso shall be



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inserted with effect from the 1<sup>st</sup> day of October, 2023, namely:

“Provided that where **refund arises** as a result of an **order passed** by the **Assessing Officer** in consequence of an **application** made by the **assessee** under sub-section (20) of section 155, **such interest** shall be calculated at the rate of **one-half per cent. for every month or part of a month** comprised in the period from the **date** of such **application** to the date on which the **refund** is granted;”;

(b) in sub-section (1A), the following proviso shall be inserted, namely:

“Provided that where **proceedings for assessment or reassessment** are **pending** in respect of an assessee, in computing the period for determining the **additional interest payable** to such **assessee** under this sub-section, the **period** beginning from the **date** on which such **refund is withheld by the Assessing Officer** in accordance with and subject to provisions of sub-section (2) of section 245 and **ending with the date on which such assessment or reassessment is made**, shall be **excluded**.”

### Substitution of New section for Section 245 (Setoff and withholding of refunds in certain cases)

For section 245 of the Income-tax Act, the following section shall be substituted, namely:

“245. (1) Where under any of the provisions of this Act, a **refund becomes due** or is found to be due to any person, the Assessing Officer or Commissioner or Principal

Commissioner or Chief Commissioner or Principal Chief Commissioner, as the case may be, may, in **lieu** of payment of the refund, **set off the amount to be refunded** or any part of that amount, against the sum, if any, remaining payable under this Act by the person to whom the refund is due, after giving an **intimation in writing** to such person of the action proposed to be taken under this sub-section.

(2) Where a part of the **refund** is set off under the provisions of sub-section (1), or where **no such amount is set off**, and refund becomes due to a person, and the Assessing Officer, having regard to the **fact** that proceedings for **assessment or reassessment** are **pending** in the case of such person, is of the opinion that the grant of refund is likely to **adversely affect the revenue**, he may, for **reasons** to be recorded in writing and with the previous approval of the Principal Commissioner or the Commissioner, as the case may be, **withhold the refund** up to the date on which such assessment or reassessment is made.”.

### Amendment of section 245D

In section 245D of the Income-tax Act, in sub-section (9), for clause (iv), the **following clause shall be substituted** and shall be deemed to have been substituted with effect from the 1<sup>st</sup> day of February, 2021, namely:--

“(iv) where the time-limit for amending any order or filing of rectification application under sub-section (6B) expires on or after the 1<sup>st</sup> day of February, 2021, but before the 1<sup>st</sup> day of February, 2022, such **time-limit**

**shall be extended to the 30<sup>th</sup> day of September, 2023.**”.

### Amendment of section 245MA

In section 245MA of the Income-tax Act, in sub-section (4), after the proviso, the following proviso shall be inserted, namely:

“Provided further that the Central Government may amend any direction, issued under this sub-section on or before the 31<sup>st</sup> day of March, 2023, by notification in the Official Gazette.”.

### Amendment of section 245R

In section 245MA of the Income-tax Act, in sub-section (4), after the proviso, the following proviso shall be inserted, namely:.

“Provided further that the Central Government may amend any direction, issued under this sub-section on or before the 31<sup>st</sup> day of March, 2023, by notification in the Official Gazette.”

### Amendment of section 269SS

In section 269SS of the Income-tax Act,

(a) after the second proviso and before the Explanation, the following proviso shall be inserted, namely:

“Provided also that the provisions of this section shall

have effect, as if for the words “**twenty thousand rupees**”, the words “**two lakh rupees**” had been substituted in the case of any deposit or loan where,

(a) such deposit is accepted by a primary agricultural credit society or a primary co-operative agricultural

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and rural development bank from its member; or

- (b) such loan is taken from a primary agricultural credit society or a primary co-operative agricultural and rural development bank by its member."

### Amendment of section 269T

In section 269T of the Income-tax Act,—

- (a) after the second proviso and before the Explanation, the following proviso shall be inserted, namely:—

"Provided also that the provisions of this section shall have effect, as if for the words **"twenty thousand rupees"**, the words **"two lakh rupees"** had been substituted in the case of any deposit or loan where,—

- (a) such deposit is paid by a **primary agricultural credit society** or a primary co-operative agricultural and rural development bank to its member; or
- (b) such loan is repaid to a primary agricultural credit society or a **primary co-operative agricultural** and rural development bank by its member."

### Amendment of section 271C

In section 271C of the Income-tax Act, in sub-section (1),

- (A) in clause (b), —

- I. for the words "pay the whole", the words **"pay or ensure payment of, the whole"** shall be substituted;
- II. in sub-clause (i), the word **"or"** shall be omitted

- III. after sub-clause (ii), the following sub-clauses shall be inserted, with effect from the 1<sup>st</sup> day of July, 2023, namely:—

- the first proviso to sub-section (1) of section 194R; or;
- the proviso to sub-section (1) of section 194S; or";

IV after sub-clause (iv) as inserted by the Finance Act, 2023, the **following sub-clause shall be inserted** with effect from the 1<sup>st</sup> day of July, 2023, namely:—

- "(v) sub-section (2) of section 194BA,"; (B) in the long line, after the words "deduct or pay", the words **"or ensure payment of,"** shall be inserted.

### Amendment of section 274

In section 274 of the Income-tax Act, in sub-section (2B), after the proviso, the **following proviso shall be inserted and shall be deemed to have been inserted** with effect from the 1<sup>st</sup> day of April, 2022, namely:—

- "Provided further that the Central Government **may amend any direction**, issued under this sub-section on or before the 31<sup>st</sup> day of March, 2022, by notification in the Official Gazette."

### Amendment of section 276A

In section 276A of the Income-tax Act, after the proviso, the **following proviso shall be inserted**, namely:—

- "Provided further that **no proceeding shall be initiated** under this

section on or after the 1<sup>st</sup> day of April, 2023."

### Amendment of section 276B

In section 276B of the Income-tax Act,—

- (A) in the opening portion, the words "pay to the credit of the Central Government" shall be **omitted**;
- (B) in clause (a), for the words "the tax deducted", the words **"pay to the credit of the Central Government, the tax deducted"** shall be substituted;

- (C) for clause (b), the following clause shall be substituted, namely:—

- '(b) "pay tax or ensure payment of tax to the credit of the Central Government, as required by or under—

- (i) sub-section (2) of section 115-O;

- (ii) the proviso to section 194B;

- (iii) the first proviso to sub-section (1) of section 194R;

- (iv) the proviso to sub-section (1) of section 194S; or';

- (D) after sub-clause (iv) of clause (b) as substituted by the Finance Act, 2023, the following sub-clause shall be inserted with effect from the 1<sup>st</sup> day of July, 2023, namely:—

"(v) sub-section (2) of section 194BA,"

### Amendment of section 295

in clause (eec), after the word "audit", the words **"or inventory valuation"** shall be inserted;

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**In following Sections, instead of Word 'Commissioner (Appeals)' the word 'Joint Commissioner (Appeals)' has been substituted**

Section 116- Power extended to Joint Commissioner.

Section 119- Power extended to Joint Commissioner (Appeals).

Section 131- Power extended to Joint Commissioner (Appeals).

Section 133- Power extended to Joint Commissioner (Appeals).

Section 134- Power extended to Joint Commissioner (Appeals).

Section 154- Power extended to Joint Commissioner (Appeals).

Section 158A- Power extended to Joint Commissioner Appeals).

Section 158AB- Power extended to Joint Commissioner (Appeals).

Section 177- Power extended to Joint Commissioner (Appeals).

Section 189- Power extended to Joint Commissioner (Appeals).

Section 249- Power extended to Joint Commissioner (Appeals).

Section 250- Power extended to Joint Commissioner (Appeals).

Section 251- Power extended to Joint Commissioner (Appeals).

Section 264- Power extended to Joint Commissioner (Appeals).

Section 267- Power extended to Joint Commissioner (Appeals).

Section 270A- Power extended to Joint Commissioner (Appeals).

Section 270AA- Power extended to Joint Commissioner (Appeals).

Section 271- Power extended to Joint Commissioner (Appeals).

Section 271A- Power extended to Joint Commissioner (Appeals).

Section 271AAC- Power extended to Joint Commissioner (Appeals).

Section 271AAD- Power extended to Joint Commissioner (Appeals).

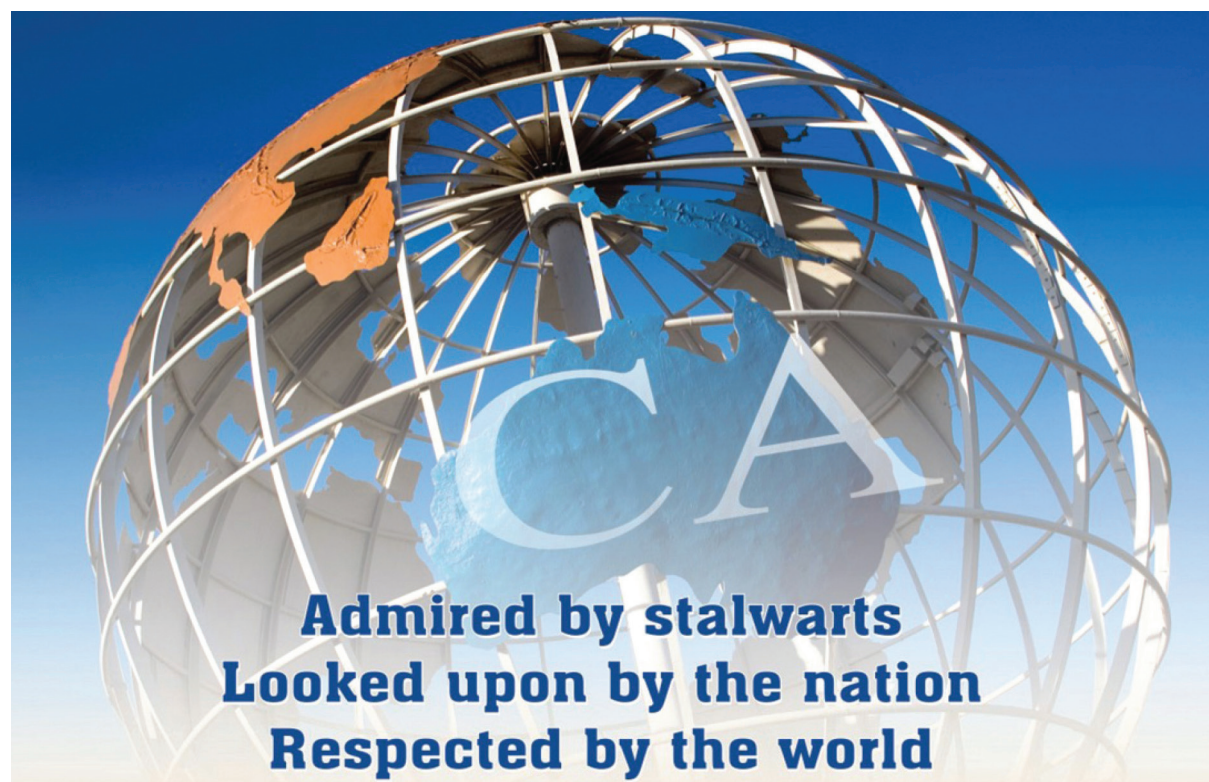
Section 271J- Power extended to Joint Commissioner (Appeals).

Section 275- Clause (a) & (b)- Power extended to Joint Commissioner (Appeals).

Section 279- Power extended to Joint Commissioner (Appeals).

Section 287- Power extended to Joint Commissioner (Appeals).

Section 295- In clause(mm) Power extended to Joint Commissioner (Appeals).





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# Business Income and Business Income Taxation



### CA. Chandrashekhar V. Chitale

Author is member of the Institute. He may be reached at [ebboard@icai.in](mailto:ebboard@icai.in)

**The last full budget of the government prior to the parliamentary elections is fuelled with proposals towards populism, as the experience goes. However, it is because the PM and FM appreciate that good economics is also good politics, it has eschewed this and instead, focuses on giving the long-term interest of citizens primacy. Sustained improvement in people's fortunes rather than small giveaways aimed at each identifiable group that wins votes is good economics.**

**T**he Union Budget pursues course on fiscal consolidation. While the fiscal deficit in 2022-23 is estimated to have come down to 6.4% of GDP from 6.7% the earlier year, this budget proposes to bring it further down to 5.9%. Moreover, the FM has announced Government's intention to bring the deficit down to 4.5% by 2025-26. The budget has committed to raising capex to 3.3% of GDP from its estimated level of 2.9% during the previous year.

These are good news for trade, commerce and industry, with contained inflation, value of money will not erode, and capex brings more demand.

### The Finance Bill, 2023

Tax proposals are contained in the Finance Bill, 2023.

No retrospective amendments that are taxing, provides comfort to taxpayers. Important proposals for income from business or profession are discussed in this article.

All the proposals from the Finance Bill, 2023, unless expressly stated otherwise, when enacted, are proposed to take effect from 1<sup>st</sup> April, 2024 and will, accordingly, apply in relation to the assessment year 2024-2025 and subsequent assessment years.

### Benefit or Perquisite

Section 28 provides list of items of income that are expressly chargeable to income-tax under the head "Profits and gains of business or profession."

Clause (iv) of section 28 provides that value of any benefit or perquisite, whether convertible into money or not, arising from business or the exercise of a profession chargeable under this head.

Circular no 20D dated 7<sup>th</sup> July 1964 issued to explain the provisions of the Act that stated clearly that the benefit could be in cash or in kind. Therefore, the intention of the legislation while introducing this provision was also to include benefit or perquisite whether in cash or in kind. However, Courts have interpreted that if the benefit or perquisite are in cash, it is not covered within the scope of this clause of section 28 of the Act.

To align the provision with the intention of legislature, it is proposed to amend clause (iv) of section 28 of the Act to clarify this aspect.

Thus, section 28(iv) has been proposed to be amended as follows:

"(iv) the value of any benefit or perquisite arising from business or the exercise of a profession, whether--

- (a) convertible into money or not; or
- (b) in cash or in kind or partly in cash and partly in kind;"

Deduction of tax on benefit or perquisite in respect of business or profession has been provided by insertion of section 194R by the Finance Act 2022. In this section 194R Explanation 2 has been inserted to clarify that the *benefit or perquisite* shall also apply to any benefit or perquisite, whether in cash or in kind or partly in cash and partly in kind.

This amendment is proposed to take effect from 1<sup>st</sup> April, 2023.

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Interpreting meaning of 'perquisite' the Supreme Court in case of the Commissioner vs. Mahindra and Mahindra Ltd. (93 taxmann.com 32 (SC)) held that perquisite received in the form of waiver of loan cannot be taxed under Section 28(iv) of the Income Tax Act, 1961, if the receipts are in cash or money. Because, for invoking the provision of Section 28 (iv), the benefit which is received has to be in some other form rather than in the shape of money.

It is, therefore, believed that this amendment shall override the aforesaid judgment. However, it is believed that one more test that whether loan waiver is "any benefit or perquisite arising from business or the exercise of a profession" or not?

In Black's Law Dictionary, the word "perquisite" has been defined as under:-

Perquisites - Emoluments, privileges, fringe benefits, or other incidental profits or benefits attaching to an office or employment position in addition to regular salary or wages. Shortened term — Perks is used with reference to such extraordinary benefits afforded to business executives (e.g. free cars, club memberships, insurance, etc.).

It has been held Supreme Court, while considering meaning



**Deduction of tax on benefit or perquisite in respect of business or profession has been provided by insertion of section 194R by the Finance Act 2022.**



of "perquisite" : " ..... we hold that cash payments by an assessee to his/its employees do not fall within the ambit of Section 40(a)(v) or Section 40-A(5)(a)(ii), as the case may be. We disagree with the opinion of the Kerala High Court in Commonwealth Trust Limited [supra] and agree with the other High Courts which have taken a view according with our view, viz., Commissioner of Income Tax, Karnataka v. Mysore Commercial Union Limited [(1980) 126 I.T.R.340] (Karnataka), Commissioner of Income Tax v. Shriram Refrigeration Industries Limited [(1992) 197 I.T.R. 431] (Delhi), Commissioner of Income Tax v. Kanan Devan Hills Produce Company Limited [(1979) 119 I.T.R. 431] (Calcutta), Commissioner of Income Tax v. Indokem Private Limited [(1981) 132 I.T.R. 125] (Bombay), Commissioner of Income Tax v. Arner Hindustan Limited [(1984) 145 I.T.R. 24] (Andhra Pradesh), Instalment Supply Private Limited v. Commissioner of Income Tax [(1984) 149 I.T.R. 457] (Delhi), Commissioner of Income Tax v. Manjushree Plantations Limited [(1980) 125 I.T.R. 150] (Madras) and Commissioner of Income Tax v. New India Industries Limited [(1993) 201 I.T.R. 208] (Gujarat)." [Commissioner Of Income Tax, Bombay Etc. Vs. M/S.Mafatlal Gansabhai & Co. (P) Ltd. Etc. (1996 SCC (7) 569)]

Of course, trade or cash discount is not perquisite, as it is remission for not enjoying credit period or abatement of sales price, respectively.

### Section 43B Disallowance

While ascertaining income under the head "Profits and gains of business or

profession" certain deductions are to be allowed only on actual payment. Section 43B provides that notwithstanding anything contained in any other provision of this Act, a deduction otherwise allowable under this Act in respect of certain expenses like tax, duty, cess or fee, contribution to any provident fund, superannuation fund or gratuity fund, interest on any loan or borrowing from any public financial institution, non-banking financial company, scheduled bank or a co-operative bank, etc; leave encashment, etc. allowed (irrespective of the previous year in which the liability to pay such sum was incurred by the assessee according to the method of accounting regularly employed by him) only in computing the income referred from business or profession, of that previous year in which such sum is actually paid by him.

### MSME Purchases

Clause 13 of the Bill seeks to amend this section 43B. It is further proposed to insert a new clause (h) to the said section so as to provide that any sum payable by the assessee to a micro or small enterprise beyond the time limit specified in section 15 of the Micro, Small and Medium Enterprises Development Act, 2006 (MSMED Act) shall be allowed as deduction only on actual payment.

Any sum payable to a micro or small enterprise can be for purchase of goods or services.

A proviso to this section states that any such expense, which is actually paid by the assessee on or before the due date applicable in his case for furnishing the return of income

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under section 139(1) in respect of the previous year in which the liability to pay such sum was incurred as aforesaid.

This proviso is sought to be made applicable for expenditure resulting payables to Micro and Small enterprises.

Further, it is also proposed to amend the proviso to the said section allowing benefit of deduction if payment is made by the due date for furnishing of the return of income so as not to allow the deduction amounts payable to such enterprises at the year end and not in conformity of credit period available under section 15 of the MSMED Act, if the amount is paid after the year end and till the due date of furnishing the return of income in the case of micro or small enterprises.

For the purpose of this clause, "micro enterprise" has been defined in Explanation 4, that it shall have the meaning assigned to it in section 2(h) of the MSMED Act [clause (e) of the Explanation 4] and "small enterprise" shall have the meaning assigned to it in section 2(m) of the MSMED Act [clause (g) of the Explanation 4].

Under section 2 (h) "micro enterprise" means an enterprise classified as such under sub-clause (i) of clause (a) or sub-clause (i) of clause (b) of sub-section (1) of section 7.

Under section 2 (m) "small enterprise" means an enterprise classified as such under sub-clause (ii) of clause (a) or sub-clause (ii) of clause (b) of sub-section (1) of section 7.

Section 7(1)(a) of the MSMED Act provides that in the case of the enterprises engaged in the manufacture or production of goods pertaining to any

industry specified in the First Schedule to the Industries (Development and Regulation) Act, 1951 (65 of 1951) [IDR Act], as--

- (i) a micro enterprise, where the investment in plant and machinery does not exceed twenty-five lakh rupees;
- (ii) a small enterprise, where the investment in plant and machinery is more than twenty-five lakh rupees but does not exceed five crore rupees;

Section 7(1)(b) of the MSMED Act provides that in the case of the enterprises engaged in providing or rendering of services, as--

- (i) a micro enterprise, where the investment in equipment does not exceed ten lakh rupees;
- (ii) a small enterprise, where the investment in equipment is more than ten lakh rupees but does not exceed two crore rupees

Thus, payments to such 'micro' and 'small' enterprises are subject matter of the newly proposed clause (h) in section 43B.

Section 7(1)(a) provides that in the case of the enterprises engaged in the manufacture or production of goods pertaining to any industry specified in the First Schedule to the IDR Act is a medium enterprise, where the investment in plant and machinery is more than five crore rupees but does not exceed ten crore rupees; and in the case of the enterprises engaged in providing or rendering of services, is a medium enterprise, where the investment in equipment is more than two crore rupees



**While ascertaining income under the head "Profits and gains of business or profession" certain deductions are to be allowed only on actual payment.**



but does not exceed five crore rupees.

Section 15 of the MSMED Act reads as under:

15. Liability of buyer to make payment. – Where any supplier, supplies any goods or renders any services to any buyer, the buyer shall make payment therefor on or before the date agreed upon between him and the supplier in writing or, where there is no agreement in this behalf, before the appointed day:

Provided that in no case the period agreed upon between the supplier and the buyer in writing shall exceed forty-five days from the day of acceptance or the day of deemed acceptance.

"Appointed day" as defined under section 2(b) of the MSMED Act means the day following immediately after the expiry of the period of fifteen days from the day of acceptance or the day of deemed acceptance of any goods or any services by a buyer from a supplier.

Thus, the following aspects emerge from the new proposed clause (h) in Section 43B:

- (i) disallowance is applicable for amount payable to micro and small enterprises for purchase of goods or services;



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(ii) disallowance is not applicable for amount payable to medium enterprises as defined under the MSMED Act;

(iii) disallowance is not applicable for amount payable in respect of purchase of assets, as deduction is not claimed of such an amount;

(iv) disallowance is applicable for amount payable to micro and small enterprises where due date for payment has not been reached till March 31 of the previous year;

(v) amount disallowed under section 43B(h) shall qualify for deduction in the year in which payment is made, thus, it is not a permanent disallowance.

The following illustrations clarify provisions of clause (h) in section 43B and the MSMED Act.

(1) Purchases are made from Micro/Small enterprise on July 1, 2023. It is agreed that payment should be made within 45 days. Due date for furnishing of Return of Income is 30<sup>th</sup> September, 2024. Payment is made as under:

(2) Purchases are made from Micro/Small enterprise on July 1, 2023. Price of goods Rs. 20 lakh, GST Rs. 3.60 lakh and total dues Rs. 23.60 lakh. Payment made on 30 April, 2024.

Here, payment is made beyond MSMED Act due date, therefore, Sec. 43B is applicable. However, paid after close of the previous year. Therefore, liable for disallowance for the A. Y. 2024-25.

Amount of disallowance shall be Rs. 20 lakh. Because section 43B is applicable to 'a deduction otherwise allowable under this Act'. In respect of amount of GST, since input tax credit is available, the amount of GST does not constitute 'a deduction otherwise allowable under this Act'.

(3) Purchases of Rs. 20 lakh are made from Micro/Small enterprise on March 21, 2023. Credit period agreed is 40 days. Payment made on 10 April, 2024.

Here, payment is made within MSMED Act due date, therefore, Sec. 43B is not applicable.

(4) Purchases are made from Micro/Small enterprise on July 1, 2023. Price of goods Rs. 50 lakh. On January 1, 2024, dues are converted into loan of Rs. 50 lakh carrying interest of 6% p.a.

In this case, payment is made beyond MSMED Act due date, therefore, Sec. 43B is applicable. However, liability is discharged before close of the previous year. Therefore, eligible for deduction for the A. Y. 2024-25.

This can be concluded from the Supreme Court judgment. In M.M. Aqua Technologies Pvt Ltd. v. Commissioner of Income Tax [CIVIL APPEAL NOS.4742-4743 OF 2021 dt. 21 August, 2021], issue was discharge of interest liability through issue of debentures. The Supreme Court held that the discharge of interest payable to financial institutions by way of issue of debentures allows actual payment of interest and is allowed as a deduction under Section 43B. The Court reasoned that the interest was actually paid by the issuance

No	Payment Date	A.Y. for Deduction	Remarks
(i)	31 July, 2023	2024-25	Payment made in MSMED Act agreed time, Sec. 43B inapplicable.
(ii)	31 August, 2023	2024-25	Payment made beyond MSMED Act due date, Sec. 43B applicable. However, paid before close of the previous year. Deduction available
(iii)	31 March, 2024	2024-25	
(iv)	30 April, 2024	2025-26	Payment made beyond MSMED Act due date, Sec. 43B applicable. Paid after close of the previous year. Disallowable
(v)	30 Sept; 2024	2025-26	
(vi)	50% on 31 March, 2024 Balance on 31 May, 2024	50% in 2024-25 Balance in 2025-26	Payment made beyond MSMED Act due date, Sec. 43B applicable. Paid before end of the previous year is allowed and paid after close of the previous year not allowed.

