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THE CHARTERED ACCOUNTANT

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Transparent Taxation: Easing Compliance Burden and Rewarding Honest Taxpayers

A person who is guided by a strong moral compass can rarely go wrong. After all, active conscience and virtuous ethics are the most valuable jewels in the world. Good moral values help us differentiate between right and wrong, guide us to the correct path and help fulfil our responsibilities towards the state and society. Honesty helps garner respect of not just others but also oneself. The Institute of Chartered Accountants of India strongly propagates the unarguable belief that upholding honesty and transparency in one's actions is the ultimate sign of strength, courage and righteousness. Three hundred and ten thousand plus members spread across the country are educated to render their duties with this virtuous honesty and work with independence, integrity and excellence. This is notwithstanding that the actions and activities of large membership are guided by a well-documented Code of Ethics that has been revised and implemented this year in a new avatar.

In line with such principals, the Indian Government unveiled a new platform *Transparent Taxation – Honouring the Honest* on August 13, 2020. The low tax to GDP ratio of India is a significant hurdle in government investing in infrastructure and taking socially beneficial initiatives. The Government unveiled country's first charter of taxpayers rights and duties. Section 119A inserted by the Finance Act, 2020 empowers CBDT to adopt and declare a Taxpayer's Charter. A system of faceless assessment and appeal has also been introduced to root out challenges in the existing system and procedures. With the implementation of faceless assessment, all income tax scrutiny cases, except those relating to search and seizure and international taxation, will be under Faceless Assessment Scheme. There will be no interface between the assessee and the Assessing Officer, thus reducing the biases. In the new system scrutiny selections will be through an automated system using data analytics and artificial intelligence. With this there is also central issuance of notice with DIN and abolition of territorial jurisdiction. A system of *Faceless appeal is also set to be launched* from September 25, 2020 wherein appeals are to be allotted at random to officers, tax payers need not visit offices or meet officials, the appellate decision will be team based. Strong and clean tax system accelerate the growth and development of our economy. Compliance with tax laws is important to foster economic growth and development of a prosperous and orderly society. Clear and simple rules encourage compliance while overly complicated tax systems are associated with high tax evasion.

Scope of Specified Financial Transactions is also to be expanded to payment of life insurance premium, health insurance premium, payment of property tax, purchase of jewellery, paintings etc. above a prescribed threshold. A report is filed by specified persons u/s 285BA in respect of transactions exceeding specified threshold. There will also be additions in the list of individuals incurring expenditure or deposit exceeding a prescribed threshold to mandatorily file their return of income, even if their income is below the basic exemption limit.

ICAI welcomes such steps of Indian Government and assures that the Institute will continue to serve the larger interest of State. There has been symbiotic relationship between the ICAI members and taxation authorities. After inception of the Institute many of our members excelled in the area of taxation and helped the state to garner proper revenue. In the year 1964 the ICAI, for the first time, submitted to the Finance Minister a pre-budget memorandum containing useful suggestions for reorientation of taxation policies and procedures. Several of suggestions were accepted and found place in the Finance Act, 1964. The tradition continues even today. ICAI religiously submits pre-budget and post-budget memoranda in the areas of direct and indirect taxes containing useful suggestions that are endowed with ground realities as our members spread across every nook and corner also participate in the process. The Chartered accountant professionals advise the society to correctly pay taxes. They play a very important role in tax planning and filing of tax returns both by individuals and business houses.

-Editorial Board ICAI: Partner in Nation Building

From the President

CA. Atul Kumar Gupta
President, ICAI

Dear Professional Colleagues,

Challenges and difficult times are nothing but learning lessons crucial for success. Nelson Mandela rightly remarked, *"I never lose. I either win or learn".* With an optimistic perspective and a never-give-up attitude, man is invincible and triumph is inevitable. After all, if the eye is steadily set on the goal, one can take temporary challenges in their stride and rise against all odds. In this backdrop, our country is progressing well against the pandemic that has impacted lives and businesses across all sectors and geographical locations. Come what may, the mankind has to move ahead. For if one attempts, they are already a step closer to victory, but if one quits, all progress is lost. The secret to success lies in consistently trying and perseveringly working, without losing faith. Life is a tempestuous journey full of unforeseen ebbs and flows and only those make it to the end, who keep marching forward, undeterred.