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of debentures which extinguishes the liability to make payment. Nobody has the right to intervene and rewrite the arrangement for the parties stating that the parties cannot agree between themselves on what will be taken as the actual discharge of the liability to pay interest.

Typically, issue may arise in respect of provision for Audit Fees as at 31<sup>st</sup> March. Audit gets completed after the year end, bill is issued during the previous year. The issue may arise about allowability of deduction.

It should be appreciated that time limit for payment commences from the day of acceptance or the day of deemed acceptance of any services by a buyer from a supplier [section 2(b) of MSMED Act]. Thus, on the year ending date the provision cannot be considered as sum payable by the assessee to a micro or small enterprise beyond the time limit specified in section 15 of the MSMED Act.

Clause 13 further seeks to amend applicability of section 43B with reference to interest payable to non-banking financial companies.

Memorandum has explained the proposal in the following words:

*Section 43B and section 43D of the Act currently use two erstwhile categories of NBFC namely, Deposit taking Non-Banking Financial Company and Systemically Important Non-Deposit taking Non-Banking Financial Company. Such classification for non-banking financial companies is no longer*

*followed by the Reserve Bank of India for the purposes of asset classification.*

*In view of the above, it is proposed to amend section 43B and section 43D of the Act, to substitute the words, "a deposit taking non-banking financial company or systemically important non-deposit taking non-banking financial company", for the words "such class of non-banking financial companies as may be notified by the Central Government in the Official Gazette in this behalf".*

Thus, it is proposed to amend clause (da) of the said section.

Where assessee sourcing goods or services from micro or small enterprise is unable to make payment before the year end, will find himself liable to huge tax liability. For example, if material of Rs. 1 cr is purchased, where profit is about Rs. 8 lakh, inability to pay by the year end, will result in income of Rs. 1.08 cr. in this sense, the proposal is likely to create hardship.

### Presumptive Taxation Schemes

Section 44AD provides that notwithstanding anything to the contrary contained in sections 28 to 43C relating to computation of "Income from Business or Profession", in the case of an eligible assessee, resident in India engaged in an eligible business, a sum equal to 8% (6% in respect of the amount of total turnover or gross receipts which is received through banking channels) of the total turnover or gross receipts of the assessee or a sum higher than the aforesaid sum claimed to have been earned by the eligible assessee, is deemed to be the profits and gains of such business chargeable to

tax under the head "Profits and gains of business or profession".

Similarly, Section 44ADA provides that notwithstanding anything contained in sections 28 to 43C as aforesaid, in case of an eligible assessee, resident in India, and is engaged in a profession referred to in section 44AA(1) and whose total gross receipts do not exceed Rs. 50 lakh in a previous year, a sum equal to 50% of the total gross receipts of the assessee in the previous year on account of such profession or, as the case may be, a sum higher than the aforesaid sum claimed to have been earned by the assessee, shall be deemed to be the profits and gains of such profession under Section 44ADA.

For both the sections eligible assessee is an individual or a partnership firm other than LLP.

Government received representations to increase the thresholds for eligibility to avail the presumptive schemes so that more persons in the small and medium segment can access the benefit.

It is proposed to increase these thresholds be increased for availing the presumptive income scheme.

**“Where assessee sourcing goods or services from micro or small enterprise is unable to make payment before the year end, will find himself liable to huge tax liability.”**

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In section 44AD, in definition of 'eligible assessee' one more qualifying criterion has been inserted viz. threshold of total turnover or gross receipts in the previous year will be enhanced to Rs. 3 cr from Rs. 2 cr; if the amount or aggregate of the amounts received during the previous year, in cash, does not exceed 5% of such total turnover or gross receipts.

In section 44ADA, it is proposed to enhance limit of total turnover or gross receipts in the previous year to Rs. 75 lakh from Rs. 50 lakh, if the amount or aggregate of the amounts received during the previous year, in cash, does not exceed 5% of such of the total gross receipts.

In both the sections, receipt of amounts by a cheque drawn on a bank or by a bank draft, which is not account payee, shall be deemed to be the receipt in cash. Percentage to turnover or receipts is to be calculated and should not be applied to expenditure or with reference to any capital receipt or non-business income.

Under section 44AB, tax audit is compulsory for assessee where in a previous year total sales, turnover or gross receipts, as the case may be, in business exceed Rs. 1 crore or if gross receipts in profession exceed Rs. 50 lakh in any previous year.

To provide benefit to assessee accessing presumptive income scheme, it is proposed that audit under section 44AB shall not apply to a person, who declares profits and gains for the previous year as per provisions of section 44AD or section 44ADA, including under the enhanced criteria of threshold.

Non-resident assesses are provided for presumptive scheme under section 44BB for those engaged in the business of providing services or facilities in connection with, or supplying plant and machinery on hire used, or to be used, in the prospecting for, or extraction or production of, mineral oils and section 44BBB for those engaged in the business of civil construction or the business of erection of plant or machinery or testing or commissioning thereof, in connection with a turnkey power project approved by the Central Government. Under both the sections, 10% of the aggregate specified amounts is deemed to be profits chargeable to tax. Claim lower profits than specified 10% is allowed if books of account and other documents are maintained (section 44AA) and audited (section 44AB). Taxpayers opt in and opt out of presumptive scheme, selectively. In a year of loss, actual loss is claimed and carry it forward and when there is higher profits, use presumptive scheme to restrict the profit to 10% and set off the brought forward losses from earlier years.

To avoid such practice, it is proposed that deduction of unabsorbed depreciation under section 32 and business loss under section 72 is not available, where profits of business for any previous year are declared under presumptive taxation scheme.

### Preliminary Expenses

Section 35D allows deduction of 1/5<sup>th</sup> of eligible preliminary expenditure for five successive previous years towards amortisation of such expenses. The deduction is available



**Under section 44AB, tax audit is compulsory for assessee where in a previous year total sales, turnover or gross receipts, as the case may be, in business exceed Rs. 1 crore or if gross receipts in profession exceed Rs. 50 lakh in any previous year.**



for an Indian company or a person not being a company, who is resident in India. Preliminary expenditure can be incurred either before the commencement of his business, or after the commencement of his business, for the extension of his undertaking or for setting up a new unit.

Eligible preliminary expenditure under sub-section (2) of section 35D include expenditure in connection with (i) preparation of feasibility report, (ii) preparation of project report, (iii) conducting marketing survey or any other survey necessary for the business of the assessee; (iv) engineering services related to the business of the assessee.

Proviso to this section states that the work in connection with the preparation of the feasibility report or the project report or the conducting of market survey or of any other survey or the engineering services referred to in this clause is carried out by the assessee himself or by a concern which is for the time being approved in this behalf by the Board. This proviso is proposed to be omitted.



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It is proposed to substitute the said omitted proviso to provide that the assessee shall furnish a statement containing the particulars of expenditure specified in this clause within the period, to an income-tax authority, in the form and manner, as is prescribed under the rules.

In addition, provision should be made that the amount reported is assessed in scrutiny to provide comfort to the assessee.

### **Start Ups**

India has become the 3<sup>rd</sup> largest start-up ecosystem in the world after the US and China. India is home to as many as 75,000 Startups. 49% of start-ups are from tier-2 and tier-3 cities. There are currently 105 unicorns, out of which 44 were born in 2021 and 19 in 2022.

Section 80-IAC provides special deduction for income from specified business of start ups. Any profits and gains derived from eligible business, there shall enjoy a deduction equal to 100% of the profits and gains derived from such business for any three consecutive assessment years out of 10 years beginning from the year in which the eligible start-up is incorporated.

Explanation to the section defines an “eligible business”



**Section 35D allows deduction of 1/5th of eligible preliminary expenditure for five successive previous years towards amortisation of such expenses.**



to mean a business carried out by an eligible start-up engaged in innovation, development or improvement of products or processes or services or a scalable business model with a high potential of employment generation or wealth creation.

Further, the Explanation states that an “eligible start-up” means a company or a limited liability partnership engaged in eligible business which fulfils the following conditions, namely: –

- (a) it is incorporated on or after the 1<sup>st</sup> day of April, 2016 but before the 1<sup>st</sup> day of April, 2023;
- (b) the total turnover of its business does not exceed [one hundred] crore rupees in the previous year relevant to the assessment year for which deduction under sub-section (1) is claimed; and
- (c) it holds a certificate of eligible business from the Inter-Ministerial Board of Certification as notified in the Official Gazette by the Central Government;

For carry forward of loss by corporate start ups, certain relaxation has been provided.

The FM proposes to provide addition to these concessions.

For development of start-ups in India, it is proposed to extend the period of incorporation of eligible start-ups by one more year to 1<sup>st</sup> day of April 2024 in section 80-IAC.

Secondly, under section 79 for carried forward loss of eligible start-ups is allowed, if such loss has been incurred during the period of 7 years beginning from the year in which such



**India is home to as many as 75,000 Startups. 49% of start-ups are from tier-2 and tier-3 cities. There are currently 105 unicorns, out of which 44 were born in 2021 and 19 in 2022.**



company was incorporated. This period will be extended to 10 years. Thus, the period will coincide with the period of concession available under section 80-IAC.

Both the concessions will be available from the assessment year 2023-24 and subsequent assessment years.

When a closely held company issues shares to a resident investor shares above the fair market value, such excess amount received above FMV is considered as income of the Company. This is popularly called ‘Angel Tax’. However, as per specific a notification, eligible start-ups are exempted from such ‘Angel Tax.’

The Finance Bill, 2023 proposes to amend Section 56 pertaining to Angel Tax to include taxes on capital raised by unlisted companies from both resident and non-resident investors.

It is noted that FEMA rules prescribe for a minimum floor valuation for bringing in FDI. Thus, now we have two regulations – FEMA for determining minimum share issue price and Income Tax Act prescribing maximum share issue price.

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**For development of start-ups in India, it is proposed to extend the period of incorporation of eligible start-ups by one more year to 1st day of April 2024 in section 80-IAC.**



### Inventory Valuation

For conducting Inquiry before assessment section 142 empowers the Assessing Officer to do so in respect of any person who has made a return under section 115WD or section 139 or in whose case the time allowed under section 139(1) for furnishing the return has expired.

To check that inventory is valued in accordance with various provisions of law, it is proposed to amend section 142.

Power is proposed to be given to the Officer to direct the assessee to get the inventory valued by a nominated cost accountant and then require him to furnish the report of inventory valuation. "cost accountant" is as defined the Cost and Works Accountants Act, 1959. Particulars and form of the report (section 295) shall be prescribed. Expenses of such inventory valuation shall be determined by the designated Commissioner and shall be paid by the Central Government.

Section 153 providing Time limit for completion of assessment, reassessment and recomputation shall exclude the period for inventory valuation, as aforesaid.

The proposed amendments

in section 142, 153 and 295 of the Act will take effect from 1<sup>st</sup> April, 2023 and will accordingly apply to the assessment year 2023-2024 and onwards.

When the different laws were enacted, there was no separate professional who was recognized as Valuer. Hence being no other choice, the authority was entrusted to professional like CA, CMA or Merchant Banker. Now, 'Registered Valuers' specialising in the field of valuation, including valuation of inventory, are available. Therefore, it is more appropriate to specify 'Registered Valuers' to perform valuation of inventory.

### Business Reorganization

In case of business reorganisation, where a return of income has been filed by the successor under section 139 of the Act, such successor shall furnish a modified return under section 170A within six months from the end of the month in which such order of business reorganisation was issued, in accordance with and limited to the said order.

However, no provision of the procedure to be followed by the Assessing Officer after the modified return is furnished. It is therefore being provided that, if proceedings of assessment or reassessment for the relevant assessment year have been completed on the date of furnishing of modified return as above, the Assessing Officer shall pass an order modifying the total income of the relevant assessment year in accordance with the order of the business reorganisation considering the modified return furnished. Where proceedings of assessment or reassessment for the relevant assessment year are pending when modified return is furnished, the Assessing Officer shall pass an order assessing

the total income of the relevant assessment year in accordance with the order of the business reorganisation and the modified return furnished.

### Co-Operative Society

Sugar co-operatives pay to sugarcane growers a final amount, often referred to as Final Cane Price (FCP) which is over and above the Statutory Minimum Price (SMP) fixed by the Central Government. The payment of FCP by the co-operatives over and above the SMP for sugarcane had resulted into tax litigation as such expenditure was disallowed on the ground that the price paid for sugar cane above SMP is appropriation/distribution of profits. Thousands of crores are locked in litigation.

It is proposed to allow deduction to the extent such expenditure is incurred at a price which is up to the price fixed by the Government for that previous year. Also, the provision of section 154 shall, so far as may be, apply thereto, and the limitation period of four years under section 154 shall be reckoned from the end of previous year commencing on the 1<sup>st</sup> day of April, 2022.

It is proposed that income-tax payable in respect of the total income of a resident cooperative society, for any previous year relevant to the assessment year 2024-25, shall, at its option, be computed at the rate of 15%, on compliance with certain specified conditions. The conditions foregoing certain deductions and allowances, that are like the other assesses claiming similar concession under different sections.

### Sum Up

These are the major proposals in the realm of business and professional income taxation.



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# Direct Tax Proposals relating to Co-operative Societies



### **CA. Sanjay Madhukar Vhanbatte**

Author is member of the Institute. He may be reached at [smvcok@gmail.com](mailto:smvcok@gmail.com) and [eboard@icai.in](mailto:eboard@icai.in)

**Importance of co-operative sector in Indian Economy needs no emphasis. Rural economy in particular thrives on the co-operative sector to a great extent. Co-operative sector has been successful in creating its own foot prints in banking, milk, sugar, housing, water-supply etc. while competing with private and corporate sector.**

**T**he Union Government, realizing this importance of co-operative movement created a separate ministry, Ministry of Co-operation in June 2021 to provide separate administrative, legal and policy framework for further strengthening the co-operative sector.

This Year's Budget proposal for Direct Taxes announced by the Finance Minister on 1<sup>st</sup> February 2023 relating to Co-operative sector are going to give further impetus to the Co-operative Movement.

One of the very old and highly litigated issues of deduction of sugar cane purchase price, which was doing the rounds of corridors of various legal forums up to the Supreme Court, since long, stands settled in this Budget. Provision for

concessional tax rate of 15% to new manufacturing set up in co-operative, enhancement of threshold for TDS on cash withdrawals u/s 194N and enhancement in limits for acceptance and repayment

a whole. Important proposals relating to co-operative sector are discussed hereunder in this article.

### **Concessional Tax Rate of 15% U/S 115BAE for manufacturing**

Taxation Laws Amendment Act, 2019, effective AY2020-21, provided for lowest tax regime in the corporate history by introducing the tax rate of 15%\* for newly incorporated companies exclusively engaged in manufacture or production of any article or thing and research in relation to or distribution of such article or thing manufactured or produced by it, by inserting a new section 115BAB in the Income Tax Act, 1961.

Exactly on the same lines, the Finance Bill, 2023 seeks to introduce a new section 115BAE providing for the tax rate 15%\* for newly set up co-operative societies in the manufacturing sector.

#### **A. Highlights of the proposed section are:**

applicable

any deduction.

in section 111A, 112 and 112A. Short term capital gains on non-depreciable assets to be taxed @30%

\*(effective tax rate is 17.16% with 10% surcharge and 4% Education cess)

:

- i. The co-operative society should be set up or incorporated on or after 01.04.2023;
- ii. It should commence manufacturing before 31-03-2024 (The notes on clauses mentions the date as 31.03.2025);



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- iii. It must be exclusively engaged in manufacture or production of any article or thing and research in relation to, or distribution of, such article or thing manufactured or produced by it;

(shall include the business of generation of electricity, but not include a business of: (i) development of computer software in any form or in any media; (ii) mining; (iii) conversion of marble blocks or similar items into slabs; (iv) bottling of gas into cylinder; (v) printing of books or production of cinematograph film; or (vi) any other business as may be notified)

- iv. It must not be formed by splitting up or reconstruction of an existing business.
- v. It does not use any building which was previously used as a hotel or a convention centre.
- vi. It does not use any machinery or plant previously used for any purpose. (Imported Machinery allowed. Second hand machinery up to 20% of the total value of Pl & M)

### C. Procedure requirements are:

- i. The option to avail of the benefit of section

must be exercised on or before the due date specified under Section 139(1) for furnishing of first return of income in the prescribed manner.

- ii. This option once exercised cannot be withdrawn subsequently.

### D. The total income of the society has been computed without claiming specified deduction, exemption or incentives:

- Exemption under section 10AA
- Additional Depreciation u/s 32(1) (iia)
- section 33AB or section 33ABA or Section 35(1) (ii), (iia) or (iii)
- Section 35(2AA), Section 35AD or section 35CCC
- Deduction under Chapter VI-A other than the provisions of section 80JAA;
- set off of any loss carried forward or depreciation from any earlier assessment year, if such loss or depreciation is attributable to any of the deductions referred to above

### E. Other important aspects

Safeguards introduced to check artificial hike in profit to get the advantage of reduced tax rate of 15%: Such excess business

income as determined under sub-section (4) will attract tax rate of 30%.

### Dispute regarding Deductibility of Sugar Cane Purchase Price [Section 155(19)]

It has been typical of the sugar manufacturing co-operative societies to determine and pay the Final Cane Price (FCP) to be paid to the cane-growers after taking into account the various factors at the end of the season such as total crushing in the season, recovery percentage, expenditure incurred etc. It is because of this methodology of determination of the FCP, the department took a stand that the portion of the FCP over and above the Statutory Minimum Price (SMP) fixed by the Central Government under Sugarcane Control Order, 1996 which is paid after the end of the season distribution or appropriation of the profit and not a charge in profit. The deduction of such final instalment of cane purchase price was not allowed. The issue is litigated by the societies since long.

Recognising this aspect the Government introduced a new clause (xvii) in Section 36(1) prospectively with effect from A Y 2016-17 which provided for deduction the amount of expenditure incurred by a co-operative society engaged in the business of manufacture of sugar for purchase of sugarcane at a price which is equal to or less than the price fixed or approved by the Government.

However, the dispute for earlier years remained. It is for this reason that a new subsection (19) has been

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introduced in Section 155 where by the relief is sought to be given from additions pertaining to assessment year 2014-15 and all earlier. A rectification mechanism has been introduced by which the affected sugar co-operatives can file an application before their respective AO. The AO, based on such application, is to re-compute the total income of the assessee for such previous year after allowing deduction to the extent such expenditure is incurred at a price which is equal to or less than the price fixed or approved by the Government for that previous year.

Rectification process can be carried out latest by 31.03.2017.

This is really a well come step from the Government in favour of the sugar co-operatives.



**A rectification mechanism has been introduced by which the affected sugar co-operatives can file an application before their respective AO.**



They are absolved now from a long drawn litigation, doing rounds of legal forums now and then. Going by the words of the Finance Minister a relief of about Rs. 10,000 Crores is given to them.

### Section 194N: Enhancement in the Threshold for Co-Operatives

Section 194N, introduced w.e.f. 01.07.2020 provides for deduction of tax at source on withdrawal of cash from banks (including co-operative banks) and post office.

The following table gives the applicable rates of TDS u/s 194N.

Category of Deductee	Threshold	TDS Rate
Filer of Income Tax Return	1,00,00,000	2%
Non-Filer*	20,00,000-1,00,00,000	2%
	Above Rs.1,00,00,000	5%

\*Non-filer for this section means a person who has not filed his return of income within the time limit of Section 139(1) in all of the three previous years immediately preceding the previous year in which the payment of the sum is made.

The proposed amendment to section 194N provides that the figure of Rs.1,00,00,000 shall be substituted by Rs.3,00,00,000 where the recipient of cash withdrawal is a co-operative society.

This again is a well come change from the perspective of co-operatives. The enhanced limit of cash withdrawal shall apply to co-operatives w.e.f. 01.04.2023. In rural area, where substantial number of primary milk co-operative societies and credit co-operative societies function, they are required to make payment of milk procured from small milk suppliers or towards withdrawal from accounts by

the depositors respectively, this enhancement of threshold limit is definitely going to help, since their majority of income being eligible for deduction u/s 80P, the funds getting locked in the TDS for a long time will be saved giving these societies the much required liquidity.

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### Section 269SS and 269T: Enhancement in the limits for certain Co-Operative Societies

Section 269SS prohibits acceptance of deposits or loans

and above otherwise than by an account payee cheque or draft or use of electronic clearing system through a bank account or through other prescribed electronic modes.

Section 269T prohibits repayments of deposits or

Rs. 20,000 and above otherwise than by above modes.

Any breach of these provisions attracts penalty equal to amount involved under section 271D and 271E respectively.

Interestingly the above limit of Rs. 20,000 is proposed to be increased to Rs.2,00,000 in respect of the following two types of co-operative societies only:

- i. Primary Agricultural Credit Society (PACS)
- ii. Primary Co-operative Agricultural and Rural Development Bank

The change is welcome. However, it would have been advisable for increasing the limit across the platform of all types of co-operative societies. Particularly in respect of the Co-operative Credit Societies, this enhancement would have

societies are back bone of rural economy providing the much required olive branch of immediate and hassle free

This section of co-operatives has largely freed persons of

small means (whom banks do not tend to entertain) from the clutches of private money lenders.

The following important aspects must be noted in this respect:

- I. The enhancement is only in respect of transactions with members by these societies not with others.
- II. The enhancement applies only to loans/deposits

### Conclusion

The proposed changes in the Income Tax Act, 1961 by the Finance Bill, 2023 relating to co-operatives as discussed above are all welcome. These

to the co-operatives in the long term.

The time window provided under new section 115BAE of just one year for setting up and commencing the production is small and this needs to be enhanced so that the deserving co-operative societies can actually take

concession.

One was also expecting some clarity on the issue of allowability of deduction under section 80P(2)(a) (i)/80P(2)(d) in respect of interest received by co-operative societies



**The proposed amendment to section 194N provides that**

**Rs.1,00,00,000 shall be substituted by Rs.3,00,00,000 where the recipient of cash withdrawal is a co-operative society.**



from co-operative banks/ other banks. The decision of the Karnataka High Court in the case of **Pr. CIT v. Totagars Co-operative Sales Society [2017] 83 taxmann.com 140/395 ITR 611 (Kar.)** is being followed by the assessing authorities creating huge demands though the decision stands distinguished by various other High Courts and Income Tax Appellate Tribunals.

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## **UNION BUDGET**

# Analysis of Budget 2023- Certain sections related with withholding taxes and Transfer Pricing



### **CA. Narendra V. Joshi**

Author is member of the Institute. He may be reached at [narendra.vjoshi@gmail.com](mailto:narendra.vjoshi@gmail.com) and [eboard@icai.in](mailto:eboard@icai.in)

**Chapter XVIII of the Income Tax Act 1961 ('the Act') deals with various provisions related to Tax Deduction at source. Over the period, the scope of these provisions has been expanded to include transactions from multiple sources or origin. The person who has suffered tax while receiving or accepting income or payment will be entitled to credit at the time of filing Income Tax Return on the basis of information available in Form 26AS and Annual Information Statement.**

**The Finance Bill, 2023 has made proposals to amend provisions the Act relating to TDS and TCS. The proposals are dealt with in this article.**

### **Winning from online games**

**S**ection 194BA widens the scope of tax deduction at source on the transaction involving online gaming intermediaries who are offering one or more games on internet, and which

is accessible by the user through a computer resource including any telecommunication device, to the user. The tax shall be deducted on the net winnings paid in wholly in kind or cash or as well as on the remaining amount of net winnings in the user account, computed in the manner as may be prescribed, at the end of the financial year 30% as increased by surcharge and cess as applicable.

Section 194BA starts with a non obstante clause which will override the other provisions of the Act. This section will not only provide certainty in terms of tax deduction but also seeks to identify to online gaming companies from a taxation point of view.

### **Payment of certain amounts in cash**

Section 194N requires banking Company, cooperative society engaged in banking business or post office to deduct tax at source at 2% on payments in cash exceeding one crore rupees. The said limit is proposed to be increased to three crore rupees from one crore rupees where the recipient is a cooperative society. Those cooperatives who primarily work in rural area and have low-income groups as their members will benefit from this provision.

### **Extending scope of tax deduction at source**

Scope of section 197, lower or nil withholding tax application to the jurisdictional office, has been expanded to include payments where deduction may be required to be reduced due to some exemption, for example exemption under section 10(23FE) of the Act allowed to notified Sovereign Wealth Funds and Pension Funds. Hitherto, section 194LBA required business trusts to deduct tax at source at the rate of 5% on interest income of the non-resident unit holders. This will benefit business trust unit holders who are eligible for exemption under section 10(23FE) of the Act.

### **Removal of exemption from TDS on payment of interest on listed debentures to a resident 193**

As per clause (ix) to the proviso to section 193 of the Act, no tax was deductible in the case of any interest payable on any security issued by a company, where such security is in dematerialized form and is listed on a recognized stock exchange in India in accordance with the Securities Contracts (Regulation) Act, 1956 (32 of 1956) and the rules made thereunder. Clause (ix) of the proviso to section 193 provides for the exemption from tax deduction on

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**Section 194N requires banking Company, cooperative society engaged in banking business or post office to deduct tax at source at 20% on payments in cash exceeding one crore rupees.**



interest on listed debentures issued to the resident investors. Now it is proposed to omit clause (ix) of the proviso to section 193 and hence tax will be deductible on interest on listed debentures.

### **Tax treaty relief at the time of TDS under section 196A of the Act**

Section 196A of the Act provides for TDS on payment of certain income to a non-resident (not being a company) or to a foreign company, at the rate of 20%. The income is required to be in respect of units of a Mutual Fund specified under clause (23D) of section 10 of the Act or from the specified company referred to in the Explanation to clause (35) of section 10 of the Act.

Based on the representations received now it is proposed to provide option to choose tax rate as per tax treaty or 20% whichever is lower provided the payee to whom such tax treaty applies has provided tax residency certificate to the payer. Now non resident investors who are in receipt of dividend from mutual funds can seek tax treaty benefit at the time of deduction of tax at source. This brings section 196A

at par with section 195 when it comes to tax treaty benefit.

### **TDS on payment of accumulated balance due to an employee**

Section 192A of the Act provides for TDS on payment of accumulated balance due to an employee under the Employees' Provident Fund Scheme, 1952. The existing provisions of section 192A of the Act, inter-alia, provide for deduction of tax at the rate of 10% of the taxable component of the lump sum payment due to an employee or at maximum marginal rate ('MMR') in case the payee does not have a PAN.

Now it is proposed to omit the second proviso to section 192A which provides for tax deduction at source at MMR. This brings section 192A at par with the other sections where in case of non-availability of PAN tax is deducted at 20% under section 206AA of the Act

### **Relief from special provision for higher rate of TDS/TCS for non-filers of income-tax returns**

Section 206AB and 206CCA provides for higher tax rate for TDS and TCS respectively in case of specified persons. Higher rate can be as high as twice the rate of tax applicable under the section or rates in force. This section does not apply to payments under section 192, 192A, 194B, 194BB, 194IA, 194IB, 194LBC, 194M or 194N of the Act.

These sections define "Specified person to mean a person who has not furnished the return

of income for the assessment year relevant to the previous year immediately preceding the financial year in which tax is required to be deducted or collected (as the case may be)-

- (i) for which the time limit for furnishing the return of income under sub-section (1) of section 139 has expired; and
- (ii) the aggregate of tax deducted at source and tax collected at source in his case is rupees fifty thousand or more in the said previous year.

Now it is proposed to provide relief to certain persons who are not required to furnish the return of income for the assessment year relevant to the said previous year and who is notified by the Central Government in the Official Gazette in this behalf.

**Transfer pricing changes - The budget has provided for only two changes in the provisions related to transfer pricing in the Act.**

**Introduction of concessional tax regime to promote new manufacturing co-operative society**

The Taxation Laws (Amendment) Act, 2019, inter-



**Section 196A of the Act provides for TDS on payment of certain income to a non-resident (not being a company) or to a foreign company, at the rate of 20%.**



## UNION BUDGET



**Section 206AB and 206CCA provides for higher tax rate for TDS and TCS respectively in case of specified persons.”**

alia, inserted section 115BAB in the Act which provides that new manufacturing domestic companies set up on or after 01.10.2019, which commence manufacturing or production by 31.03.2023 and do not avail of any specified incentive or deductions, may opt to pay tax at a concessional rate of 15 per cent. Time limit to commence manufacturing or production is extended upto 31.03.2024. However, no concessional tax rate was provided for any other entity except a domestic company engaged into manufacturing. To provide a level playing field between new manufacturing co-operative societies and new manufacturing companies, 15% concessional tax rate benefit

is proposed to be extended to the new manufacturing co-operative societies as well by inserting a new section 115BAE.

The section 115BAE also provides that if any transactions with the co-operative society eligible for concessional tax rate are arranged in a such a manner which produces more than ordinary profits involving specified domestic transactions referred to in section 92BA of the Act, the amount of profits from such transaction shall be determined having regard to arm's length price as defined in clause (ii) of section 92F. In other words, new cooperative societies claiming concessional tax rate regime under section 115BAE will have to maintain transfer pricing documentation as mentioned in Rule 10D if they have transactions with any person which may produce more than ordinary profits. Typically, this provision would be invoked in case of transactions between related parties in which one of the parties is eligible

for concessional tax rate or exemption under the special provisions of the Act.

### Reducing the time provided for furnishing TP report

Section 92D of the Act, inter-alia, provides that every person who has entered an international transaction or a specified domestic transaction shall keep and maintain the information and documents as provided under rule 10D of the Income-tax Rules, 1962 (the Rules).

Further, as per sub-section (3) of section 92D of the Act, the Assessing Officer (AOs) or the Commissioner (Appeals) may during any proceedings under the Act require such person to furnish any information or document, as provided under rule 10D of the Rules, within a period of 30 days from the date of receipt of a notice issued in this regard. It has been further provided that on an application made by the assessee the time of 30 days may be extended by an additional period of 30 days.

It is proposed now to reduce the time period for submission of any information or document, as provided in Rule 10D of the Rules (Transfer Pricing Study report), from 30 days to 10 days from the date of receipt of notice. Now, the person who is required to keep and maintain documentation under Rule 10D for domestic and international transactions must keep transfer pricing benchmarking study report ready as the time provided to submit the information/document is now reduced to 10 days only.





## **UNION BUDGET**

# Analysis of Union Budget 2023-24 : Proposals on Indirect Taxes



**CA. Virender Chauhan and  
CA. Shubham Khaitan**

Authors are members of the Institute. They may be reached at [eboard@icai.in](mailto:eboard@icai.in)



This article aims at making an analysis of the proposals made in the Union Finance Bill, 2023, being presented in the Parliament on 1<sup>st</sup> February, 2023 by the Hon'ble Union Finance Minister of India, Smt. Nirmala Sitharaman. This analysis is limited to amendments proposed under the indirect tax laws. Since there is no amendment proposed under the Central Excise Law, we are restricting our discussion to the extent of amendment proposals made in the Customs Act, 1962, Customs Tariff Act, 1975, Central Goods and Services Act, 2017 and Integrated Goods and Services Tax Act, 2017.

### **[A] AMENDMENTS IN THE CUSTOMS ACT, 1962**

#### **1. Clause 123 amending section 25(4A): Power to grant exemption from duty**

Section 25(4A) of the Customs Act is proposed to be amended to insert a proviso to the effect that the validity period of two years shall not apply to exemption notifications issued in relation to multilateral or bilateral trade agreements; obligations under international agreements, treaties, conventions or such other obligations including with respect to UN agencies, diplomats, international organizations; privileges of constitutional authorities; schemes under Foreign Trade Policy; Central Government schemes having validity of more than two years; re-imports, temporary imports, goods imported as gifts or personal baggage; any duty of customs under any law for the time being in force including integrated tax leviable under sub-section (7) of section 3 of the Customs Tariff Act, 1975, other than duty of customs leviable under section 12.

#### **2. Clause 124 amending section 127C: Procedure on receipt of an application under section 127B**

A new sub-section (8A) is proposed to be inserted in section 127C so as to specify a time limit of 9 months from the last day of the month in which the application is made, for disposal of the application filed before the Settlement Commission.

### **[B] AMENDMENTS IN THE CUSTOMS TARIFF ACT, 1975**

#### **Retrospective Amendments (w.e.f. 01.01.1995)**

#### **3. Clause 125 amending sub-sections (6) & (7) of section 9: Countervailing duty on subsidized articles**

Sub-sections (6) & (7) of section 9 of the Customs Tariff Act, 1975 are proposed to be amended to remove ambiguity and clarify that determination and review for countervailing duty refers to determination and review of countervailing duty in a manner prescribed by rules under the Act.

#### **4. Clause 125 amending sub-sections (5) & (6) of section 9A: Anti-dumping duty on dumped articles**

Sub-sections (5) & (6) of section 9A of the Customs Tariff Act, 1975 are proposed to be amended to remove ambiguity and clarify that determination and review for anti-dumping duty

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**A new sub-section (8A) is proposed to be inserted in section 127C so as to specify a time limit of 9 months from the last day of the month in which the application is made, for disposal of the application filed before the Settlement Commission.**

refers to determination and review in a manner prescribed by rules under the Act.

### 5. **Clause 125 amending section 9C: Appeal**

Section 9C of the Customs Tariff Act, 1975 is proposed to be amended to remove ambiguity and clarify that appeals under this section lie against the determination or review thereof made by an authority in a manner as specified by rules notified under sections 8B, 9, 9A and 9B of the Act. An explanation is also proposed to be inserted to provide the meaning of determination or review thereof.

### **[C] AMENDMENTS IN THE CGST ACT, 2017**

(It seems that there is an inadvertent mistake in the Bill of not mentioning the date of effectiveness of the proposed amendments. However, the Memorandum to the Bill has made a mention of the effectiveness of the proposed amendments.)

### 6. **Clause 128 amending sub-sections (2) & (2A) of section 10: Composition levy**

Sections 10(2)(d) and 10(2A)(c) of the CGST Act are proposed to be amended so as to remove the restriction imposed on registered persons engaged in supplying goods through electronic commerce operators from opting to pay tax under the Composition Levy.

#### **Comments:**

- (i) The amendment indicates that the restrictions in the case of supply of service remain intact as earlier for availing the benefit of composition scheme.
- (ii) This amendment means that only intra-State supplies can be made through ECO's by a composition taxpayer. This may make the proposed amendment to be merely an academic proposition.
- (iii) Further, the ECO's may face penal action under proposed section 122(1B) wherein a sum of Rs. 10,000/- or an amount equivalent to the amount of tax involved may be imposed as a penalty in case it allows inter-state supply by a unregistered person or by a composition taxpayer.

### 7. **Clause 129 amending section 16(2): Eligibility and condition for taking input tax credit**

Second and third provisos to section 16(2) of the CGST Act are proposed to be

amended to align the said sub-section with the return filing system provided in the said Act.

#### **Comments:**

- (i) As per the current provisions, if a recipient does not make the payment of the value of supply to the supplier within 180 days, he would be required to add the ITC availed to his output tax liability. To align with the return filing system, the amended proviso to section 16(2) of the CGST Act 2017 provides for ITC reversal along with interest u/s 50 in such cases. The respective change in the corresponding rule 37 had already been carried out vide *Notification No. 19/2022 - CT dated 28.09.2022 w.e.f 1<sup>st</sup> October 2022*.
- (ii) Further, after making payment of such amount, one can re-avail the credit without any time limit. To clarify further, it has been provided that re-availment would only be allowed if the said value of supply has been paid to the supplier. This may bring into question cases where a recipient makes the payment of the value of supply to any other person other than the supplier (e.g., disputed rent paid under the Rent Control law, direct payment to the Government instead of the creditor as part

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of recovery provisions under section 79 etc.)

### 8. **Clause 130 amending sub-sections (3) & (5) of section 17: Apportionment of credit and blocked credits**

Explanation to section 17(3) of the CGST Act is proposed to be amended so as to restrict availment of input tax credit in respect of certain transactions specified in Para 8(a) of Schedule III of the said Act, (supply of warehoused goods to any person before clearance for home consumption is neither supply of goods nor supply of services) as may be prescribed, by including the value of such transactions in the value of exempt supply.

Further, section 17(5) is also proposed to be amended so as to provide that input tax credit shall not be available in respect of goods or services or both received by a taxable person, which are used or intended to be used for activities relating to his obligations under corporate social responsibility (CSR) referred to in section 135 of the Companies Act, 2013.

#### **Comments:**

- (i) It seems that the explanation to section 17(3) is proposed to be amended to overturn the decisions of *Sandeep Patil v. UOI* [2019(31) GSTL 398-Mum] and *CIAL Duty Free* [2020(42) GSTL 481-Kerala], wherein it was held that supply of warehoused goods before clearance for home consumption

would not preclude the supplier's claim of ITC.

- (ii) However, the amendment may give rise to litigation as to whether the same will have prospective or retrospective effect. In the case of *Commissioner v. Prakash Shree Processing* [2017 (345) ELT 178 (SC)], the Hon'ble Apex Court held that amendment made by way of insertion of explanation seeks to clarify the existing provision of law and thereby construed as being applicable retrospectively. However, in this case, the amendment increases the scope of the provision and is not merely clarifying the existing provision.

- (iii) It may be worth mentioning that high sea sales (i.e., goods sold after dispatch from the port of origin outside India before clearance for home consumption) would still not be treated as an exempt supply for the purpose of ITC reversal.

- (iv) It has always been a matter of debate whether ITC would be eligible to companies in respect of goods or services or both used for meeting the obligations of Corporate Social Responsibility under section 135 of the Companies Act 2013. It was argued

that the same not be considered as a gift which is gratuitous and without any contractual obligations and hence, the disallowance under section 17(5)(h) could not be attracted.

- (v) However, all such dispute have been put to rest by the proposed amendment which provides that such obligations met by eligible companies as part of their CSR would not be eligible to avail ITC. Since this amendment is prospective, one can take a stand that ITC on such expenses would be eligible before this amendment stands notified. It may also be noted that only the companies mandated for CSR under section 135 of the Companies Act, 2013 would be affected by this amendment.

### 9. **Clause 131 amending sub-section (1) & (2) of section 23: Persons not liable for registration**

Sub-section (1) & (2) of section 23 of the CGST Act are proposed to be amended, with retrospective effect from 1<sup>st</sup> July, 2017, to provide that persons eligible for registration in terms of section 22(1) and compulsory registration under section 24 need not register, if exempt under section 23.

#### **Comments:**

Section 23 provides for exemption from registration



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under the GST law. On the other hand, Section 24 provides for compulsory registration under the GST law. There was a great deal of confusion about whether a person would require registration under the GST law if he fall under both of the above provisions. For example, a person is making wholly exempt supplies and also falls under the reverse charge liability notification.

Now, section 23 (persons not liable for registration) is proposed to be amended, to prevail over Section 22 (turnover-based registration limits) and Section 24 (persons liable for compulsory registration). Hence, a person exempt from registration under Section 23 would not be required to take registration irrespective of coverage under other registration provisions.

**10. Clauses 132, 133, 134 & 135 amending sections 37(5), 39(11), 44(2) & 52(15): Furnishing of returns in Forms GSTR-1, GSTR-3B, GSTR-9/9C & GSTR-8**

These sections of the CGST Act are proposed to be inserted so as to provide a time limit upto which the details of supplies under such sections can be furnished by a registered person. Further, it also seeks to provide an enabling provision for extension of the said time limit, subject to certain conditions and restrictions, for a registered person or a class of registered persons.

**Comments:**

While the law prescribes late fees for delayed filing of return, there is no outer time limit prescribed up to which the returns could be filed. Through the proposed amendment in Section 37, 39, 44 and 52, it is provided that GSTRS-1, 3B, 9, 9C and 8 would not be allowed to be filed after 3 years from the due date of furnishing of the respective returns/statements for that financial year. For a certain class of registered persons (yet to be prescribed), this outer time limit may be extended by the Government.

**11. Clause 136 amending section 54(6): Refund of tax**

Section 54(6) of the CGST Act is proposed to be amended to remove the reference to the provisionally accepted input tax credit to align the same with the present scheme of availment of self-assessed input tax credit as per section 41(1) of the said Act.

**Comments:**

(i) During the introduction of GST, there was a concept of provisional ITC till the same stood matched and accepted by the recipient. Since the one to one matching of ITC by recipient in GSTR-2 was never implemented, this only remained a theoretical concept under the law. Hence, this provision was altered, and the concept of provisional ITC was scrapped at multiple places through Finance Act,

2022. However, it was omitted to be removed from the provisional refund provisions in section 54(6).

(ii) To streamline this, the provisional refund provisions allowing 90% of claimable refunds have been modified to exclude the concept of provisional ITC therefrom. This will remove the anomaly which existed in the law as explained above.

**12. Clause 137 amending section 56: Interest on delayed refunds**

Section 56 of the CGST Act is proposed to be amended so as to provide for an enabling provision to prescribe manner of computation of period of delay for calculation of interest on delayed refunds.

**Comments:**

(i) Section 56 of the CGST Act, 2017 provides for interest on delayed refund where the amount is not received within 60 days from the date of receipt of application. Currently, the law does not provide any specific manner of computation of interest and conditions / restrictions, if any, for this purpose.

(ii) Section 56 is proposed to be amended to provide an enabling provision for manner of computation of such interest on delayed refunds along with the relevant conditions and

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**Section 54(6) of the CGST Act is proposed to be amended to remove the reference to the provisionally accepted input tax credit to align the same with the present scheme of availment of self-assessed input tax credit as per section 41(1) of the said Act.**

restrictions. Hence, one can expect the rules prescribing the manner and conditions/restrictions for computing the interest on delayed refund to be inserted after such provision gets notified.

### 13. **Clause 138 amending section 122(1B): Penalty for certain offences**

A new section 122(1B) of the CGST Act is proposed to be inserted to provide penal provisions applicable to Electronic Commerce Operators in case of contravention of provisions relating to supplies of goods made through them by unregistered persons or composition taxpayers.

#### **Comments:**

- (i) The responsibility has now been cast upon such electronic commerce operators to ensure that only eligible persons are allowed to supply through their portals.

- (ii) In the following cases, the said electronic commerce operator would be liable to a penalty of a higher of Rs. 10,000 or the tax amount involved:

- A. Any unregistered person who was liable to be registered and not exempted by way of notification, is allowed to make the supply of goods or services through the website of such electronic commerce operators.
- B. A composition dealer (not otherwise permitted to make inter-state supply under GST) is allowed to make inter-state supply through the website of such electronic commerce operators.
- C. Fails to furnish information regarding supplies made by an unregistered person through its website in GSTR-8.

- (iii) The tax amount involved in point (ii) would be computed assuming that the supply been made by a regular tax payer.

### 14. **Clause 139 amending section 132(1): Punishment for certain offences**

Section 132(1) of the CGST Act is proposed to be amended to decriminalize

offences specified in clause (g), (j) and (k) of the said sub-section and to increase the monetary threshold for launching prosecution for the offences under the said Act from one hundred lakh rupees to two hundred lakh rupees, except for the offences related to issuance of invoices without supply of goods or services or both.

#### **Comments:**

- (i) Through the proposed amendment in section 132 of the CGST Act 2017, the following offences would be decriminalized and no prosecution would be launched against them:
  - a) Obstruction or prevention of an officer in discharge of his duties
  - b) Tampering with or destroying any material evidence or documents
  - c) Failure to supply information or supplying false information required under the law
- (ii) Further, the limit for prosecution is proposed to be increased from Rs. 1 crore to Rs. 2 crores for all the offences except if the person is engaged in the issuance of fake invoices without actual supply of goods or services. Only for the issuance of fake invoices, the limit of Rs. 1 crore would still continue for the purpose of prosecution.

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### 15. Clause 140 amending section 138(1): Compounding of offences

First proviso to section 138(1) of the CGST Act is proposed to be amended to simplify the language of clause (a), to omit clause (b) and to substitute the clause (c) of said proviso to exclude the offences relating to issuance of invoices without supply of goods or services or both from the scope of compounding as provided under the said Act. It further seeks to amend sub-section (2) to rationalize the amount for compounding of various offences by reducing the minimum as well as maximum amount for compounding.

#### Comments:

- (i) Section 138 of the CGST Act 2017 allows for the compounding of certain offences upon payment of the applicable amount and offers protection from further proceedings under the GST law. The following amendments have been proposed to such provisions:

- a) Value limit of Rs. 1 crore for supply in respect of compounding of certain offences is proposed to be removed.
- b) Earlier, a person accused of committing an offence under any other law could not apply for compounding. This restriction is proposed to be removed.

- (ii) Certain offences are proposed to be removed from prosecution provisions (as provided in point no. 14 above). Therefore, there would not be compounding for such offences for which prosecution is not provided under law.

- (iii) Revised limits for compounding amount:-

Section 138(2) of the CGST Act 2017 provides the minimum and maximum limit for compounding of offences. The limit for compounding is proposed to be revised as below:

Nature	Current	Revised
Minimum Limit	Higher of Rs. 10,000 or 50% of tax involved	25% of the tax involved
Maximum Limit	Higher of Rs. 30,000 or 150% of tax involved	100% of the tax involved

### 16. Clause 141 amending section 158A: Sharing of information by GST portal with other systems

A new section 158A is proposed to be inserted in the CGST Act to prescribe the manner and conditions for sharing of the information furnished by the registered person in his return or in his application of registration or in his statement of outward supplies, or the details uploaded by him for generation of electronic invoice or e-way bill or any other details, as may be prescribed, on the common portal with such other systems, as may be notified.

#### Comments:

The Government is planning sharing the following information with other systems after obtaining the consent of the relevant supplier/recipient:

- a) Application for registration
- b) GSTR-1, GSTR-3B and GSTR-9 / 9C
- c) Invoices uploaded on the GST portal for e-invoice
- d) E-waybill particulars
- e) Other prescribed details

### 17. Clause 142 amending Schedule III of CGST Act

Schedule III of the CGST Act is proposed to be amended to give retrospective applicability to Para 7, 8(a) and 8(b) of the said Schedule, with effect from 1<sup>st</sup> July, 2017, so as to treat the activities/ transactions mentioned in the said paragraphs as neither supply of goods nor supply of services. It is also being clarified that where the tax has already been paid in respect of such transactions/ activities during the period from 1<sup>st</sup> July, 2017 to 31<sup>st</sup> January, 2019, no refund of such tax paid shall be available.

#### Comments:

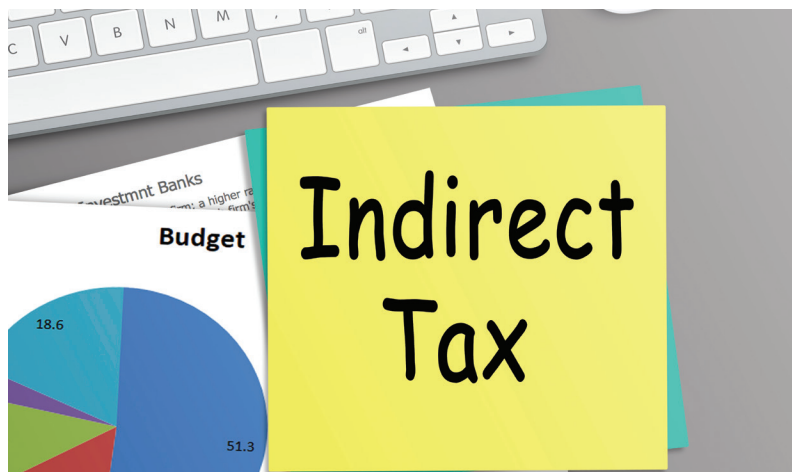
- (i) Serial No. 7 and 8 of Schedule III of



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the CGST Act 2017 has been proposed to be applicable retrospectively from 1<sup>st</sup> July 2017. These entries are as follows:

7. Supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into India.
8. (a) Supply of warehoused goods to any person before clearance for home consumption;
- (b) Supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption. [High Sea Sale]
- (ii) The aforesaid transactions are popularly called as high sea sales, sales from customs bonded warehouses and merchant trading sales i.e. where sales take place before clearance for home consumption. Such supplies have been considered as neither a supply of goods nor a supply of services under Schedule III of the CGST Act 2017 effective from 1<sup>st</sup> February 2019. Due to persisting debates and doubts for the earlier period i.e., 1<sup>st</sup> July 2017 to 31<sup>st</sup> January 2019, Schedule



III is proposed to be amended to provide that this amendment would be applicable for the said period also.

### [D] AMENDMENTS IN THE IGST ACT, 2017:

#### 18. **Clause 143 amending section 2(16) & 2(17): Non-taxable online recipient & OIDAR**

Section 2(16) of the IGST Act is proposed to be amended so as to revise the definition of “non-taxable online recipient” by removing the condition of receipt of online information and database access or retrieval services (OIDAR) for purposes other than commerce, industry or any other business or profession to provide for taxability of OIDAR service provided by any person located in non-taxable territory to an unregistered person receiving the said services and located in the taxable territory. Further, it also seeks to clarify that the persons registered solely in terms of clause (vi) of Section 24 of CGST

Act shall be treated as unregistered person for the purpose of the said clause.

Also, clause (17) of the said section is proposed to be amended to revise the definition of “online information and database access or retrieval services” by removing the condition of rendering of the said supply being essentially automated and involving minimal human intervention.

#### Comments:

- (i) The OIDAR services are defined under section 2(17) of the IGST Act to mean services such as, advertising on the internet, providing cloud services, e-books, movie, music, software, gaming, etc.
- (ii) **OIDAR**  
The scope of OIDAR services was restricted to cases which were essentially automated and not involving human intervention and were impossible to ensure in absence of information technology.

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The definition of online information and database access or retrieval services has been amended to omit the condition that the supply should be essentially automated and involving minimal human intervention. After the amendment, the only condition would be that the supplies are impossible to ensure in absence of IT. Without checking for automation or minimum human intervention, the supplies would be classified as OIDAR if they cannot be supplied without the assistance of information technology. Thereby, the scope of such OIDAR services seems to have been significantly expanded.

### (iii) Non-taxable online recipient

Where services are provided in the nature of 'online information and database access or retrieval services' (like internet ads, cloud services, online e-books/music/movie/software/digital content/gaming etc.) and the same are received by a non-taxable online recipient for purposes other than commerce, industry or business, the tax is liable to be paid by the supplier even if located outside India.

(iv) Further, the condition that it should not be for business purposes is proposed to be removed. Therefore, any unregistered person taking such services for business purposes would not be liable to register under GST and pay taxes under RCM. Such taxes would continue to be discharged by the foreign supplier.

### 19. Clause 144 amending section 12(8): Place of supply of services by way of transportation of goods

Proviso to section 12(8) of the IGST Act is proposed to be omitted so as to specify the place of supply, irrespective of destination of the goods, in cases where the supplier of services and recipient of services are located in India.

#### Comments:

- (i) With effect from 1<sup>st</sup> February 2019, proviso to section 12(8) was inserted to provide the place of supply in case of transportation of goods as the destination of goods where the location of the supplier and recipient were in India and the destination of goods was outside India.
- (ii) Therefore, the logistics company taking goods out of India have been invoicing with IGST by showing the place of supply as 'Other territory' or 'Foreign

Country'. Thus, the revenue from such supply has not been accruing in the favor of the state where the recipient is located. In such cases, these have been disputes with regard to ITC. Recently a clarification has been issued vide Circular no. 184/16/2022-GST dated 27<sup>th</sup> December 2022 that the ITC would be fully available in such cases.

(iii) Despite this clarification, the recipient state (i.e. where the exporter is located) would be incurring a loss because it would not receive the revenue directly from the original supply but still provide ITC benefit to the exporter. To remove this anomaly and confusion regarding ITC availability, the place of supply provisions has been amended.

(iv) The place of supply even where the destination of goods is outside India would be as follows for the transportation of goods:

- a) Supply to registered person - Location of the registered person
- b) Supply to unregistered person - Location at which such goods are handed over for transport.



## **UNION BUDGET**

# Proposed Amendments In Respect of International Taxation Under Union Budget 2023



### **CA. Smita Patni**

Author is member of the Institute. She may be reached at [eboard@icai.in](mailto:eboard@icai.in)

**This article highlights the major Budget proposals in the area of international taxation. On an international taxation front, the Budget of Amrit Kaal as envisaged by our FM has the advantage of delivering no shocks. While the budget is silent on taxation of digital economy as well as India's roadmap for implementing the Pillar 2 solution of the Global Anti base Erosion (GloBE) Rules of the OECD and G-20, the Government continues to push its pet project of a specially designated zone - IFSC Gift City. However there is a dampener in the provisions of section 56 being extended to issue of shares to non-residents which will cause additional hurdles for investments coming into India.**

### **Proposed amendments relating to International Taxation**

The Direct tax Proposals have introduced a slew of amendments as under: -

#### **1. Deemed accrual of gift made to Not Ordinarily Resident (RNOR)**

Taxation of gift by way of sum of money without consideration exceeding Rupees 50,000/- from Resident to Non-Resident was specifically brought into deeming fiction under Section 9 (1)(viii) of the Income Tax Act (The Act) and the same was made taxable u/s 56(2)(x) under the head Income from other sources.

Since, this section was limited to Non-Residents and there was no reference of Resident and Not-ordinarily Residents (RNOR), section 9(1)(viii) of the IT Act is now proposed to be amended to extend the ambit of taxation under Section 56(2)(x) of the IT Act to bring not-ordinarily residents defined under Section 6(6) of the IT Act w.e.f. 1<sup>st</sup> April, 2024.

However, the exemption for gifts/ property received by a not-ordinarily resident from his/ her relatives as well as other exemptions as provided shall continue.

#### **2. Preventing misuse of presumption tax schemes**

Currently the presumptive tax schemes under section 44BB and 44BBB of the Act allow for -

- taxation of a non-resident at 10% on receipts from providing services, machinery, etc. used in prospecting for, extraction or production of mineral oils (Section 44BB of the IT Act); and
- taxation of a foreign company at 10% on receipts from civil construction, erection, etc. for approved turnkey power projects (Section 44 BBB of the Act).

Both sections provide that Non-resident Assessee may claim lower profits and gains if he keeps and maintains such books of account and other documents as required under section 44AA(2) of the Act and gets his accounts audited and furnishes a report of such audit as required under section 44AB of the Act. In such a case, the assessee is also allowed to carry forward of loss and unabsorbed depreciation to next years and may set it off from the profits of the next year -either from the presumptive income or from income declared under Normal Taxation.



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This often leads to taxpayers doing a double dip and opting in and out from the scheme in different years assessment years.

In the year of losses, the actual losses were claimed and carried forward as per regular books of accounts and conducting Audits. Whereas, in the year of higher profits, the profits were sought to be restricted to 10% and brought forward losses and unabsorbed depreciation are set off from the earlier years.

With a view to curb this option, it is proposed to amend both section 44BB and section 44BBB of the Act to provide that where an assessee declares profits and gains of business for any previous year in accordance with the provisions of presumptive taxation then no set off of unabsorbed depreciation and brought forward loss shall be allowed to the assessee for such previous year. This is applicable from 1<sup>st</sup> April, 2024.

### 3. Non- resident investors now covered under Angel Tax

The existing provision of section 56(2)(viib) of the Act which is applicable since April 1, 2013 provide for taxation of any receipt of any consideration for issue of shares in excess of FMV (Fair Market Value) of the shares by the resident investors. Any additional consideration received in excess of the FMV is taxable in the hands of the closely held companies under the head Income from other sources (IFOS).

For this purpose, the valuation of the unquoted shares is prescribed under Rule 11UA of the IT Rules, 1962 and is

determined by the Merchant Banker. These provisions were introduced to prevent circulation of unaccounted money through share premium received from resident shareholders.

It is proposed to extend the applicability of this section to non-resident investors with effect from 1<sup>st</sup> April, 2024.

The exemption in respect of investments from Venture Capital Undertaking from a Venture Capital Company or a VCF and specified funds as well as notified certain classes of persons will continue. Therefore start-ups registered under DPIIT and notified by the Ministry Of Commerce And Industry to be exempt.

This proposal could lead to litigation, as there could be valuation disputes as different methodologies are prescribed under FEMA and The Act. FEMA regulations mandate that issue of a capital instrument by an Indian company shall not happen at any value less than FMV computed as per FEMA laws. Whereas, under

the Income tax Act, tax will be levied on any excess price recovered over and above FMV on issuing shares to a non-resident.

Foreign investors and private equity funds which are not registered as well as various unregistered start-ups and smaller private companies which want to raise funds may fall under the rigors of section 56(2)(viib) of the Act.

### 4. TCS on overseas remittances

The Finance Act, 2020 had introduced a Tax Collection at Source (TCS) u/s 206(C) (1G) requirement on foreign remittances in order to widen and deepen the tax net.

The obligation of the said TCS is on the Authorised Dealer Bank (AD Bank) through which the remittances are made under liberalized remittance scheme (LRS). In case of an overseas tour, the seller of such package shall be liable to collect TCS. The proposal seeks to increase the rate of TCS and extend its applicability. This amendment will take effect from July 1, 2023.

S. No	Type of remittance under LRS	Present rate	Proposed rate
1.	For the purpose of any education, if the amount being remitted out is a loan obtained from any financial institution as defined in section 80E.	0.5% of the amount or the aggregate of the amounts in excess of Rs.7 lakh.	No change
2.	For the purpose of education, other than (i) or for the purpose of medical treatment.	5% of the amount or the aggregate of the amounts in excess of Rs. 7 lakh.	
3.	Overseas tour package	5% without any threshold limit.	20% without any threshold limit.
4.	Any other case	5% of the amount or the aggregate of the amounts in excess of Rs.7 lakh.	

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### 5. Treaty benefits on income from Mutual Funds

Section 196A (1) provides for TDS @ 20% in respect to certain income from units of a Mutual Fund of a Non-Resident. In such a case, TDS cannot be deducted at a rate specified under a tax treaty unless specifically mentioned in the provision of the relevant section.

Its proposed to obviate this hardship by inserting a proviso to section 196A (1) to deduct TDS at the rate of 20% or Rates provided in DTAA u/s 90(1) or 90A(1), subject to furnishing of TRC u/s 90(4) or 90A(4), whichever is lower, effective from April 1, 2023.

### 6. Concessional tax Rate on certain interest income to expire this year

Section 194LC / 194LD of the Act provided a concessional tax regime at the rate of 5% to its overseas lender or debt investor or Foreign Portfolio Investors (FPI) on the interest income earned by them in India. The overseas lender/Debt Investor could claim Foreign tax credit in their home country or country of its domicile while filing their Income tax Returns.



**Foreign investors and private equity funds which are not registered as well as various unregistered start-ups and smaller private companies which want to raise funds may fall under the rigors of section 56(2)(viib) of the Act.**



In absence of any further extension, the concessional tax rate is valid only up to 30<sup>th</sup> June, 2023 and going forward, the same shall be taxable under the normal tax regime.

### 7. Proposed Provisions Relating to Taxation of Business Trust

#### a) Extending benefit of lower or NIL Rate of TDS to Business Trusts

Section 194LBA of the Act requires business trusts (REIT/InvIT) to deduct TDS at the rate of 5% on interest income and 10% on dividend income on distribution to non-resident unitholders.

Whilst a more beneficial tax rate may be available to certain non-resident taxpayers under relevant DTAA, Section 197 of The Act didn't provide grant of certificate for nil or lower rate of TDS on income received by unit holder referred to in u/s 115UA. Hence, under the extant tax laws, TDS was required to be applied at the rates provided u/s 194LBA and income distributed by a REIT / InvIT to its non-resident unitholders was subject to withholding tax at prescribed rates.

To enable Non-resident unitholders who are entitled to certain prescribed exemptions under the Act (such as pension funds and sovereign wealth funds having a tax exempt status in India) and to receive distributions from the business trusts (REIT/InvIT) without any taxes being withheld, its



**The Finance Act, 2020 had introduced a Tax Collection at Source (TCS) u/s 206(C)(1G) requirement on foreign remittances in order to widen and deepen the tax net.**



proposed to provide such non-resident unitholders on income earned from units of business trust to apply for a 'NIL or a lower withholding' certificate w.e.f. April 1, 2023.

#### b) Taxation of Distributions from Business Trust –

The Act contains special provisions u/s 115UA for taxation of Real Estate Infrastructure Trusts ("REIT") and Infrastructure Investment Trusts ("InvIT") (referred to as "Business Trusts" u/s 2(13A of The Act)). The provisions provide a pass-through status to Business Trusts in respect of –

- (a) interest income, dividend income received by the Business Trust (i.e. both REIT/InvIT) from a special purpose vehicle (SPV) and
- (b) rental income in case of a REIT.

At present, the above income is taxable in the hands of the unit holders. Any other distributions (by way of repayment of debt) from a Business Trust to its unit holders is neither taxable in hands business trust or in the hands of unit holder.

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**Section 196A (1) provides for TDS @ 20% in respect to certain income from units of a Mutual Fund of a Non-Resident.**

The budget has proposed to tax any sum received (shown as by way of repayment of debt) by the unit holder of a Business Trust which is not in nature of interest, dividend or rental as Income under head other sources (IFOS) in hands of the unit holder.

A provision is also proposed for a situation when the sum received by unit holder represents redemption of unit held by him. In such a case, cost of acquisition (COA) of such units will be reduced from the total redemption amount. The above provisions are applicable from April 1, 2024.

There may arise some ramifications on the Overseas unit holders –

- Characterization issue may arise as repayment of loan may be considered as income from Capital Gain as against income from other sources (IFOS).
- As laid down, if such sum is taxable in hands of unit holders as IFOS, a corresponding withholding obligation has been missed out on the Business Trust u/s 194LBA. In such a case, Business Trusts may have to withhold tax u/s 195 on distribution of sum to its Non-Resident investors.

### 8. Proposed Provisions Relating to International Financial Services Centre (IFSC)

As part of the government's initiatives to promote Gujarat Infrastructure Finance Tech City ("GIFT City"), the Budget proposes several regulatory measures and further tax incentives to boost Foreign Investments. They are as follows–

Existing Amendment-	Proposed Amendment-
Section 47(viiad) provides for tax neutral transfer in case of relocation of fund located outside India to IFSC was exempt till 31 <sup>st</sup> March, 2023	The Budget proposes extension of period for tax neutrality of tax benefits for relocation of funds from foreign jurisdictions to IFSC GIFT City up to March 31, 2025 as against the current sunset date of March 31, 2023
Two separate registration/ approvals required for setting-up business in IFSC gift city-SEZ & IFSCA	Setting up a single window IT system for registration and approval from IFSCA, Special Economic Zone (SEZ) authorities, Goods and Services Tax Network (GSTN), Reserve Bank of India (RBI), Securities and Exchange Board of India (SEBI) and Insurance Regulatory and Development Authority (IRDAI).
Section 10(4E) provides exemption to Non-Resident on income from transfer of Non-deliverable Forwards or Off-shore Derivative instruments (ODI) or over the counter derivatives (OCD) entered into with an IFSC banking Unit (IBU) as referred to in 80LA(1A) subject to such condition as may be prescribed.  The IFSC Banking Unit (issuer of the ODI to non-resident investors) pays tax on the income earned in the form of interest, dividend etc. through its investments and the same income is again taxed in the hands of the ODI holders at the time of its post-tax distribution receipts.  Under the existing regime, exemption is available to non-resident investors only on the transfer of ODIs but not on the distributions made to them.	In order to address this anomaly and remove double taxation, the budget proposes to provide additional exemption u/s 10(4E) on distribution of income by IBU to NR ODI holders subject to the condition that such income is already taxed in the hand of IBU u/s 115AD. This is applicable from April 1, 2024.
Deduction u/s 80LA is available to a person having unit in IFSC who has opted for taxation u/s 115BAC(1) r.w 115BAC(4)/(5) on and after 1st April, 2021	The time line of deduction u/s 80LA is limited upto 31 <sup>st</sup> March, 2024 to the assessee opting for the new regime.



## UNION BUDGET

### 9. Interest Deduction Limitations: Extension of exemption to non-banking financial companies (NBFCs)

Thin capitalization rules were introduced by the Finance Act, 2017 as a measure of BEPS (Base erosion and Profit shifting) Action Plan -4 to restrict excess deductions claimed by way of higher interest payments to foreign associated enterprises (AE) by a borrower, being a domestic company or PE of a Foreign Company.

Section 94B of the Act provides the amount of deduction in excess of Rupees one crore in respect of payment of interest to a foreign lender which is also AE of the borrower which is limited to the lower of the—

- a) 30% of earnings before interest, taxes, depreciation and amortisation (EBITDA) of the borrower in the previous year  
or
- b) interest paid or payable to AE for that previous year.

**“Section 194LBA of the IT Act requires business trusts(REIT/ InvIT) to deduct TDS at the rate of 5% on interest income and 10% on dividend income on distribution to non-resident unitholders.”**

At present, section 94B(1) of the Act had carved out an exception to Indian Company or Permanent Establishment(PE) of foreign Company engaged in business of banking or insurance.

An Additional carve out is now provided to such class of NBFCs w.e.f. April 1, 2024, which are engaged in the business of financing as they undertake similar functions and are now being subject to similar regulations and compliances in respect of those functions, as may be notified by the CG in the Official Gazette.

In the above context, NBFC shall have the same meaning as assigned to as per Section 45-I (f) of the RBI Act. Reference of the same is made in clause (vii) of the Explanation to Section 36(1)(viia) of the Act.

### 10. Time limit of furnishing information under TP Provisions

Section 92D of the Act requires every person who has entered an international transaction or a specified domestic transaction to keep and maintain the information and documents as provided under rule 10D of the Income-tax Rules, 1962.

The Assessee is required to furnish any information / documents requires within 30 days from the date of receipt of notice by the Assessing Officer (AOs) or the Commissioner (Appeals) (CIT(A)) u/s 92D(3) of the Act.

An additional period of 30 days is provided to an assessee who makes an application requesting to

**“Section 92D of the Act requires every person who has entered an international transaction or a specified domestic transaction to keep and maintain the information and documents as provided under rule 10D of the Income-tax Rules, 1962.”**

grant extension of the time period.

With a view to reduce the time given for furnishing information, it has been proposed to reduce the time limit of furnishing the same from 30 days to 10 days of the date of receipt of notice by AO or CIT (Appeals). The provision for application for extension by an assessee for a further period not exceeding 30 days will continue.

The amendment is applicable w.e.f. April 1, 2023.

### Conclusion

To summarize, while there are no radical changes in the Finance Bill, there are some benefits for the taxpayer as well as some to protect the interests of the revenue. The one jarring note is the provision in relation to the issue of shares to non-residents which could only lead to unnecessary harassment on the matters of valuation as startups raise bulk of capital from foreign investors and which may impact the ease of doing business in India. ■■■

## **BANK AUDIT**

# Statutory Branch Auditing of Banks: Using CBS Reports



### **CA. Ishwar Chandra**

Author is member of the Institute. He may be reached at [ca.ishwarchandra@gmail.com](mailto:ca.ishwarchandra@gmail.com) and [eboard@icai.in](mailto:eboard@icai.in)

Statutory auditors of banks evaluate adherence of laws and regulations and policies / procedures / guidelines of the banks. RBI's new directions on financial statements preparation and presentation vide circular DOR.ACC.REC. No.45/21.04.018/2021-22 dated August 30, 2021 fosters stringent financial reporting discipline amongst banks and enhance auditors' responsibilities of evaluations of relevant controls. Long Form Audit Report (LFAR) provides a detailed analytical view of such adherence in banks' systems and processes. Particularly, new LFAR provides auditors an opportunity to report on more financial and operational controls and also provides a best basis to approach the statutory branch auditing.

**I**n current exceptions-based CBS control environment, audit evidences are preserved in the form of audit exceptions. Banks have their customized exceptions handling systems and analytical reports based on their MIS needs and legal/regulatory requirements. Article attempts to delve upon

such audit exceptions / system generated analytical reports crucial for branch auditing that would help auditors meet their statutory audit obligations effectively.

### **Overview of CBS Environment**

#### *CBS Applications:*

Currently, in public sector banks, following CBS applications are used:

1. **Finacle (Infosys):** Users of this application include Bank of Baroda, Bank of India, Indian Overseas Bank, Punjab National Bank, Punjab & Sind Bank, UCO Bank and Union Bank of India.
2. **B@NCS (TCS):** B@NCS is currently being used by Bank of Maharashtra, Central Bank of India, Indian Bank and State Bank of India.
3. **Flexcube (I-Flex):** This application is now being used by Canara Bank.

#### *Audit Exceptions / System Generated Reports*

Various audit exceptions/ system generated reports and their nomenclature and software menus are not uniform across the CBS environments and across the banks. In addition to the menu-driven CBS reports, different customized monitoring / exception handling systems are being followed by the banks and various audit exceptions/ monitoring reports are available on their specialized exceptions handling / monitoring portals. For example,

- In Finacle environment, generally reports are menu-driven, however, various monitoring/ exceptions/ analytical reports have been customized and are on specialized portals. For example, in Bank of Baroda, most monitoring reports relevant for LFAR are available on CEMU (Centralized Exception Monitoring Unit) portal. In Punjab National Bank, such reports have been customized on MIS portals. In Union Bank of India, large number of such reports are available on credit monitoring and credit compliance (CMCC) portal.
- In B@NCS environment, generally, for all daily exceptions / analytical reports, an 'All in One' daily folder is created and placed on users' desktop.
- In Flexcube, such exceptions/ analytical reports are largely available as periodical reports (e.g. daily, monthly, quarterly) for monitoring purposes.

## **BANK AUDIT**



**Various audit exceptions/ system generated reports and their nomenclature and software menus are not uniform across the CBS environments and across the banks.**



No standard and exhaustive list of menus/ reports could be provided here. Some reports are available in live environment while others on DR environment. Auditors should obtain information from the bank on the audit exceptions/ system generated analytical reports available and relevant for branch auditing.

### **Useful Audit Exceptions / System Generated Reports generally available in current CBS environments**

Some useful system generated reports generally available in CBS environments for evaluation of different items of LFAR are given below for auditors' quick reference:

### **FINACLE 10 Reports**

S. No.	Information required for audit / Reports	Menus
<b>I</b>	<b>BALANCE SHEET</b>	
	<b>Assets</b>	
<b>1</b>	<b>Cash</b>	
	Shroff Cash Report (Denomination-wise cash balance report for physical verification of cash)	HSCWRPT
	Cash Balance Report (To check average cash holdings and cash in excess of cash retention limit)	HCBR
<b>2</b>	<b>Advances</b>	
	<b>Appraisal:</b>	
	New Accounts opened during the period (For selection of sample of loan and deposit accounts)	HACSP
	Loan Account Master Print (To verify the interest rate, DP and other items)	HLAMP
	Asset Classification Reports (To check asset classification history of the accounts)	HASSET/HASSCR
	Interest Table History (To check interest rates and their modifications)	HINTTM
	Account Limit History (To check DP calculation and for frequent /renewal of limits, if any, in the system)	HACLHM
	<b>Review / Monitoring / Supervision:</b>	
	Limit Accounts Review Overdue Report	HLAROR
	Stock Statements Submitted Position	STKSTMT
	NPA Reports	HNPART
	Accounts restructured/re-phased	HLARA
	Loan Balancing Reports/ Jotting Reports	HBR/JOTRPT



## **BANK AUDIT**

	TOD/Excess/ Ad hoc Allowed	HTODRPT
	Debit Balances In SB/CD	HBR
	Insurances Expired	INSEXP
	Loan Accounts Overdue Position Inquiry /Stressed /PNPA	HLAOPI
	Loan Accounts Repayment Schedule	HLARSH
	Account Turnover Report (CC-OD accounts)	HATOR
	Bills Purchased/Discounted	HBPR
<b>3</b>	<b>Non-Fund Based Business</b>	
	Guarantee Issued & Liability Register	HGILR
	Guarantee Expired But Not Reversed	HGENR
	Guarantee Invoked But Not Paid	HGIPNP
	Documentary Credits Liability Register	HDCLIABR/DCREG/DCSTMT/ DCLIABRG
	Documentary Credit General Purpose Report	HDCGPR
<b>4</b>	<b>Other Assets</b>	
	Minor Sub-Group Office Items Report: For age-wise and entry-wise break up of outstanding in following GL sub-heads/ accounts: <ul style="list-style-type: none"> <li>• Sundry Assets</li> <li>• Suspense Debits</li> <li>• Inter-Branch accounts etc.</li> </ul>	HMSGOIRP
<b>II</b>	<b>LIABILITIES</b>	
<b>1</b>	<b>Other liabilities</b>	
	Minor Sub-Group Office Items Report: For age-wise and entry-wise break up of outstanding in following GL sub-heads/accounts: <ul style="list-style-type: none"> <li>• Sundry Deposits</li> <li>• Sundry Credits</li> <li>• Other Liabilities</li> <li>• Suspense Credits etc.</li> </ul>	HMSGOIRP
	Inward Bills For Collection (IBC)	HBRCR
	Outward Bills For Collection (OBC)	HBRCR
<b>III</b>	<b>PROFIT &amp; LOSS ACCOUNT</b>	
<b>1</b>	<b>Interest</b>	
	Applied Interest Report (To test-check the interest rates fed and to check whether interest have been applied in standard accounts only)	HAINTRPT
	Income Accounts Debited : Debits - Incomes GL-Subhead (To check manual alteration/unauthorized reversals, if any)	HFTR
	Interest Adjustment Record /Report	IARMREP

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	Manual Interest Applied Report	HMINTRPT
	Interest Provision	INTPRO
<b>IV</b>	<b>GENERAL</b>	
<b>1</b>	<b>Gold / Bullion &amp; Security Items</b>	
	Inventory Status Report To physically verify the inventories of sensitive stationary/ security Items, e.g. cheque Books, FDRs, obtain reports for all locations / custodians: <ul style="list-style-type: none"> <li>• Double lock (dual custody) inventories</li> <li>• Single lock (single custody) inventories</li> </ul>	HISRA
<b>2</b>	<b>Books &amp; Records</b>	
	Exceptional Transactions Reports (ETRs)- <ul style="list-style-type: none"> <li>• Financial Exceptions</li> <li>• Non financial Exceptions</li> </ul>	HEXCPRPT
<b>3</b>	<b>Other Reports</b>	
	General Reports (Balance sheet, Profit & Loss, GLB, Weekly etc.)	HGR1/MISRPT
	Financial Transactions Reports	HFTR
	Inquiry on GL transactions	HIOGLT/HIOT
	Customer Accounts Statements	HPSP
	Office Accounts Statements (For GL/PL accounts, e.g. sundries, suspense, incomes and expenditures accounts)	HACLPOA
	TDS Reports	HTDSIP/HTDSREP
	TDS Amount Slab Table Inquiry	HASTI
<b>4</b>	<b>FOREX Business</b>	
	Packing Credit- Party Wise Pre Shipment Credit	RPODPC
	Overdue Pre-shipment Credit Report	GOPCR
	Export and Outward Bills Report	HEOBR
	Statement of Overdue Import/Inward Bills	HOIIB
	Foreign Bills Balancing Register	HFBBR
	Bills to be Delinked Statement	HBDS

### **B@NCS Reports**

<b>S. No.</b>	<b>Information required for audit/ Reports</b>	<b>Menus/Reports</b>
1	Closing GLBs / Trial Balances	OGL- detailed trial balance/ BALSHT as on date/ weekly as on date  (Detailed trial balance for March could help identify March month transactions)
2	Balances / Jottings Reports	Loan balance file

## **BANK AUDIT**

3	Financial Transactions Inquiry /GL / Impersonal Accounts Transactions	Audit BGL reports/ Flabby_AC_Report, System_suspense_report, agewise break up and GL outstanding accounts report. Transfer_supplementary_report Supplementary_control/ GL Day book/GL-Outstanding-Accnts
4	Impersonal (Office) Accounts - Outstanding Items Report	Audit BGL reports/ Flabby_AC_Report, System_suspense_report, agewise break up and GL outstanding accounts report
5	SMA/Potential NPA accounts Reports	PNPA/ SMA Reports, / Irregular Excess drawing/ Standard Accounts irregular excess drawal, SMA-0, SMA-1, SMA-2 reports
6	Asset Classification / Non- performing Assets (NPA) Reports	NPA_report
7	Restructurings / modifications in Limits (e.g. changes in repayment schedule) Reports	DL/TL-A&S-Loan Processing-Generate Repayment Schedule- Action - E
8	Sensitive stationary/ security items - Valuable Paper Inventory System	VPIS
9	Various day-end reports	EoD, BoD reports/ user maintenance/ Exceptional_transactions_report
10	TDS / Customer-wise TDS report	Customer-wise tax deduction report
11	Other Useful Reports/EOD Reports	<ul style="list-style-type: none"> <li>• Credit Monitoring &amp; Recovery:               <ul style="list-style-type: none"> <li>▪ SMA Reports</li> <li>▪ NPA/PNPA Linked deposit accounts</li> <li>▪ NPA movement</li> <li>▪ Likely NPA</li> <li>▪ Daily NPA/PNPA/Out of Order Report</li> </ul> </li> <li>• Loan Reports:               <ul style="list-style-type: none"> <li>▪ Advances sheet-all accounts</li> <li>▪ TL/DL account opened-product wise</li> <li>▪ Pri/Coll security details</li> <li>▪ Loan Disbursement ( during the period)</li> <li>▪ Branch-wise/ account-wise loan disbursement</li> </ul> </li> </ul>

### **Flexcube Reports**

S. No.	Information required for audit/Reports	Menus/ Reports
1	Closing GLBs / Trial Balances	GL Report, GL Tally Report, Day book cum trial balance (GL Alert Report indicates the entries, if any, outstanding unadjusted)
2	Balances / Jottings Reports	Balances reports (scheme-wise)
3	Financial Transactions Inquiry /GL / Impersonal Accounts Transactions	EOD reports- General Ledger Statement- SA
4	Impersonal (Office) Accounts - Outstanding Items Report	General Ledger Statement- SA (Sundry Assets)



## **BANK AUDIT**

5	SMA/Potential NPA accounts Reports	Periodical Reports- List of NPA accounts/ Consolidated NPA position SMA-0, SMA-1, SMA-2 reports SWL (Special Watch List)
6	Asset Classification / Non- performing Assets (NPA) Reports	Periodical Reports- List of NPA accounts/ Consolidated NPA position
7	Inventory Status Report (Sensitive stationary/ security items/Valuable Paper Inventory System)	Branch Inventory Report
8	Various day-end reports	EOD Reports
9	Other Useful Reports/EOD Reports	<ul style="list-style-type: none"> <li>• Insurance policy renewal</li> <li>• Pending BAR (Branch Adjustment Reconciliation)</li> <li>• Large Transactions Report</li> <li>• Savings Overdraft Report</li> <li>• Cheques Purchased Report</li> <li>• Customer Accounts Balances (NPA)</li> <li>• Day Book, Trail Balance/ GL Restricted Transaction EOD Report</li> <li>• General Ledger Report</li> <li>• Non Performing Loans Arrears Aging Analysis Summary/ Loan Arrear Details</li> <li>• Loan account with credit balance</li> <li>• Cheques Pending Clearing Listing</li> <li>• Transaction Journal</li> </ul>

### **Special audit considerations**

RBI's recent master directions on financial statements dated 30 August 2021, in para 23 'Window-Dressing' mandate as *"Banks shall ensure that balance sheet and profit and loss account reflects true and fair picture of its financial position. Instances of window dressing of financials, short provisioning, misclassification of NPAs, under-reporting/incorrect computation of exposure/risk weight, incorrect capitalization of expenses, capitalization of interest on NPAs, deliberate inflation of asset and liabilities at the end of the financial year and subsequent reversal immediately in next financial year, etc. shall be viewed seriously and appropriate penal action in terms of the provisions of the Banking Regulation Act, 1949 shall be considered"*. Following are few of the critical Finacle system reports that would help evaluate potential window-dressing /

ever-greening malpractices and non-compliance, if any:

- **HFTR** (Financial Transactions Reports)

HFTR menu in Finacle 10 provides different Types of entries (viz. Cash, Clearing and Transfer) – Bank-Induced and Customer-Induced. It provides reports at GL heads / GL subheads / account levels. It provides reports for different amount ranges and account ranges and for the periods. Particularly, Bank Induced (BI) Transfer entries would help indicate potential fictitious (merely book-entries), if any, routed through these accounts. For example,

- HFTR report on 'Bank-Induced (BI) Transfer type Credit' entries in

CC/OD GL subheads for March could help identify merely book-entries, if any, with corresponding Debit entries in impersonal accounts (e.g. sundry deposits, sundry credits) and subsequent reversal thereof, in 'No Turnover' / 'Poor Turnover' CC/OD accounts to evergreen NPAs / week credit facilities.

- HFTR report on 'Bank-Induced (BI) Transfer type Debit' entries in CC/OD GL subheads at year-end could help identify entries, if any, in unutilized CC / OD limits with corresponding Credit entries in deposit accounts and subsequent reversal thereof after year-end, and could

## BANK AUDIT



**HFTR menu in Finacle 10 provides different Types of entries (viz. Cash, Clearing and Transfer) – Bank- Induced and Customer-Induced.**



help indicate potential window-dressing, if any.

- **HLARA** (Loan Accounts Restructured)

This report provides information on number of times a loan account has been rescheduled / restructured. 'Schedule No.' shown indicates the number of times, limit / repayments have been reschedule / restructured. For example, inquiring information, such as, for top 10 accounts appearing in SMA-2 of December would help identify the accounts, if any, wherein repayments have been re-phased frequently/ irregularly to evergreen the loan accounts. In HACL menu, E option, would also help provide repayment rephases Details- for individual inquiry. This is an account specific menu, hence auditors could use this for top -5 / large/SMA accounts.

- **HMSGOIRP** (Minor Sub-Group Office Items Reports)

This report provides age-wise details of outstanding entities in office/ impersonal accounts (e.g. Sundry Deposits, Sundry Credits, Suspense, inter-branch) and would help obtain age-wise and entry-wise details of entries outstanding in such accounts and auditors could ascertain reasons for such long outstanding.

- **HTDSIP/ HTDSREP** (TDS Reports)

This menu provides various TDS reports including 'TDS Summary' enabling verification of TDS deduction and remittance on eligible amounts. To obtain TDS information for a specific constitution code (i.e. companies, individuals), HASTI menu report would help provide such information to check and determine non-compliance, if any.

- **HEXCPRPT** (Exceptions Reports)

This provides exceptions (financial and non financial) encountered At a SOL/ By a SOL/ Of a SOL (Service OutLet) during the day. Generation and scrutiny of exceptional transactions reports (ETRs) by the branch, recording the post-facto authorizations for exceptions, is mandatory in terms of RBI Circular No. DBS. CO.FrMC. BC.No.10 /23.04.001/ 2010-11 dated May 31, 2011 'Findings of Forensic Scrutiny- Guidelines for prevention of frauds'. Non-generation/ scrutiny of such reports by the branch daily could potentially result in non-detection of errors/ irregularities/ frauds, if any, timely. Auditors should specifically comment if such reports are not generated / scrutinized by the branches.



**In HACL menu, E option, would also help provide repayment rephases Details- for individual inquiry. This is an account specific menu, hence auditors could use this for top -5 / large/SMA accounts.**



### Word of Care:

- It is quite possible that exact menu / nomenclature of the report might be different than mentioned here. Therefore, it is strongly suggested that auditors should check with the bank for CBS application used and obtain the relevant reports available in the CBS environment.
- While using Finacle 10 generally 'H' is prefixed with the menu. Of the menu options mentioned above, some might work in DC (Finacle Core) environment while others may work in DR environment. In 'SEARCH' menu, any report, which is not specified in the menu list, could be searched by putting key words in search field.
- In B@NCS, TL= Tem Loan, DL= Demand Loan, A&S = Accounts and Services, L= Long, E= Enquiry.

### Conclusion

While using such audit exceptions / system generated reports, auditors need to apply heightened professional skepticism. Some of the reports might need no further validation/ confirmation, while many of the system generated reports posing risk of manual intervention, need further validation by the auditors for their completeness and correctness such as, NPA, SMA, restructuring, stock statements pending, reviews / renewals overdue and inspections overdue reports. No standard and exhaustive list of menus/ reports could be provided here and cannot be a panacea for auditing of all bank branches. Overall, above are some of the generally available various audit exceptions/ system generated CBS reports providing a basis for auditing could work as a beginner' guide. ■■■

## **BANK AUDIT**

# Income Recognition and Asset Classification (IRAC) Norms



### **CA. Dhnanjay J. Gokhale**

Author is member of the Institute. He may be reached at [ghan\\_gokhale@hotmail.com](mailto:ghan_gokhale@hotmail.com) and [eboard@icai.in](mailto:eboard@icai.in)

The audit of advances has always remained epicentre of statutory bank audit. Though the adoption of technological advancement changed banking practices over the years, the recent regulatory push for automation of income recognition, asset classification and provisioning process, triggered compulsive adoption of technology for automation of IRAC norms in banking sector. However, as an auditor, one needs keep professional scepticism alive as regards such automations, instead of blind reliance on it, especially considering ample examples around us wherein at times automations may lack factoring artistry in human behaviour.

**T**hus, one needs to be well versed with the regulatory guidelines related to Income Recognition, Asset Classification and Provisioning, besides being equally envisage about the accounting aspects related thereto.

The classification of assets of banks has to be done on the basis of objective criteria, which would ensure a uniform and consistent application of the norms. The provisioning should be made on the basis of the classification of assets based on the period for which the asset has remained non-performing and the availability of security and the realisable value thereof.

The Reserve Bank of India directed the banks to ensure the completeness and integrity of the automated Asset Classification (classification of advances/investments as NPA/NPI and their upgradation), Provisioning calculation and Income Recognition Processes, advised the banks to put in place / upgrade their systems to conform to the following guidelines latest by June 30, 2021. The System based asset classification is expected to be an ongoing exercise for both down-gradation and up-gradation of accounts and is required to be made part of day end process, whereby classification status report can be generated through system at any given point of time with actual date of classification of assets as NPAs/NPIs.

A Standard Asset can be defined as an asset which does not carry risk more than normal banking risk, whereas a Non-Performing Asset (NPA) is the one which either carries risk more than normal banking risk or ceases to generate income for the bank.

RBI has issued Master Circular on Prudential norms on Income Recognition, Asset Classification and Provisioning pertaining to Advances on April 01, 2022 consolidating instructions on the said matters issued upto March 31, 2022.

The RBI has defined various objective criteria as regards classification of advances, which are as follows:

1. **Term Loan:** If Interest and/or installment remains overdue for a period of more than 90 days. The exception to the above criteria would be Term Loans with moratorium period granted for interest as well as principal wherein the interest would be accrued and due only after the completion of the moratorium period.

Thus, it is vital to understand the meaning of the term 'overdue'. The Master Circular defines 'Overdue' - 'If an amount due to bank under any credit facility is not paid on the due date fixed by the bank, such amount would be called as Overdue.' The exact due dates for repayment of a loan, frequency of repayment, breakup between principal and interest are required to be clearly specified in the loan



## BANK AUDIT

agreement and the borrower should be apprised of the same at the time of loan sanction and also at the time of subsequent changes, if any, to the sanction terms/ loan agreement till full repayment of the loan.

Accordingly, a Term Loan borrower is provided with a repayment calendar which contains the above referred details and an inference of ideal outstanding balance as on any date can be drawn by referring to such repayment calendar. Thus, amount overdue for a term loan is nothing but an adverse difference between the amount demanded by (due to) the bank (which is EMI plus any other amount as per the terms of sanction) and amount received from the borrower. In other words, overdue amount as on a particular date is an adverse difference between ideal drawing power (i.e., ideal balance in term loan account if the repayment is made exactly on the respective due dates) and ledger balance as on that date. In case of any Term Loan, there are two possible additional demands besides predefined repayment sums which are as follows:



**If an amount due to bank under any credit facility is not paid on the due date fixed by the bank, such amount would be called as Overdue.**



1. Additional Interest for delayed repayment which arises due to delay in payment of the predefined repayment amount.
2. Penal Interest levied on the overdue amount as per terms of sanction,

It will be pertinent to note that the above specified additional amounts are immediately due as and when are debited in the term loan account (and not at the end of tenor of the term loan) and as such the same are required to be paid by the borrower in addition to the predefined repayment amounts. If the said amounts remain unpaid by the borrower, the same would be qualified as 'overdue'. Thus, the simple yardstick to analyse if an account has an amount which is overdue is to verify if there is an adverse difference between ideal drawing power and ledger balance, (i.e., ledger balance being more than ideal drawing power as on a cut-off date).

It is appurtenant to note that once an interest is debited to an account, it forms inseparable part of the ledger balance for the purpose of calculation of overdue amount and as such the realisation / servicing of interest in a term loan account is redundant from the perspective of classification of an account.

There are differential treatments followed in banking sector as regards

advance repayment of loans, which are enumerated below:

- i. Bank does not credit advance received in the Term Loan account and parks the same under the head 'Other Liabilities' and recovers the instalments / EMI therefrom on respective due dates, or,
- ii. Bank credits the said amount to the credit of the Term Loan account and either the remaining tenor of the loan is reduced and / or subsequent EMI is reduced accordingly, or,
- iii. Bank considered that such prepayments do not amount to change in subsequent EMI amounts and / or tenor of loan and are thus, adjusted against the outstanding balance in Term Loan accounts immediately on the date such amounts are received, thereby the borrower being benefitted with reduced interest due to reduction in balance outstanding in Term Loan Account.

An auditor is required to verify the treatment of the advance repayment vis-à-vis sanction terms and accounting treatment related thereto.

2. **Bills Purchased/ Discounted:** If such Bill remains overdue for period more than 90 days.

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3. **Agricultural Advances:** If Interest or installment remains overdue for two crop seasons for short duration crop, one crop season for long duration crop. A crop season is defined as 'period up to harvesting of crops raised' as determined by State Level Bankers' Committee (SLBC) and long duration crop means a Crop wherein crop season is more than 12 months. It is pertinent to note that Banks have discretion of rescheduling the agricultural advances in case of natural calamities, which impair repaying capacity (refer latest Master Direction dated October 17, 2018, by RBI on Relief Measures by banks in areas affected by Natural Calamities Directions 2018 - SCBs).
4. **Derivative Transaction:** Overdue receivables representing positive mark to market value of a derivative contract remaining unpaid for a period of 90 days from specified due date.
5. **Liquidity facility:** If it remains outstanding for more than 90 days in respect of Securitization transaction.
6. **Credit card dues:** If the minimum amount payable is not paid fully within 90 days from the next statement date.
7. **Cash Credit / Overdraft Account:** The account is treated as NPA if the same is 'Out of Order'. The account is called as out of order if any one of

the following conditions is fulfilled:

- a. Outstanding Balance remains continuously in excess of sanctioned limit / drawing power (whichever is lower) for more than 90 days; or
- b. No credit continuously for 90 days; or, credits in the account are not enough to cover interest debited during the previous 90 days.

The classification of advances would be qua borrower unless otherwise stated. Thus, all facilities granted to a borrower shall be treated as NPA and not only that facility which has become irregular.

The RBI has clarified as regards certain exceptions / clarifications to the above-mentioned criteria as follows:

1. **Non-submission / non-availability of stock statement:** outstanding Balance in account based on the drawing power calculated from stock statements older than 3 months would be deemed as irregular and if such irregular drawing is permitted for a period of more than 90 days, account needs to be classified as NPA. However, it would be pertinent to note that the relaxation so given by RBI is 'considering the difficulties of large borrowers', thus, limiting its applicability to large borrowers only and thus should not be construed as generic.



**'Previous 90 days period' shall be inclusive of the day for which the day-end process is being run.**



2. **Non-renewal/ Non-regularization of Regular / Adhoc limit:** If the same is not done within 180 days from the due date, the account would be classified as NPA.
3. Advances against term deposits, NSCs, IVPs, KVPs and Life Insurance Policies need not be treated as NPAs, till security cover is sufficient to cover outstanding balance, provided Income is recognized subject to availability of margin.
4. Central Government guaranteed advance to be classified as NPA only if Government repudiates the guarantee when invoked. However, income from such accounts is required to be recognized on 'Cash' (realization) basis.
5. **LCBD Facilities:** The Bill discounted against accepted LC would be treated as PA even though rest of the facilities of the borrower are treated as NPA (since the exposure of the bank in such cases would be on the LC issuing bank and not on the borrower), except in the instances wherein the LC issuing bank is itself.
6. In case of consortium banking arrangements, each member banks shall

## BANK AUDIT

classify the accounts according to their own record of recovery.

7. **Potential threat of Recovery (Straightway Classification):** Where realisable value of security is less than 50% of the value assessed (by bank or value accepted in last RBI Inspection), account to be straightaway classified as Doubtful Asset and where realisable value (as assessed by Bank / Valuator / RBI Inspector) of security is less than 10% of outstanding balance, account to be straightaway classified as Loss Asset.
8. **Fraud Accounts:** In case of Fraud Accounts, 100% provision is to be made irrespective of security, spread over 4 quarters commencing from the quarter in which fraud has been detected wherein the same is reported to RBI and in cases wherein the fraud cases are not reported to RBI, 100% to be provided instantly.
9. **Solitary or few credit entries recorded before Balance Sheet to regularise the account:** In such cases, if the account is exhibiting signs of inherent weakness, such account is required



**The loan accounts classified as NPAs may be upgraded as 'standard' asset only if entire arrears of interest and principal are paid by the borrower across all credit facilities.**

to be marked as NPA and in other cases, the bank needs to evidence the auditors about manner of regularisation of account or otherwise in absence of such evidence such accounts should be marked as NPA. Apropos to the same, regularisation of the account either at year-end or otherwise needs, to be out of genuine sources of funds, such as from income generating activities of the borrower and not by way of availing additional credit facilities / loans either from the bank or any other resources including to regularize existent credit facilities, wherein the asset classification needs to be considered as NPA.

10. **Mandatory Valuation of Securities:** In case of NPAs, wherein the outstanding balance is more than Rs. 5 crores, it is mandatory to conduct stock audit by external agencies and as regards immovable properties taken as securities, the valuation is required to be carried out at least once in three years by approved valuer. As regards other securities, one needs to verify the appropriateness in the valuation methodology thereof and consistency followed w.r.t. the same.
11. **Regularisation of accounts:** Partial regularisation and regularisation after the balance sheet date: In case if an account is a NPA, irrespective of whether the account is marked by the bank as NPA or not, the upgradation of the account would be subject to the condition

that the entire arrears of interest and principal are recovered (in case of Term Loan Accounts) or the working capital accounts are regularised out of genuine business credits. The regularisation of the account subsequent to the Balance Sheet date does not affect the assets classification as the upgradation of the account would be effected only prospectively on the date of regularisation. Further, it would be pertinent to note that the regularisation of the account by ensuring repayment of entire arrears needs to be at borrower level, and not at account level.

### Project Loans

The change in repayment schedule is permitted without change in asset classification if the same is caused due to increase in project outlay on account of increase in scope and size of the project, subject conditions stipulated in Para 4.2.15.6.2 of the Master Circular.

The usual classification norms apply before the commencement of commercial operations. However, in case of accounts wherein the borrower fails to commence the commercial operations within two years and within one year from the date of commencement of commercial operations (DCCO) w.r.t. Infrastructure and non-infrastructure sectors respectively, the account needs to be classified as NPA, unless eligible to be restructured and classified as standard asset. The restructuring of Project Loans is permitted with retention of



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class of asset provided deferent and consequential shift in repayment schedule is for equal or shorter duration as follows:

It would be significant to note that the above specified reversal of income is required to be applied once an account

Particulars	Infrastructure	Non-Infrastructure
Revised DCCO is within	Two years from original DCCO	One year from original DCCO
Revision due to Court Case	2 + 2 Years from original DCCO	1 + 1 Years from original DCCO
Revision due to any other reasons beyond control of promoters	2 + 1 Years from original DCCO	

An additional extension of DCCO is permitted for a further period of two years due to change of ownership of borrower entity, provided the conditions stipulated in Para 4.2.15.3 of the Master Circular are complied with. Further, Financing of Cost Overruns is permitted by way of Standby Credit Facilities, with retention of class of asset subject to compliance of stipulated conditions.

### Income Recognition / Reversal of Income

The income on Standard Assets is recognised on Accrual basis and the same on NPAs is recognised on Cash (realisation) basis.

As per para 3.2 of RBI Master Circular - 'If any advance, including bills purchased and discounted, becomes NPA, the entire interest accrued and credited to income account in the past periods, should be reversed if the same is not realised. This will apply to Government guaranteed accounts also. Similarly, in respect of NPAs, fees, commission and similar income that have accrued should cease to accrue in the current period and should be reversed with respect to past periods, if uncollected.

is marked as NPA to the extent of income and fees / commission, etc., which has remained unrealised. Thus, the concept of 'unrealised' interest is applicable post an account being marked and NPA and does not form part of various criteria specified for classifying an account as NPA as per Para 2 of the Master Circular; e.g.: (i) in case of second criteria for treating a CC/OD account as 'out of order' is related to whether the credit summation in previous 90 days 'cover' the interest debited in the same period. Thus, the concept of 'cover' and 'realisation' are distinct and needs to be considered appropriately for respective purposes. (ii) in case of a Term Loan, if an advance instalment received is credited to the loan ledger account, the same results in reduction in ledger balance and accordingly effects the calculation of 'overdue amount' but would

Date	Narration	Dr	Cr	Balance
01.Oct.2022	Disbursal	10,00,000.00		10,00,000.00
05.Oct.2022	Receipt		20,000.00	9,80,000.00
31.Oct.2022	Interest	10,000.00		9,90,000.00
30.Nov.2022	Interest	10,000.00		10,00,000.00
31.Dec.2022	Interest	10,000.00		10,10,000.00



**Partial recovery of arrears in NPAs and / or regularisation after the balance sheet date w.r.t. NPAs will not to affect the asset classification as on balance sheet.**



not amount to realisation of interest debited to the said term loan account subsequently.

The interest / fees / commission would be considered as realised only when there is a subsequent credit received in the account or, the ledger balance as on EoD of interest application is an adverse balance (credit balance). Thus, any credits received (whether as advance payment of instalment or otherwise) prior to debiting of interest would not be facilitative for considering interest as realised, unless the same are accounted for categorically as 'Advance income received' instead of crediting against outstanding loan balance.

Following is an example to elaborate the point further:

CC / OD Account (with drawing power and limit of Rs. 10,00,000/-)

## BANK AUDIT

In the instant case, the account will be marked as NPA on 31.Dec.2022 as the credits in 'previous (i.e. lookback period) 90 days' (of Rs. 20,000/-) are not enough to cover the interest debited during the same period (of Rs. 30000/-). The amount of interest unrealised will be Rs. 30,000/- and not Rs. 10,000/-.

Similarly, in case of a Term Loan account, interest debited in the account cannot be said to be realised out of prior credits received in the account (whether as prepayment or otherwise).

Thus, to summarise, when an account is marked as NPA, the interest / fees / commission / bank charges debited to the account, which are not realised as on the date of NPA are required to derecognised and subsequently needs to be recognised on realisation basis. It would be preeminent for the auditor to review the behaviour of the software to ensure allegiance to the concept of realisation.

Interest on additional finance in NPAs should be recognised on cash basis. If interest due is converted into unlisted equity / FITL, the same should be fully provided for and if the same is converted into a listed instrument, the interest should



be recognised to the extent of market value of such security on the date of conversion.

In case of recoveries in NPAs, in the absence of clear agreement between the Bank and the Borrower, an appropriate

policy to be followed in uniform and consistent manner as regards order of recovery of outstanding interest and principal amount.

Asset Classification and provisioning requirements

Type of NPA	Criteria	Provision	
		Secured Portion*	Unsecured Portion
Sub-Standard (SSA)	First 12 months from date of NPA	Secured SSA: 15% <sup>§</sup> Unsecured SSA: 25% Infrastructure SSA: 20%	
Doubtful – I	Subsequent one year after SSA	25%	100%
Doubtful – II	Subsequent two years after DA-I	40%	100%
Doubtful – III	After two years in DA-II	100%	100%
Loss	identified by the bank or internal or external auditors or by RBI Inspectors as wholly irrecoverable but the amount for which has not been written off	100%	100%

<sup>§</sup>Without making any allowance to ECGC guarantee cover and securities available.

\*Intangible Security is considered only if backed by legally enforceable and recoverable right over collection and rest of intangibles like rights, licenses, etc. are considered as 'Unsecured.'

As regards the prudential provision on Standard Assets the same has remained unchanged as provided in Para 5.5.1 of the Master Circular.

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**Concept of realisation of interest (income) needs to be tested at the time of classification of an account as NPA for reversal of unrealised income.**

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## Automating Audit

### CA. Kypa Gowtham Sai Krishna

Author is member of the Institute. He may be reached at [kypagowtham@gmail.com](mailto:kypagowtham@gmail.com) and [eboard@icai.in](mailto:eboard@icai.in)



Chartered Accountants- Popularly known as auditors, earn their bread from auditing the financial information of organisations. Chartered Accountants are legally equipped to issue audit reports on the financial information which enhances the trust of many stakeholders. In simple words Chartered Accountant sign a statement which is largely accepted as credible without second thought on it. This is the level of trust built by the CA fraternity over the years and it owes responsibility on each of us to uphold the same. Can we do this in a better way with the help of modern age technology?

**We have performed audits in an automated environment. Can we automate the audit itself?**

**O**ver the decades we have witnessed a drastic shift in the way the accounting profession records, processes and reports a transaction. Some research indicates that the book keeping in 2600 BCE used to happen with the help of styli on small

slabs of clay. Now the digitalized systems not only processes and reports the transaction recorded by the accountant but it can also record the transaction by itself and eliminates the entire manual intervention.

**We all know that the audit is an iterative process and now the upskilling for performing audits also an iterative one.**

In this everchanging world the auditor's had learnt a lot about system automations and how to perform an effective and efficient audit in an automated environment. But it is not the end of great technological learnings, rather it is the beginning for the next gen learning where an auditor needs to learn how to automate the audit process.

The automation can provide greater efficiency, reliability, accuracy, flexibility, timeliness of information, expand capacity, boost quality, enable greater audit coverage and can even provide cost advantage over the long run. The modern machines not only match humans but really do even more than a human. The talented workforce can be directed towards more complex and judgemental areas and excel in their core activity. Hence as an auditor why don't we take the advantage of automating the audit itself?

**Artificial Intelligence (AI) & Robotic Process Automation (RPA)**–*"It is as complex as converting a machine into human"*.

A technology which enables the machines to perform tasks of repetitive nature which are generally performed with human intelligence (i.e., in simple words the computing system is enabled with human intelligence). The best examples which we are most familiar with are search recommendations by google & amazon, self-driving cars, etc. This technology is so powerful that it enables the systems to even compose music, analyse human voice, capable of talking back (Siri, Alexa, Google voice assistant), identify the images and take informed decisions which are rule based. Yes, the AI can make decisions on its own & even capable of expressing opinion on financial information.

Some of the technologies that are radically changing the audit profession are:

- **Robotic Process Automation** – a robot that executes repetitive tasks based on a computer script.
- **Cloud Computing** – remote servers that store data and software.
- **Natural Language Generation** – writes text based on structured data according to defined parameters.



## TECHNOLOGY & AUDIT



The automation can provide greater efficiency, reliability, accuracy, flexibility, timeliness of information, expand capacity, boost quality, enable greater audit coverage and can even provide cost advantage over the long run.



- **Blockchain** – a technology that allows information storage and transmission in a transparent and secure way without central control.
- **Intelligent Content Recognition** – understanding a string of handwritten or typed characters and transform it into data.
- **Intelligent chatbot (Intelligent Virtual Assistants)** – a group of systems that can reach to oral or written text according to a pre-defined decision tree. The data repository can provide timely responses to audit questions.
- **Predictive modelling** – a process that relies on data mining and probability algorithms to predict events.

One need to have a good understanding about these new gen tools as they may become equally important as a technical standard to perform audits.

Some illustrative areas prone to automation-

- Use automated newsfeeds to pull information about entity (market data, regulatory filings, financial and non-financial news articles).
- Materiality can be determined by pulling out the numbers from last audited financials and applying the percentages as per the firm's methodologies.
- The auditor can use this technology to automate the compliance checking process which are rule based. For example – Let us see the automation prone areas under **CARO Reporting**
  - Tittle deed of immovable properties are in the name of company – if company holding a lot of immovables, it requires an auditor to go through each tittle deed. This can be done easily with the RPA in fraction of seconds. The system will search for all the documents can give an output by identifying the exceptions.
  - The company is regular in depositing undisputed statutory dues- RPA can read through the monthly - state wise returns and map them with the challans w.r.t TDS, GST, PF, PT, ESI... etc, which are routine and standardised in nature and can provide an output by identifying the delay in payment, overdue for more than 6 months from the date become payable.  
This is just an example but there can be many areas in which the systems can provide their opinion at a greater pace and with 100% accuracy.
- It can read through the each and every entry passed throughout the period under consideration by the clients and provide most valuable and a pictorial representation of huge volumes which can add value not only to auditors in identifying the audit risks but also provide a valuable input to the client about the trends in the business.
- It can examine the full population of data and identify the anomaly, patterns which will be useful for the auditor in identifying the risks. By checking the full population of data helping to eliminate sampling risk, leading to a greater audit quality and helps to reduce the audit risk to maximum extent possible.
- Run independent calculations such as depreciation etc., and provide an independent auditor point estimate for evaluation.
- Drones can be used to undertake stock counts.
- It can do much more which we can't even think of today. The audit will be a profession that will be a real time task with the help of AI tool(s), which in turn could analyse, test and flag anomalies or issues that require the auditor's attention as and when a transaction occurs.  
The technologies perform the repetitive tasks without getting bored, the results are error prone, provide greater flexibility to the workforce, reduce the audit

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**Automation leaves additional time for auditors to focus on other improvements, such as increasing transparency and communications with the clients.**

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risk, saves the precious man time, cost effective in long run, accurate results and more over these are much required to meet mitigate the audit risk arising to use of automated accounting systems by the client and everchanging business environment.

## Factors affecting the automation

- Identifying the areas susceptible for automation
- Technical feasibility
- Cost of development, implementation and sustainability
- Adoptive work culture
- Time taking process
- Government Regulations
- Confidentiality and
- Benefit from automation can be enjoyed over a long run

## Motivations for Audit automation

Modernisation and adoptive atmosphere at the client's business doesn't leave an option for the auditors to skill up but creates a compulsion to emerge as a tech savvy firm that can provide an enhanced assurance in a real time. By eliminating the routine tasks unleash the

potential of the firm which can open up a new revenue streams and a quality audit to client. The fourth industrial revolution is headed in terms of speed of the information and stakeholders expects the auditors to provide a real time assurance update and not at the time of regulatory probe. Automation leaves additional time for auditors to focus on other improvements, such as increasing transparency and communications with the clients.

Tedious task in any audit is starting the audit, where the team starts gathering the unstructured data from many unstructured sources. With the use of new technologies one can predetermine what data should be obtained, from whom and at what time, the system can trigger the scheduled mails from the same for every recurring audits.

## Limitations

Cost, adoptability, confidentiality of the information obtained will be the key limiting factors for audit automations. Real time automated audit testing requires access to sensitive data of the clients, the clients may not be willing to link their servers to the audit firm's servers on which the auditing tool will work. The data security and confidentiality of obtained information is a key consideration in automations. The workforce should undergo continuous learning as to keep them updated with the latest firm's technologies. This adds on the firm's recurring cost to train their employees to work on the ever-updating tech platforms. Cost of development, implementation and

sustainability will be recovered over long period of time and the payback also depends on the economies of operations. To recover the heavy investments, firms may keep on adding the high-risk clients at the cost of quality of assurance delivered.

## Will Luddite fallacy come true this time?

(Luddite Fallacy background- A Luddite is a term used to describe people who oppose the introduction of new technology. The English textile workers were put out of business by the deployment of new automated power looms, which could produce clothes at a lower price. These new machines could do the job of several skilled workers, so firms stopped employing the skilled workers. The unemployed workers understandably saw this new technology as taking their livelihood and in desperation began a campaign to destroy machines. The tragedy is that although these groups of workers did suffer from the deployment of new technology, over time, the general population benefitted from cheaper clothes, lower prices and new jobs in other sectors of the economy.)

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**Real time automated audit testing requires access to sensitive data of the clients, the clients may not be willing to link their servers to the audit firm's servers on which the auditing tool will work.**

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## TECHNOLOGY & AUDIT



The biggest question in the mind – will the new age technologies replace auditors?

- A report from McKinsey Global Institute reports that less than 5% of the occupations can be fully automated, 60% of all occupations have 30% automatable activities.
- PIAAC (Programme for the International Assessment of Adult Competencies), OECD data project that the financial service industry has almost 30% risk of potential job loss in this decade. Which is the highest among all industries in this decade.
- U.S Government Accountability office researchers estimate that anywhere from 9% to 47% of jobs could be automated in the near future.

The world has witnessed this situation of technological disruption many times. During the early 19th century the industrialisation is expected to wipe the jobs and it is strongly opposed by many pessimists across the world. But optimists accepted the fact that the revolution will lead to short term disruption in the job market by providing greater economic opportunities in long run. The time stood with the optimists by not only creating the new jobs but also increasing

the productivity and benefiting the economy at large.

Hence, we can call the new age technologies “co-bots” rather than “robots” as in the long run they don’t steal our jobs but they work with us as a co-employee.

Latest argument in the market is that historically *only muscle power got mechanised but this time the entire human brain is getting mechanised*. Hence in very near future we can see the robots walking around us in streets with the help of sensor working as a security guard by keeping watch over our premises, serving food in restaurants, driving vehicles for delivering goods and *even performing audits like one of us*.

All the independent researches indicate that the said automation is bound to happen in no time as this helps in cutting the costs to the firm and provide enhanced productivity with great quality. Already the tax return prepares are replaced to the maximum extent with the help of online tax return preparation tools. GST authorities had decided to remove the compliance mechanism of GST audit as the entire transactions have an automated trail. This cautions us to upskill and to invest in understanding the value of new technologies and the skillsets now needed to deliver a new



Technology is an enabler and we must embrace it in the environment that we are working in to ensure accuracy and completeness of the information analysed.



generation of audit: smarter, more digitized, and that will be able to create a better audit experience for the clients.

### Conclusion

The automated world equips the new gen auditor with a greater capacity to test 100% of the population. This may enhance the expectations from the producers & users of the information and auditors may need to provide a level of assurance which is greater than a reasonable assurance.

Most of the routine tasks can be easily automated, however, predetermined rules and actions based on the rules can cause perpetrators to use more sophisticated techniques to bypass the system and therefore the scepticism and knowledge base of a human being experienced in Audit shall always be needed to provide a better assurance. Technology is an enabler and we must embrace it in the environment that we are working in to ensure accuracy and completeness of the information analysed. However, human judgement is very important as new methodologies of frauds are invented on a regular basis and even faster in an automated environment.





## Section 194R- TDS on Benefits or Perquisites- Emerging facts and issues

**CA. Vishal Gupta and CA. Alok Kaushik**

Authors are members of the Institute. They may be reached at [eboard@icai.in](mailto:eboard@icai.in)



As per clause (iv) of Section 28 of the Income-tax Act, 1961 (), the value of benefits or perquisites, whether convertible into money or not, arising from business or exercise of profession is chargeable to tax as business income. However, in some cases, the recipient of benefits or perquisites is not including it in their taxable income. Therefore, in order to catch hold of such cases and simultaneously widen the tax base, Section 194R is inserted through Finance Act, 2022 by our Honourable Finance Minister Smt. Nirmala Sitharaman. The provisions of Section 194R are applicable from July 01, 2022.

**E**fforts have been made to cover provisions of this section in the form of a questionnaire to the maximum extent as per our best understanding in this article which may prove to be beneficial for the readers

### What is the scope of Section 194R?

Sec. 194 provides for deduction of tax at source on providing benefits or perquisites to a resident if such benefits or perquisites arising from carrying on of business or exercise of the profession. This section is applicable from July 01, 2022.

### To whom Section 194R is applicable?

Section 194R is applicable to every person who is providing benefits or perquisites **whether resident or non-resident ('provider')** in excess of the threshold limit except specified individuals and HUFs exempted by the third proviso to section 194R. As per that proviso, individuals or HUF carrying on any business or profession having total sales/gross receipts/turnover of up to INR one crore or INR fifty lakhs respectively (in the immediately preceding financial year) are not required to deduct TDS under this section.

### Where the benefits or perquisites are provided to a Government Entity, is this section applicable?

This section is not applicable where the benefits or perquisites are provided to a Government entity, like a government hospital, not carrying on any business or profession.

### What is the meaning of benefits or perquisites?

'Benefits' has not been defined under the Income-tax Act, 1961. The dictionary meaning of benefits is the advantage or profit or anything which is contributing to the improvement of existing conditions as decided in [CIT v. Smt. Kamalini Gautam Sarabhai [1994] 208 ITR 139 (Guj.)]

'Perquisites' has been defined under section 17(2) of Income-tax Act, 1961. Since it is an inclusive definition as defined under this section, it only lists down the items that should be covered in the form of perquisites under the head 'Salary'. The literal meaning of perquisites as per oxford's dictionary is '*something to which someone has a special right because of their social position*'. Therefore, from this definition, it may be inferred perquisite denotes an income in addition to the main source of income.

### What is the meaning of provider for the applicability of this section?

The term provider has not been defined either under section 194R

## **TAXATION**



**Section 194R is applicable to every person who is providing benefits or perquisites whether resident or non-resident ('provider') in excess of the threshold limit except specified individuals and HUFs exempted by the third proviso to section 194R.**

or in guidelines issued by CBDT. However, in our view, **'Provider' in the restricted sense of section 194R** should include a person who provides some benefit or perquisite to other people not being an employee either by himself or through a third party.

### **What is the meaning of recipient for the applicability of this section?**

The term recipient has also not been defined neither under section 194R nor in guidelines issued by CBDT. However, in our view, **'Recipient'** means a person who is not an employee since section 192 comes into play in the case of an employee. Further, he must be carrying on a business or exercising a profession and should have a business or professional relationship with the provider.

### **At which rate TDS is required to be deducted?**

TDS is required to be deducted at the rate of 10% subject to sections 206AA and 206AB of the Income-tax Act, 1961.

**At what rate, TDS will be deducted if the recipient has not furnished his PAN or has not furnished his return of**

**income for a specified period as per section 206AB of the Income-tax Act, 1961?**

Section 194R has been introduced under Chapter XVIIIB of the Income-tax Act, 1961 which covers all the sections pertaining to TDS. Since, section 206AA is applicable to the whole of Chapter XVIIIB, hence Section 194R will also fall under the ambit of section 206AA. Therefore, in case of non-availability of PAN, TDS is required to be deducted at 20%.

Similarly, Section 206AB is applicable to the whole of Chapter XVIIIB, and this section has not specifically excluded section 194R, hence Section 194R will also fall under the ambit of section 206AB. Therefore, in case of non-furnishing of return of income, TDS is required to be deducted at 20%.

### **Whether the recipient can apply for Low Deduction Certificate ('LDC') or No Deduction Certificate ('NDC') for Section 194R?**

Section 197 provides that if the assessing officer is satisfied that the total income of the recipient justifies the deduction of income tax at any lower rate or no deduction of income tax, as the case may be, the officer shall on an application made by the assessee in this behalf, give to him such certificate as may be appropriate. Section 197 includes an inclusive list of sections for which the recipient can apply for LDC or NDC.

Since section 197 for issuance of LDC or NDC has not been amended to include section 194R. Therefore, it is inferred that recipient cannot apply for LDC or NDC.

**At which time, TDS is required to be deducted on benefits or perquisites by the provider?**

Section 194R provides that, before releasing the benefits or perquisites, the provider shall ensure that tax has been deducted in respect of such benefits or perquisites.

Let's take an example:

A company provides a foreign tour to its distributors. It will include provisioning of expenses in books of accounts, intimating and getting approval from distributors, booking tour and making payment to the vendor, handover tickets to distributors.

In our view, the company should deduct TDS at the time of booking of expenses in books of accounts or payment to vendor whichever is earlier subject to eventual availing of the benefit by the recipient.

However, the timing of the deduction of TDS has not been explicitly clarified in department notification and clarifications provided so far, and is still a subjective matter depending on the facts and circumstances of each case.

### **What is the threshold limit for the deduction of TDS?**

TDS is required to be deducted only if the value or aggregate value of benefits or perquisites provided to each beneficiary during the financial year exceeds INR 20,000.



**TDS is required to be deducted at the rate of 10% subject to sections 206AA and 206AB of the Income-tax Act, 1961.**

## **Whether benefits or perquisites provided during Apr-Jun' 22 will be considered for threshold limit?**

Benefits or perquisites provided during Apr-Jun' 22 will be considered for the threshold limit but such benefits or perquisites will not be subjected to TDS.

## **Whether TDS is required to be deducted from benefits or perquisites provided to non-residents?**

Section 195 provides for the deduction of tax at source if the income of non-resident is chargeable to tax in India. If the benefits or perquisites provided to non-resident is chargeable to tax, then, TDS under section 195 is required to be deducted.

## **What type of benefits or perquisites are covered under this section?**

Benefits or Perquisites may be in cash or in kind or partly in cash and partly in kind whether convertible into money or not.

There were divergent views on the same however the same has been clarified vide Finance Bill 2023 which clearly stated that TDS is applicable irrespective of whether the benefit or perquisite is in cash or in kind or partly in cash and partly in kind.

## **How the provider will deduct the TDS where the benefits or perquisites provided are in kind?**

Where the benefits or perquisites provided are in kind or partly in cash and partly in kind but such part in cash is not sufficient to meet the tax liability, then, the provider shall before releasing such benefits or perquisites ensure that the tax required

to be deducted has been paid in respect of such benefits or perquisites. The provider may rely on a declaration along with an advance tax payment challan provided by the recipient confirming that the tax required to be deducted on such benefits or perquisites has been deposited. Challan details provided by recipient have to be reported in Form 26Q by the provider.

Or alternatively, the provider may also bear the burden of TDS also by applying the principle of grossing up in such a situation.

## **Whether the provider is required to check benefits or perquisites are taxable in the hands of the recipient?**

No, the Provider is not required to check whether the benefits or perquisites are taxable in the hands of the recipient and under which head of income it is taxable. Provider shall deduct TDS irrespective of the fact that benefits or perquisites are taxable or not.

## **Whether TDS will be applicable to providing benefits or perquisites to an employee?**

Section 194R will be applicable only where benefits or perquisites are received in the course of business or exercise of the profession. Therefore, TDS under section 194R will not be applicable. However, TDS will be deducted under section 192 on benefits or perquisites provided to an employee.

## **What if benefits or perquisites are provided to customers who are end users?**

TDS under section 194R will not be applicable as Section



**TDS is required to be deducted only if the value or aggregate value of benefits or perquisites provided to each beneficiary during the financial year exceeds INR 20,000.**



194R provides for deduction of TDS only if benefits or perquisites arise from carrying on business or exercise of the profession. Since, end users are purchasing the product for their personal consumption and not for any business purpose, therefore in our view any benefits or perquisites received in lieu of that will not be covered under the purview of section 194R.

## **Benefits or Perquisites received are in the form of capital assets. Is this section applicable?**

Yes, CBDT vide a Circular No. 12 of 2022 dated June 16, 2022 has clarified that this section is applicable even if Benefits or Perquisites received are in the form of capital assets.

## **How is the valuation of benefits or perquisites will be carried out?**

Section 194R is silent on valuation. However, CBDT vide a Circular No. 12 of 2022 dated June 16, 2022 provides for the valuation of benefits or perquisites. GST will not be included for the purpose of valuation. Valuation will be based on fair market value(FMV) except in the following cases:



## **TAXATION**



**Section 194R will be applicable only where benefits or perquisites are received in the course of business or exercise of the profession.**

- If the provider has purchased benefits or perquisites, then purchase price shall be the value of benefits or perquisites.
- If the provider manufactures them, then the price it charges to its customers.

### **What is the meaning of 'Fair Market Value' (FMV) for the purpose of Section 194R?**

Section 194R and circular no. 12/2022 issued by CBDT have not defined FMV. It is defined under section 2(22B) of the Income-tax Act, 1961, 1961. In Short, the FMV of Capital Asset is:

- The price that a capital asset will fetch on sale in the open market.
- If it is not feasible to determine FMV from the above mentioned method, it will be determined with the rules made under Income-tax Act, 1961, 1961.

To determine FMV of items other than capital assets, there is no defined procedure under Income-tax Act, 1961, 1961.

### **Whether sales discount, cash discount or rebates allowed to customers are benefits or perquisites?**

No, it is clarified that sales discount, cash discount or rebates from listed retail prices

allowed to customers are not benefits or perquisites since the cost of free items sold is already built in the cost of the sold article for which the price is charged.

There are schemes like Buy 1 and Get 1 Free is also not covered as benefits or perquisites. Additional free items of the same item which is sold will be treated as a discount.

### **Whether free samples are benefits or perquisites?**

Yes, free samples provided are covered benefits or perquisites.

### **What are the examples of benefits or perquisites liable for the deduction of TDS?**

- Incentives in the form of cash or kind such as car, TV, computer, gold, mobile phones etc.
- Sponsorship of a Trip for the recipient and his/her relative upon achieving the target.
- Free Tickets for an event.

### **What if benefits or perquisites are provided to an entity and used by the owner, employees or directors of the recipient entity?**

Sometimes, the benefits or perquisites are provided to an entity which are used by the owner, employees or director of the recipient entity, in their individual capacity who may not be carrying on any business or profession. In such cases, the provider shall deduct TDS in the name of an entity.

### **Where the products are given to social media influencers for advertisement, will it amount to benefits or perquisites?**

Where the products are given to social media influencers

for advertisement and the said product is returned by him/her after rendering the services, then it will not amount to benefit or perquisites. But if the product is retained after rendering services, it will amount to benefit or perquisites and TDS under section 194R will be applicable.

### **Whether free samples of medicines provided to doctors is in the ambit of section 194R?**

Where the free samples are to doctors, following scenarios are possible:

- Where the doctor is working in the hospital as an employee: Pharma company will have to deduct TDS in the name of a hospital under section 194R and further hospital will deduct the TDS of the doctor under section 192.
- Where the doctor is working in the hospital as a consultant: Pharma company will have to deduct TDS in the name of the hospital under section 194R and further hospital will deduct the TDS of the doctor under section 194R.
- Where the doctor runs his own clinic: Pharma company will have to deduct TDS in the name of the doctor under section 194R.

### **Where the gifts are given to brand ambassadors, will they come under the ambit of section 194R?**

Gifts received by brand ambassadors are received by him/her in the course of the exercise of his/her profession and are taxable under section 28(iv). TDS will be deducted under section 194R.

### **Whether reimbursement of out of pocket would fall within the purview of section 194R?**

There are two scenarios for reimbursement of out-of-pocket expenses:

## TAXATION

- Where the service provider receives the invoice in his name and payment is done by the recipient directly or reimbursed then such reimbursement will be considered as benefits or perquisites and TDS will be deducted under section 194R.
- Where the invoice is in name of the service receiver and he has reimbursed the same to the service provider (in case service provider has made the payment), in this case, the reimbursement made by the service recipient will not be considered as benefit/perquisite.

### **Whether expenditure incurred by an entity on dealer or customer conference would fall within the purview of section 194R?**

CBDT vide its Circular No. 12 of 2022 dated June 16, 2022 has clarified that expenditure incurred by an entity on conferences would be considered as benefits or perquisites only if the conference is arranged for selected customers or dealers.

Further, it is clarified that the following expenditure will always be considered as benefits or perquisites:

- Expenses incurred on leisure trips even if incidental to the conference.
- Expenses incurred for family members accompanying the person attending the conference.
- Expenditure on prior stay and overstay.

### **Whether non-monetary benefits given to partner would fall within the purview of section 194R?**

In the case of *Perizad Zorabian Irani v. PCIT [2022] Bombay High Court* has held that income earned from a partnership firm as a working partner cannot be said to be from carrying on the business. Hence, it is clear that

the partner is not engaged in business only the firm is engaged in business. Therefore, TDS under this section is not applicable to benefits given to the partner.

However, in the case of professional firms, partners are always having a certificate from a recognised professional body, in our view, it is advisable to deduct TDS under section 194R.

### **What are the challenges that Indian Inc. will face in the practical implementation of this section?**

There are a lot of practical challenges that India Inc. is likely to face - some of them are enumerated here- in-below:

- Earlier, Industries providing gifts, free samples or incentives are recording all the expenses under the single heading of business promotion expenses. But, due to the implementation of Section 194R, the Provider has to maintain a detailed record of the receiver for the purpose of tax deduction. Further, the provider has to maintain the inventory of receipt and distribution of goods.
- Where the benefit or perquisites provided are in kind, then the receiver has to pay tax as advance tax and provide a copy of the challan and declaration of the same to the provider. It is practically not feasible for the provider to get challan and declaration from all recipients as most of the benefits or perquisites provided are in kind. This also leads to a question that what shall be the tax treatment in cases where the recipient is having carried forward losses or is a loss-making entity.

### **What are the Changes proposed in Finance Bill 2023?**

Bill proposes to clarify by way of insertion of an Explanation to

said Section to provide that TDS provisions will be applicable irrespective of whether benefit or perquisite is in cash or in kind or partly in cash and partly in kind.

### **Is there any penalty introduced under the Income Tax Act for non - deposition of TDS to be paid by the provider of Benefit or perquisite?**

Bill proposes to amend Section 271C by inserting new sub-clause under sub section(1)(b) to enable such penalty to the provider of benefit or perquisite in case he fails to pay TDS where he is required to pay in case cash is not sufficient to meet the liability of TDS as provided in the first proviso of Section 194R (1)

## **Conclusion**

In nutshell, it appears that section 194R has both pros and cons. On the pros side, Section 194R will bring transparency in the tax eco-system wherein the person providing benefits or perquisites will deduct TDS and file the TDS return which will bring more and more people under the tax net as the tax so deducted will reflect in 26AS of the recipient. Section 194R will curb the non-disclosure of benefits or perquisites income arising in the course of business or profession.

On the cons side, this section will create a huge burden on entities from an accounting and taxation point of view. Moreover, there are numerous questions which are still not answered, though the department has made an attempt to answer some questions by way of a circular which was published on June 16, 2022 still a lot is yet to be answered.

In our view, the government should come up with an exhaustive definition of benefits or perquisites so that concept of taxing benefits or perquisites arising from business or profession will become practically feasible and is beneficial for both tax payer as well as exchequer. ■■■

## Reference

# ACCOUNTANT'S BROWSER

## PROFESSIONAL NEWS & VIEWS PUBLISHED ELSEWHERE

*Index of some useful articles taken from Periodicals received during January - February 2023 for the reference of Faculty/ Students & Members of the Institute.*

### 1. Accountancy

Association between public pension fund characteristics and pension accounting choices by Guowusu Xu, Fang-Chun Liu, Hsiao-Tang and Jerry Lin. *Asian Review of Accounting*, vol.30, No.4, pp.465-489.

Ind AS/IGAAP-Interpretation and practical application - Enabling Assests by Dolphy D'Souza. *BCAJ*, January 2023, pp.70-71+82.

### 2. Audit

Continuing professional education and audit quality: evidence from an emerging market by Murat Ocak, Serdar Ozkan and Gokberk Can. *Asian Review of Accounting*, vol.30, No.4, pp.432-464.

Technology: The new audit team member by Abhishek Agrawal. *BCAJ*, January 2023, pp.23-26.

### 3. Economics

MSME act,2026 - 12 compliance action points for entities dealing with MSMEs by Sunil Gabhawalla. *BCAJ*, January 2023, pp.17-22.

### 4. Law

New labour code and implications for women workers by Kingshuk Sarkar and Ellina Samantroy. *Economic & Political Weekly*, February 4, 2023, pp.52-58.

Securities Laws: SEBI lays down clearer guidelines on what constitutes 'Misleading

information' by Jayant M. Thakur. *BCAJ*, January 2023, pp.112-114.

### 5. Management

Funding options for a Start-up by Vijay A M. *The Chamber's Journal*, January 2023, pp.44-47.

Growing role of proxy advisory firms as stewards by Preeti Grover. *Chartered Secretary*, January 2023, pp.68-71.

Joint board management meetings and earnings management by Dian Agustia, Iman Harymawan, Mohammad Nasih and John Nowland. *Asian Review of Accounting*, vol.30, No.4, pp.540-558.

Rethink your employee value proposition offer your people more than just flexibility by Mark Mortensen and Amy C. Edmondson. *Harvard Business Review*, January - February 2023, pp.45-49.

Role of stewardship and proxy firms in strengthening corporate governance by V. Balachandran. *Chartered Secretary*, January 2023, pp.76-82.

### 6. Taxation and Finance

Corpus donations - recent developments by Anil Sathe. *BCAJ*, January 2023, pp.11-16.

Taxation aspects for Start-ups by Chandrashekhar V. Chitale. *The Chamber's Journal*, January 2023, pp.17-26.

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

## Classifieds

**5957** We are 11 year old Professional Practice; looking for Firms who are interested to officially merge with us. Please mail: [firms@shahtelani.com](mailto:firms@shahtelani.com)

**5958** 40 year old firm having headquarter in Delhi NCR, invites proposal for merger with sole proprietorship or partnership firms. Mail with brief profit to [mohmee61@gmail.com](mailto:mohmee61@gmail.com)

**5959** 32 year old Firm Headquartered in Delhi NCR invites proposal for merger with sole proprietorship or partnership firms. Mail with brief profile to [sangeeta.pgc@gmail.com](mailto:sangeeta.pgc@gmail.com) or call 9811278153

**5960** We are 27 years old CA firm having 08 partners & H.O. in Delhi are looking for a 15 or more years old proprietor firm at Kanpur, Dehradun, Bhopal, and Ahmedabad DISA qualified and has experience in concurrent and Govt. Audits for the merger. Interested firms can send proposals with profiles to: [bpshassociates@gmail.com](mailto:bpshassociates@gmail.com), Whatsapp - 9958061149.

**5961** Gujarat headquartered 42 year old firm ([www.rkdoshi.com](http://www.rkdoshi.com)) wishes to open branches in Tamil Nadu, Kerala, Punjab, AP, Telangana, Assam, Orissa & WB. Contact: [cafirngujarat@gmail.com](mailto:cafirngujarat@gmail.com).



## Legal Decisions



### Income Tax

**LD/71/88 Delhi High Court: W.P. C No.572/2023 Blackstone capital Partners (Singapore) VI FDI Three Pte Ltd Vs. The Asst. Commissioner of Income Tax**  
18<sup>th</sup> January 2023

Principal allegation for initiating reassessment against the Assessee was purchase of shares of an Indian company 'Agile Electric Sub-Assembly Pvt. Ltd.' leading to escapement of income chargeable to tax; As per assessee, no income accrued or arose in India, and subject transaction is a capital account transaction where remittance was made to the seller after deducting tax at source as ascertained by the Revenue by virtue of certificate under Section 197; High Court directed Revenue for de novo exercise of re-assessment proceedings and pass a speaking order by giving opportunity to the assessee and by dealing with the contention that the underlying share purchase transaction is a capital account transaction.

**LD/71/89 ITAT Mumbai: ITA No. 7876/Mum/2019 Ms Crown Chemicals Private Ltd Vs. The Asst. Commissioner of Income Tax**  
23<sup>rd</sup> January 2023

ITAT deleted the addition of 4.37 Crores u/s 56(2)(viib) made on account of the difference between value of shares based on FMV and NAV method, where the assessee had preferred and adopted the Discounted Cash flow (DCF) method; As per ITAT, DCF method adopted by the assessee cannot be rejected merely on the basis of comparing projections with actuals; Assessee had issued 6,250 equity shares of Rs.100 each at a premium of Rs.9,500 per share and was subjected to Section 56(2)(viib) addition; ITAT noted that independent valuer relied upon the future cash flow values as certified by the management together with the projections and assumptions adopted by the management; ITAT noted that discrepancies as pointed out by the Revenue are not discrepancies at all but the factually incorrect appreciation of facts.

**LD/71/90 Bombay High Court: W.P. no 9830/2022 CREDAI BANM Vs. Union of India**  
23<sup>rd</sup> December 2022

High Court dismissed writ petition of CREDAI-

BANM for extending the cut-off date for availing benefits under Section 80-IBA from Mar 31, 2022 to Mar 31, 2023 on the grounds of discrimination; Assessee argued that though both section 80-IBA and Section 80-IAC were enacted under Finance Act, 2016, the date of incorporation for start-up companies was extended from Mar 31, 2022 to Mar 31, 2023 by Finance Act, 2022, however no such extension was granted under Section 80-IBA; High Court held that it could not exercise its jurisdiction under Article 226 of the Constitution to issue a writ of Mandamus to the Government, much less to the legislature, directing the legislation in the nature sought by the Petitioner in the reliefs claimed in the petition.

**LD/71/91 ITAT Chennai: ITA No. 652/Chny/2016 Craftsman Automation Pvt. Ltd Vs. The Jt. Commissioner of Income Tax**  
21<sup>st</sup> December 2022

ITAT allowed deduction u/s 80JJAA with respect to the additional wages paid during AY 2011-12 in respect of new employees employed during the preceding years, who were not eligible for deduction in such preceding year as they did not work for more than 300 days; As per assessee, proviso to Section 80JJAA is explanatory and retrospective which is also evident from notes on clauses to Finance Bill 2018; ITAT relied on Karnataka HC ruling in Texas Instruments and held that the issue of amendment brought in Section 80JJAA by inserting proviso which has relaxed condition in regard to number of days of employment of new employees has to be interpreted as retrospective in nature.

**LD/71/92 ITAT Mumbai: ITA No. 1669/Mum/2022 Mumtaz Abdul Aziz Vs. The Income Tax Officer**  
21<sup>st</sup> December 2022

ITAT dismissed assessee's appeal and upheld addition made on account of short term capital gain from sale of property; Dismissed Assessee's submission that the property was purchased and sold by Assessee's son and her name was only used for convenience; Merely because interest of the housing loan on the said property was claimed by the assessee's son in his computation of income, does not make him the owner of the property; Assessee had not filed her return and revenue had initiated reassessment proceedings against Assessee.

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 [ebboard@icai.in](mailto:ebboard@icai.in). For full judgement write to [ebboard@icai.in](mailto:ebboard@icai.in).

***LD/71/93 Delhi High Court: W.P.(C) 17455/2022  
Bharat Agro Overseas (India) Vs. The Asst.  
Commissioner of Income Tax  
21<sup>st</sup> December 2022***

High Court set aside reassessment notice for not disclosing the information/material that formed the basis for initiating the reassessment and directed Revenue to furnish the relevant information within four; High Court noted assessee's argument that the reassessment proceedings were commenced by issuing notice to a non-existent entity, i.e., the partnership firm which bears the name same as the assessee who is a proprietorship concern; Clarified that Revenue will deal with assessee's contention regarding the request for surrender and cancellation of the PAN allocated to the partnership firm, which is no longer in existence.

***LD/71/94 Delhi High Court: W.P.C No.6625/ 2022  
G4S Secure Solutions India Private Limited Vs.  
The Asst. Commissioner of Income Tax  
19<sup>th</sup> December 2022***

High Court sets aside the reassessment proceedings by holding that the Revenue failed to furnish any material to prove that the Assessee was a beneficiary of the alleged accommodation entries; Revenue did not conduct independent enquiries and merely relied on the information supplied by the Central Goods and Services Tax (CGST) authorities; High Court referred to the documents which formed the basis of issuance of notice under Section 148A(b) and observed that the entities and companies to whom the said bogus company appeared to have provided accommodation entries, included not only the Assessee but certain public limited companies/ PSUs such as BHEL., Indian Oil, HAL, HPCL, L&T, etc.; As per High Court there was no material to suggest that accommodation entries were provided by the said bogus company to these companies or the assessee.

***LD/71/95 ITAT Mumbai: I.T.A No.2186/  
Mum/2021 Oxford University Press Vs. The Dy.  
Commissioner of Income Tax, Intl. Taxation  
13<sup>th</sup> December 2022***

Assessee, a non-resident was engaged in the business of publishing and selling educational books and had claimed deduction of Rs.1.01 Cr on account of school support services being

classified as sales promotion expenditure; Revenue has noted that quantum of payments were based on number of books sold by the concerned booksellers to students referred by each school and the nature of those payments is nothing but sales commission which attract TDS; ITAT upheld Revenue's contention; Additionally ITAT observed that if the recipients had disclosed receipts from Assessee in their return of income, assessee cannot be treated as an 'assessee in default' and no disallowance u/s 40(a)(ia) can be made even if the disclosed income is exempt from income tax.

***LD/71/96 ITAT Raipur: ITA. No. 30/RPR/2016  
M/s Kulkarni & Sahu Buildcon Pvt. Ltd Vs. The  
Dy. Commissioner of Income Tax  
12<sup>th</sup> December 2022***

ITAT held that surrendered income had been rightly offered under business income in the return by the assessee and ITAT rejected Revenue's stand that the said income was assessable as 'undisclosed income' u/s 69; Assessee had surrendered excess WIP and excess building material stock of Rs. 55.31 lacs and therefore credited the said amount in its trading account; ITAT held that when Revenue itself observed that the income surrendered by the Assessee was nothing but the accumulation of the profits, then drawing a contrary view by holding the same as not sourced out of assessee's business but was from undisclosed sources within the meaning of Section 69 was beyond comprehension.

***LD/71/97 ITAT Mumbai: ITA. No. 1525/  
Mum/2016 M/s Merk Ltd Vs. The Dy.  
Commissioner of Income Tax 05<sup>th</sup> December 2022***

ITAT allowed deduction of cost of free samples distributed by Pharma Co to Doctors holding it to be for promotion of the product of the assessee, and thus incurred wholly and exclusively for the purposes of the business; Providing samples of pharmaceutical products is not prohibited either under the Indian Medical Council (Professional Conduct, Etiquette and Ethics), Regulations 2002 or the Uniform Code of Pharmaceutical Marketing Practices; Regarding disallowance of conference expenses for doctors which comprised of travel expenses of doctors and gifts to them, ITAT upheld the disallowance by referring to SC ruling in Apex Labs case.



**LD/71/98 [2023-TIOL-158-HC-Kar-GST [16-01-2023] M/S Premier Sales Promotion Pvt Ltd Vs UoI**

The supply of semi-closed PPIs in which the goods or services to be redeemed are not identified at the time of issuance is similar to pre-deposit and in the nature of the printed forms are like currency and hence not 'goods' or 'services' liable to tax at the time of issuance thereof.

**LD/71/99 [2023-TIOL-84-HC-Kar-GST [06-01-2023] M/S Wipro Ltd India Vs The Assistant Commissioner of Central Taxes and Ors**

Circular No.183/15/2022-GST directing the field officer to dispose of various cases of mismatch between GSTR-1 and GSTR-3B or as the case may be GSTR-2A and GSTR-3B, in a manner laid down in the said Circular is also applicable for 2019-20, although the Circular refers only to years 2017-18 and 2018-19.

**LD/71/100 [2023-TIOL-123-HC-Ahm-GST [18-01-2023] Orson Holdings Company Ltd and 1 Other (S) Vs Union of India and 2 Other (S)**

Mere expiry of E-way Bill is not a ground for the detention of goods and imposition of tax and penalty u/s 129 of the CGST Act if there was no ill intent on part of the assessee to use the expired E-way bill.

**LD/71/101 [2023-TIOL-207-HC-Mad-GST [03-02-2023] M/S P and C Projects Pvt Ltd Vs The Assistant Commissioner (St) (Fac)**

The assessee is entitled to carry forward the TDS credit available to him under TNVAT Act in the GST regime in terms of provisions of section 140(1) of the CGST Act.

**LD/71/102 [2023-TIOL-33-HC-Ahm-GST [01-12-2022] M/S Times Projects Vs State Tax Inspector**

The Hon'ble Court condoned the delay in filing the appeal beyond the statutory period mentioned in section 107 of the CGST Act taking into consideration the fact that the impugned order came to the knowledge of the petitioner only when the bank was attached and thereafter the petitioner challenged the same in a reasonable time.

**LD/71/103 [2023-TIOL-111-CESTAT-Mum [10-01-2023] M/S Coface India Credit Management Services Pvt Ltd Vs Commissioner of CGST and Central Excise**

The opening balance in the CENVAT register should be taken into consideration for the purpose of granting of refund benefit in view of Circular No. 120/01/2010 dated 19.01.2010. While granting the refund benefit under Rule 5 of CENVAT Credit Rules, the department cannot object to such a claim of the assessee on the ground that there was no nexus between the input services and the exportation of the output service.

## Disciplinary Case

**Wrong disclosure of the amount of unsecured loan in the Balance Sheet of company-- Respondent being auditor to ensure that the Financial Statements do not portray a misleading statement of facts - Non-application of mind is evident ---Held, Respondent is guilty of professional misconduct falling within the meaning Clause (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949.**

### Held:

The Committee upon perusal of Balance Sheet as on 31.03.2013 and Balance Sheet uploaded with Form 23 AC, observed that the entire figures of Balance Sheet including Loans as on 31.03.2013 and 31.03.2012 have been interchanged. The Respondent has not pointed out this error and had signed the Balance Sheet without proper verification and checking. Further, the Respondent has admitted his mistake. The plea that same has been rectified in the Financial Statements

immediately in next financial year is not tenable. The clarification of Respondent that the Company had wrongly credited whole amount received as such it could not be detected by him and his staff during the audit is not tenable as the same could have been detected by the Respondent if he had carried out the audit with reasonable care and due diligence. If no evidence/papers were available with the entry vouchers, the Respondent could have applied alternate checks such as adopting techniques provided under SA 505 issued by AASB of ICAI regarding obtaining external confirmations from the third parties which in the instant case, the Respondent failed to do. The Committee held that the Respondent is guilty of professional misconduct falling within the meaning Clause (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949 [as amended).

**[PPR/128/15/DD/103B/INF/15/DC/529/17]**



## Circulars/Notifications

*Given below are summarised important Circulars and Notifications issued by the CBDT 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](mailto:eboard@icai.in)*



### I. NOTIFICATIONS

**1. Government notifies Indian Institute of Science Education and Research, Tirupati u/s 35(1)(ii) - Notification [F.No.203/02/2022/ITA-III]/SO 270(E), dated 16-01-2023**

In exercise of the powers conferred by Section 35(1)(ii) r.w.r. 5C and 5E, the Central Government has approved 'Indian Institute of Science Education and Research, Tirupati (PAN: AAAAI9820P)' under the category of 'University, College or Other Institution' for 'Scientific Research'. This Notification is applicable from AYs 2023-2024 to 2027-2028.

**The detailed Notification can be downloaded from the link below:**

<https://incometaxindia.gov.in/communications/notification/notification-so-270.pdf>

**2. Government notifies the California Public Employees Retirement System u/s 10(23FE) - Notification No. 02/2023, dated 25-01-2023**

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, the California Public Employees Retirement System (PAN: AAATC6038J), 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 25.01.2023 but on or before 31.03.2024 subject to the fulfillment of the conditions laid therein in the said notification.

**The detailed Notification can be downloaded from the link below:**

<https://incometaxindia.gov.in/communications/notification/notification-2-2023.pdf>

**3. CBDT notifies the Centralised Processing of Equalisation Levy Statement Scheme, 2023 - Notification No. 03/2023, dated 07-02-2023**

In exercise of the powers conferred by section 168(2) of Finance Act, 2016, the CBDT vide this Notification has made the Centralised Processing of Equalisation Levy Statement Scheme, 2023 for processing of statement furnished u/s 167 of the Act. The Scheme provides for scope, furnishing of Equalisation Levy Statement (ELS), procedure for invalidating the ELS, procedure for processing the ELS, No personal appearance and the process for service of notice and or communication.

**The detailed Notification can be downloaded from the link below:**

<https://incometaxindia.gov.in/communications/notification/notification-3-2023.pdf>

**4. CBDT notifies Income Tax Return Forms for the Assessment Year 2023-24 well in advance - Notification No. 04/2023, dated 10-02-2023 & 05/2023, dated 14-02-2023**

CBDT has notified ITR Forms for the AY 2023-24 vide these Notifications. These ITR forms will come into effect from 01.04.2023 and have been notified well in advance in order to enable filing of returns from the beginning of the ensuing Assessment Year. In order to facilitate the taxpayers and to improve ease of filing, no significant changes have been made to the ITR Forms in comparison to last year's ITR Forms. Only the bare minimum changes necessitated due to amendments in the Income-tax Act, 1961 have been made. In order to further streamline the ITR filing process, not only have all the ITR forms been notified well in time this year, no changes have been made in the manner of filing of ITR Forms as compared to last year.

**The detailed Notification can be downloaded from the link below:**

<https://incometaxindia.gov.in/communications/notification/notification-4-2023.pdf>

<https://incometaxindia.gov.in/communications/notification/notification-5-2023.pdf>

<https://incometaxindia.gov.in/Lists/Press%20Releases/Attachments/1126/PressRelease-CBDT-notifies-Income-Tax-Return-Forms-for-AY-2023-24-15-2-23.pdf>

### II. CIRCULARS

**1. Corrigendum to Circular No. 23/2022, dated 03.11.2022 - Explanatory Notes to Finance Act, 2022 - Circular No. 02/2023, dated 06-02-2023**

The Finance Act, 2022 as passed by the Parliament, received the assent of the President on 30.03.2022. The Explanatory notes to the Finance Act, 2022, explaining the amendments made in direct tax laws vide the Finance Act, 2022 were issued vide Circular no. 23/2022 dated 03.11.2022. In the said circular, in sub-point (iii) of the point (1) of sub-paragraph (A) of paragraph 28.5, the words "two assessment years preceding such assessment year" shall be read as "any assessment year preceding such assessment year".

**The detailed Circular can be downloaded from the link below:**

<https://incometaxindia.gov.in/communications/circular/circular-2-2023.pdf>

## III. PRESS RELEASES/INSTRUCTIONS/OFFICE MEMORANDUM/ORDER

### 1. Frequently Asked Questions (FAQs) on e-Verification Scheme 2021 - Document, dated 01-02-2023

CBDT has come out with FAQs on e-Verification Scheme 2021 vide this document. The FAQs on the e-Verification Scheme, 2021 aim to provide general guidance in understanding the procedures and processes of the e-Verification Scheme, 2021 issued vide Notification no. 137/2021 dated 13.12.2021. These FAQs are informative and advisory in nature and are subject to updation as required. These should not be used as a basis for any legal interpretation of the e-Verification Scheme, 2021 or the Income-tax Act, 1961.

**The complete text of the above Document can be downloaded from the link below:**

<https://incometaxindia.gov.in/Lists/Latest%20News/Attachments/569/FAQs-eVerification-Scheme2021.pdf>

### 2. Direct Tax Collections for F.Y. 2022-23 up to 10.02.2023 - Press Release, dated 11-02-2023

The provisional figures of Direct Tax collections up to 10.02.2023 continue to register steady growth. Direct Tax collections up to 10.02.2023 show that gross collections are at Rs. 15.67 lakh crore which is 24.09% higher than the gross collections for the corresponding period of last year. Direct Tax collection, net of refunds, stands at Rs. 12.98 lakh crore which is 18.40% higher than the net collections for the corresponding period of last year. This collection is 91.39% of the total Budget Estimates of Direct Taxes for F.Y. 2022-23 and 78.65% of the Revised 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/1125/Press-Release-Direct-Tax-Collections-for-FY-2022-23-up-to-10-02-2023-dated-11-02-2023.pdf>



## FEMA Updates

### FAQs for Legal Entity Identifier Number

Reserve Bank of India has issued FAQs for obtaining Legal Entity Identifier Number pursuant to its guidelines issued by RBI vide A.P. (DIR Series) Circular No. 20 dated December 10, 2021.

The FAQs are as under:

1. Should an AD bank obtain a valid LEI for transactions less than INR 50 crore even if the

customer has not done any transaction of INR 50 crore or above on or after October 1, 2022?

- A. An AD bank must record valid LEI for cross border transactions of INR 50 crore and more undertaken through it on or after October 01, 2022. Post this, the AD bank must report the valid LEI for all cross border transactions, irrespective of the value of the transactions. However, if the AD bank already has a valid LEI of the entity, it must report it for all transactions irrespective of whether the entity has undertaken a transaction of INR 50 crore or above through it.
2. Is it mandatory to obtain and validate the LEI of the non-resident counterparty as well? Does the stipulation of reporting LEI for all transactions of an entity, irrespective of transaction size, once the entity has obtained an LEI number apply for non-residents as well?
- A. As regards the non-resident counterparty/overseas entities, AD bank may be guided by the instructions contained in paragraph 2 of the circular.
3. Is it mandatory to obtain LEI in case of transactions to and from a non-resident's account with an AD bank in India?
- A. Any debit from or credit to a non-resident's account in India as a result of a transaction with a resident will attract the provisions of Foreign Exchange Management Act, 1999 (FEMA) and hence, the provisions contained in the circular shall apply.
4. Does the responsibility to obtain LEI lie with an AD bank acting in the capacity of a correspondent bank?
- A. The correspondent bank shall be responsible for the LEI of the non-resident counterpart. However, in this regard it may be guided by the instructions contained in paragraph 2 of the circular.
5. Is there any specific field in the SWIFT message where LEI needs to be captured?
- A. The circular does not prescribe any instructions with respect to SWIFT message formats.
6. For transactions involving three parties (e.g., merchanting trade transactions), the AD bank has to obtain LEI for which party/ parties?
- A. Each leg of remittance would have only two parties and hence, the AD bank should obtain the LEI accordingly as per the circular.
7. In case of non-fund facilities such as Letter of Credit, guarantee, etc., should the LEI validation be done at the issuance stage itself?
- A. In case of non-fund facilities, the AD banks need to ensure compliance with LEI requirements at the issuance stage itself.

Matter on Direct Taxes is contributed by Direct Taxes Committee of ICAI. FEMA updates by CA. Manoj Shah, CA Hinesh Doshi and CA. Sudha G. Bhushan.

## Circulars/Notifications

*Given below are summarised important Circulars and Notifications issued by the CBDT 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](mailto:eboard@icai.in)*



### I. NOTIFICATIONS

**1. Government notifies Indian Institute of Science Education and Research, Tirupati u/s 35(1)(ii) - Notification [F.No.203/02/2022/ITA-III]/SO 270(E), dated 16-01-2023**

In exercise of the powers conferred by Section 35(1)(ii) r.w.r. 5C and 5E, the Central Government has approved 'Indian Institute of Science Education and Research, Tirupati (PAN: AAAAI9820P)' under the category of 'University, College or Other Institution' for 'Scientific Research'. This Notification is applicable from AYs 2023-2024 to 2027-2028.

**The detailed Notification can be downloaded from the link below:**

<https://incometaxindia.gov.in/communications/notification/notification-so-270.pdf>

**2. Government notifies the California Public Employees Retirement System u/s 10(23FE) - Notification No. 02/2023, dated 25-01-2023**

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, the California Public Employees Retirement System (PAN: AAATC6038J), 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 25.01.2023 but on or before 31.03.2024 subject to the fulfillment of the conditions laid therein in the said notification.

**The detailed Notification can be downloaded from the link below:**

<https://incometaxindia.gov.in/communications/notification/notification-2-2023.pdf>

**3. CBDT notifies the Centralised Processing of Equalisation Levy Statement Scheme, 2023 - Notification No. 03/2023, dated 07-02-2023**

In exercise of the powers conferred by section 168(2) of Finance Act, 2016, the CBDT vide this Notification has made the Centralised Processing of Equalisation Levy Statement Scheme, 2023 for processing of statement furnished u/s 167 of the Act. The Scheme provides for scope, furnishing of Equalisation Levy Statement (ELS), procedure for invalidating the ELS, procedure for processing the ELS, No personal appearance and the process for service of notice and or communication.

**The detailed Notification can be downloaded from the link below:**

<https://incometaxindia.gov.in/communications/notification/notification-3-2023.pdf>

**4. CBDT notifies Income Tax Return Forms for the Assessment Year 2023-24 well in advance - Notification No. 04/2023, dated 10-02-2023 & 05/2023, dated 14-02-2023**

CBDT has notified ITR Forms for the AY 2023-24 vide these Notifications. These ITR forms will come into effect from 01.04.2023 and have been notified well in advance in order to enable filing of returns from the beginning of the ensuing Assessment Year. In order to facilitate the taxpayers and to improve ease of filing, no significant changes have been made to the ITR Forms in comparison to last year's ITR Forms. Only the bare minimum changes necessitated due to amendments in the Income-tax Act, 1961 have been made. In order to further streamline the ITR filing process, not only have all the ITR forms been notified well in time this year, no changes have been made in the manner of filing of ITR Forms as compared to last year.

**The detailed Notification can be downloaded from the link below:**

<https://incometaxindia.gov.in/communications/notification/notification-4-2023.pdf>

<https://incometaxindia.gov.in/communications/notification/notification-5-2023.pdf>

<https://incometaxindia.gov.in/Lists/Press%20Releases/Attachments/1126/PressRelease-CBDT-notifies-Income-Tax-Return-Forms-for-AY-2023-24-15-2-23.pdf>

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## Composition of Standing and Non-Standing Committees for the Year 2023-24

Standing Committee		
Committee	Chairman/Chairperson	Vice Chairman/Vice Chairperson
Executive Committee	President in Office	Vice-President in Office
	CA. Aniket Sunil Talati	CA. Ranjeet Kumar Agarwal
Examination Committee	President in Office	Vice-President in Office
	CA. Aniket Sunil Talati	CA. Ranjeet Kumar Agarwal
Finance Committee	President in Office	Vice-President in Office
	CA. Aniket Sunil Talati	CA. Ranjeet Kumar Agarwal
Disciplinary Committee (u/s 21 D read with section 17)	President in Office	Vice-President in Office
	CA. Aniket Sunil Talati	CA. Ranjeet Kumar Agarwal

Non-Standing Committee		
Committee	Chairman/Chairperson	Vice Chairman/Vice Chairperson
Accounting Standards Board	CA. Pramod Jain	CA. Abhay Chhajed
Audit Committee	Shri Chandra Wadhwa	CA. Kemisha Soni
Auditing & Assurance Standards Board	CA.(Dr.)Sanjeev Kumar Singhal	CA. Vishal Doshi
Board of Studies (Academic)	CA. Vishal Doshi	CA. Dayaniwas Sharma
Students Skills Enrichment Board (Board of Studies – Operations)	CA. Mangesh Pandurang Kinare	CA. Sridhar Muppala
Committee for Members in Practice	CA. Prakash Sharma	CA. Umesh Sharma
Committee on Financial Markets and Investors' Protection	CA. Charanjot Singh Nanda	CA. Cotha S Srinivas
Committee on Commercial Laws, Economic Advisory & NPO Cooperative	CA. Abhay Chhajed	CA. Mangesh Pandurang Kinare
Direct Taxes Committee	CA. Sanjay Kumar Agarwal	CA. Piyush S Chhajed
Corporate Laws & Corporate Governance Committee	CA. Sripriya Kumar	CA. Durgesh Kumar Kabra
Editorial Board	Editor in Chief CA. Aniket Sunil Talati	Joint Editor CA. Ranjeet Kumar Agarwal
Ethical Standards Board	CA. Chandrashekhar Vasant Chitale	CA. Sushil Kumar Goyal
Expert Advisory Committee	CA. (Dr.) Debashis Mitra	CA. Piyush S Chhajed
Financial Reporting Review Board	CA. Hans Raj Chugh	CA. Kemisha Soni
Committee on Public and Government Financial Management	CA. Kemisha Soni	CA. Prasanna Kumar D
GST & Indirect Taxes Committee	CA. Sushil Kumar Goyal	CA. Umesh Sharma
Digital Accounting and Assurance Board	CA. Charanjot Singh Nanda	CA. Dayaniwas Sharma
Board of Internal Audit and Management Accounting	CA. Rajendra Kumar P	CA. Charanjot Singh Nanda
International Affairs Committee	CA. Aniket Sunil Talati	CA. Ranjeet Kumar Agarwal

## ICAI News

<b>Committee for Members in Industry &amp; Business</b>	CA. Durgesh Kumar Kabra	CA. Rohit Ruwatia
<b>Peer Review Board</b>	CA. (Dr.) Anuj Goyal	CA. Sripriya Kumar
<b>Professional Development Committee</b>	CA. Prasanna Kumar D	CA. Mangesh Pandurang Kinare
<b>Research Committee</b>	CA. (Dr.) Anuj Goyal	CA. Cotha S Srinivas
<b>Committee for Development of International Trade, Services &amp; WTO</b>	CA. Dheeraj Kumar Khandelwal	CA. Hans Raj Chugh
<b>Infrastructure Development Committee</b>	CA. Aniket Sunil Talati	CA. Ranjeet Kumar Agarwal
<b>Management Committee</b>	CA. Aniket Sunil Talati	CA. Ranjeet Kumar Agarwal
<b>Committee for Members in Entrepreneurship &amp; Public Service</b>	CA. (Dr.) Rajkumar Satyanarayan Adukia	CA. Purushottamlal Khandelwal
<b>Committee on Insolvency &amp; Bankruptcy Code</b>	CA. Gyan Chandra Misra	CA. Rajendra Kumar P
<b>Valuation Standards Board</b>	CA. Hans Raj Chugh	CA. Priti Savla
<b>Public Relations Committee</b>	CA. (Dr.) Sanjeev Kumar Singhal	CA. Sridhar Muppala
<b>Taxation Audits Quality Review Board</b>	CA. (Dr.) Raj Chawla	CA. Chandrashekhar Vasant Chitale
<b>Continuing Professional Education Committee</b>	CA. Purushottamlal Khandelwal	CA. Gyan Chandra Misra
<b>Committee on MSME &amp; Start-up</b>	CA. Dheeraj Kumar Khandelwal	CA. (Dr.) Raj Chawla
<b>Strategy, Perspective Planning &amp; Monitoring Committee</b>	CA. Aniket Sunil Talati	CA. Ranjeet Kumar Agarwal
<b>Committee on Career Counselling</b>	CA. Rohit Ruwatia	CA. (Dr.) Rajkumar Satyanarayan Adukia
<b>Women &amp; Young Members Empowerment Committee</b>	CA. Priti Savla	CA. Abhay Chhajed
<b>Sustainability Reporting Standards Board</b>	CA. Priti Savla	CA. (Dr.) Sanjeev Kumar Singhal

Directorate		
Directorate	Convenor	Dy. Convenor
<b>UDIN Directorate</b>	CA. (Dr.) Raj Chawla	CA. Dayaniwas Sharma
<b>Legal Directorate</b>	CA. Ranjeet Kumar Agarwal	CA. Rajendra Kumar P
<b>Publication &amp; CDS Directorate</b>	CA. Cotha S Srinivas	CA. Sushil Kumar Goyal
<b>Members &amp; Students Services (Grievances Handling and e-Sahayata) Directorate</b>	CA. Pramod Jain	CA. Cotha S Srinivas
<b>RBA Directorate</b>	CA. Purushottamlal Khandelwal	CA. Kemisha Soni
<b>Estate Development Directorate</b>	CA. Dayaniwas Sharma	CA. Piyush S Chhajed
<b>Tender Monitoring Directorate</b>	CA. Gyan Chandra Misra	CA. Abhay Chhajed
<b>Digital Re-Engineering &amp; Transformation Committee</b>	CA. Umesh Sharma	CA. Sridhar Muppala
<b>Centre for Audit Quality Directorate</b>	CA. Vishal Doshi	CA. Sripriya Kumar



## Invitation for empanelment as Examiners for Chartered Accountants Examinations

Applications are invited from eligible members of the Institute and other professionals including academicians of reputed educational institutions, tax and legal practitioners etc., having a flair for academic activities including evaluation of answer books and willing to undertake confidential assignments as a dedicated examiner, for empanelment as examiner in respect of the following papers of the Chartered Accountants Examinations.

Foundation Examination	
Paper-1	Principles and Practice of Accounting
Paper-2	Business Laws & Business Correspondence and Reporting
	Part I : Business Laws
	Part II : Business Correspondence and Reporting

Intermediate Examination (New Syllabus)	
Paper -1	Accounting
Paper -2	Corporate & Other Laws
Paper -3	Cost and Management Accounting
Paper -5	Advanced Accounting
Paper -6	Auditing and Assurance
Paper -8	Financial Management and Economics for Finance

Final Examination (New Syllabus)	
Paper -1	Financial Reporting
Paper -2	Strategic Financial Management
Paper -3	Advanced Auditing and Professional Ethics
Paper -4	Corporate and Economic Laws
Paper -5	Strategic Cost Management and Performance Evaluation
Paper -6	<b>Elective Papers</b>
	6A : Risk Management
	6B : Financial Services & Capital Markets
	6C : International Taxation
Paper -7	6D: Economic Laws
	Direct Tax Laws & International Taxation
Paper -8	Indirect Tax Laws

### The eligibility criteria for empanelment as examiner are as follows:

- Chartered Accountants with a minimum of five years standing in practice or in service are eligible.
- University Lecturers/Professors with a minimum of five years teaching experience are eligible.
- ICWA, ACS, M.Com, Post Graduates in Economics or Law, Lawyers, IT Professionals, MBA (Finance) and other professionals with at least five years

experience, either in academic position or in practice or in employment are eligible to apply. Those with work experience having direct relevance to the aforesaid subjects(s) of examination(s) will be preferred.

- Persons above 65 years of age are not eligible.
- Persons who are visually impaired or suffer from such other physical disability that might necessitate taking the assistance of any other person for evaluation of answer books are not eligible.
- Persons who are undergoing CA Course of the Institute are not eligible.
- Persons whose applications were rejected earlier from the Panel are eligible to apply again after a gap of 1 year from the date of rejection.
- Those who are already empanelled with ICAI as examiners need not apply. Their candidature will be considered in the normal course, at the appropriate time.
- Persons associated with the coaching activities are not eligible. Those who have ceased to be associated with the coaching activity, are permitted to apply after a gap of 5 years.

### Scales of honorarium for evaluation of answer books

Examination	Paper	Rate (for Digital Evaluation)
Foundation	1 & 2	Rs 125/- per answer book
Intermediate(IPC)	1, 2, 3, 5, 6 & 8	Rs 150/- per answer book
Final examination	1, 2, 3, 4, 5, 6, 7 & 8	Rs.190/- per answer book

Application for empanelment as examiner can be made online at <http://examinerspanel.icaiaexam.icaai.org>.

ICAI has implemented the Digital evaluation (Online Evaluation) of answer books in all the papers of Foundation, Intermediate and Final examinations. Hence, applicants are expected to be comfortable working on computers and also evaluating answer books on-line. However, requisite training will be provided, before on-line evaluation assignments are undertaken. Please fill the application online, take a print out, affix your photograph, sign it and send with all the requisite enclosures to the following address:

Shri S K Garg  
The Additional Secretary (Exams)  
The Institute of Chartered Accountants of India  
ICAI Bhawan  
Indraprastha Marg  
New Delhi - 110002

**Additional Secretary (Exams.)**

## Glimpses of Press Clippings published in January - February 2023

## First India

www.firstindia.co.in | https://firstindia.co.in/news/jaipur | twitter.com/firstindia | facebook.com/firstindia | instagram.com/firstindia

## RAJASTHAN

JAIPUR | SATURDAY, JANUARY 21, 2023

## CAs can help to curb economic crimes: Guv

First India Bureau

**Jaipur:** Governor Kalraj Mishra on Friday said that chartered accountants should work to make the general public aware of economic, business and taxation related rules so that cases of economic crimes and corruption can be reduced. Mishra was addressing



Guv Kalraj Mishra during National Conference Shreyan-2023.

the inauguration ceremony of the National Conference Shreyan-2023 of The Institute of Chartered Accountants of India at Birla

Auditorium on Friday.

He said that CA is a prestigious profession, which is truly the backbone of the economy and CA professionals are continuously contributing to economic development of country by effectively completing specific tasks like direct and indirect tax planning, auditing etc.

The Governor said

that country is presiding over the G-20 group this year and is taking firm steps towards becoming an economic superpower, hence CA professionals should also make efforts to simplify various aspects of financial management including GST compliance and audit by making maximum use of Information Tech.

## BusinessLine

Monday-February 13-2023

## ICAI elects new torchbearers for 2023-24



**New Delhi:** The Central Council of the Institute of Chartered Accountants of India (ICAI) has elected Aniket Sunil Talati as the new President. The CA institute has also elected Ranjeet Kumar Agarwal as the Vice-President of the institute for 2023-24. Talati is currently the Director of ICAI Accounting Research Foundation, Indian Institute of Insolvency Professionals of India and Extensible Business Reporting Language, India. OUR

BUREAU



भोपाल 22-01-2023

12 राज्य | 61 संस्करण

**मार्किंग स्कीम बदली**  
सीए कोर्स में एंट्री अब और होगी मुश्किल, एग्जिट होगा आसान  
दीपक आनंद, जयपुर | सीए फाउंडेशन की साल 2023 की परीक्षा की आवेदन प्रक्रिया फरवरी के पहले सप्ताह में शुरू होने वाली है। यह परीक्षा पुराने पैटर्न पर ही होगी, लेकिन इसके बाद चार्टर्ड अकाउंटेंट कोर्स में एंट्री मुश्किल से मिलेगी, जबकि एग्जिट आसानी से हो पाएगा। इंस्टीट्यूट की ओर से तैयार की गई प्रपोज्ड स्कीम ऑफ एजुकेशन एंड ट्रेनिंग को अंतिम स्वीकृति मिलना ही बाकी रह गया है। इस स्कीम के तहत आईसीएआई सीए फाउंडेशन की मार्किंग स्कीम को बदलने की तैयारियां कर रहा है। अब फाउंडेशन एजाम में होने वाले प्रत्येक पेपर में स्ट्रैटेजिक को कम से कम 50 प्रतिशत अंक हासिल करने होंगे। इस बदलाव से सीए फाउंडेशन का परीणाम कम हो जाएगा। सकारात्मक पहलु यह है कि छात्रों को एंट्री लेवल पर ही पता चल जाएगा कि वे सीए करने में समर्थ हैं या नहीं हैं।



इंटीर, मुल्वार, 26 जनवरी, 2023

## 14,700 सीए में 44% महिलाएं

**हैदराबाद@प्रतिका.** देश की महिलाएं हर क्षेत्र में बुलंदियां छू रही हैं। बेहद कठिन माने जाने वाले चार्टर्ड एकाउंटेंट्स के क्षेत्र में महिलाएं सफल हो रही हैं। इस साल 14,700 सीए ने स्नातक की उपाधि प्राप्त की। इनमें 44 प्रतिशत महिलाएं हैं। हैदराबाद में इंस्टीट्यूट ऑफ चार्टर्ड अकाउंटेंट्स ऑफ इंडिया केंद्र में बुधवार को दीक्षांत समारोह का आयोजन किया। इसमें नए सीए सदस्यों को सदस्यता प्रमाण पत्र दिए गए।

Cabinet

## Cabinet approves signing of Memorandum of Understanding between the Institute of Chartered Accountants of India (ICAI) and The Institute of Chartered Accountants in England &amp; Wales (ICAEW)

Posted On: 15 FEB 2023 3:46PM by PIB Delhi

The Union Cabinet, chaired by the Hon'ble Prime Minister Shri Narendra Modi, has approved the signing of Memorandum of Understanding between the Institute of Chartered Accountants of India (ICAI) and The Institute of Chartered Accountants in England & Wales (ICAEW).

The MoU is to provide recognition of the qualification, training of each others members and admit the members in good standing by prescribing a bridging mechanism on the prevailing terms and conditions. The Parties to this MoU will provide each other with the information on material changes to their qualifying/admission requirements, CPD policy, exemptions and any other relevant matters.

ICAI collaboration with ICAEW will bring a lot of professional opportunities for Indian CAs in UK and also for Indian CAs who are looking for the global professional opportunities in UK.

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