The pace of the progress is immaterial, as long as we continue to learn, innovate, evolve and grow. I am sure the Indian economy will come back to its path for achieving five trillion-dollar mark sooner than later. We must remember, targets are achieved if we remain undeterred on the course without leaving any stone unturned. Grinding and pegging away only make the taste of victory sweeter and the success story more interesting.

As Chartered Accountants we are the custodians of financial propriety in business and economy. With an unwavering will we can move ahead, overcoming difficult challenges in the terrain to be true partner in the national efforts to build a new India. To have a country that magnificently stands tall amongst the most progressive economies of the world. Remember - quitters can never be *winners and winners are never quitters.* With patience, positivity and persistence, Chartered Accountants are capable of materialising all dreams and attaining all goals. In the constantly changing and dynamic world that we exist in, the key is to maintain confidence and trust in one's capacities as constant. Knowledge and skills, however important, become secondary. During the most difficult moments, one must remember that even a seed has to endure the dirt and darkness to become a plant; ergo keep going!

Business Responsibility Reporting - Key to Unlocking Sustainable Economy

Businesses use human and natural resources to produce goods and services. While conversion of resources to economically beneficial output is integral to human growth, the uncontrolled resource utilisation, however, has proven to be unsustainable and exploitative to the environment in the present competitive world. There is increasing awareness amongst businesses in particular and society in general for the need for business accountability on the social and environmental impacts of the business actions. Our actions need to preserve flora and fauna. In this regard, the Ministry of Corporate Affairs (MCA) had earlier constituted a committee wherein I was also privileged to be a member. The 'Report of the Committee on Business Responsibility Reporting (BRR)' has been released now. On the occasion Secretary, MCA Shri Rajesh Verma, IAS appreciated the efforts of the committee in proposing a robust reporting framework and stated that the MCA will work closely for its implementation. He also emphasised the fact that Indian companies are aspiring to have global foothold and thus they cannot ignore the emerging trend of Corporate Governance i.e. Responsible Business.

In another initiative towards sustainability, the comptroller and auditor general constituted a cell on natural resource accounting (NRA) in India and a Concept Paper in this regard is recently released. The NRA audit will prepare a balance sheet of natural resources with assets account in respect of four major natural resources viz., mineral and energy resources, water, forestry & wildlife and land resources.

Expanding Horizons with New Chapters and Representative Offices

ICAI has been playing a prominent role in the International arena by having a focused approach

to work for the global accountancy profession. Continuing its efforts to expand its global presence and footprints, the ICAI inaugurated its two new Chapters and twelve Representative Offices (nodal points) in a virtual event held on the evening of July 30, 2020. ICAI, earlier had a presence of 34 Chapters and 5 Representative Offices globally and in this continuous endeavour of expanding its global footprint, the Institute has recently launched 2 new Chapters. One in Luxembourg, the 4th Chapter in Europe and the other in Fujairah, United Arab of Emirates, adding the 11th Chapter in Middle East region. Today, ICAI has 36 Chapters across the globe. Going further, ICAI also launched 12 new Representative Offices (nodal point) in Africa and Middle East region namely: Ghana (Accra); Rwanda (Kigali); Mauritius (Port Lious); Democratic Republic of Congo (Kinshasa); South Africa (Durban and Johannesburg); Egypt (Cairo); Jordan (Aqaba); Seychelles (Mahe); Malawi (Lilongwe); Malawi (Blayntre) and Mozambique (Maputo).

Shri Anurag Singh Thakur, Hon'ble Union Minister of State for Finance and Corporate Affairs, Chief Guest at the inaugural event, complimented ICAI and stated that CA fraternity across the world can be a global voice for India and can act as Global Ambassadors in each country. The Minister also stated that the CA fraternity in India already acts as a messenger between corporates and the Ministry and that the feedback of the fraternity is always taken positively. Praising the profession, Hon'ble Minister Thakur mentioned that the ICAI is respected not only in India, but across the world for its outstanding excellence in education, professional development, accounting, auditing and policy matters.

ICAI overseas Chapters facilitate in bringing foreign investment to India and also assist Indian Industry by guiding them about the investment opportunities in different parts of the world, thereby creating avenues for them to become *Aatmanirbhar*. Speaking at the occasion, Guest of Honour, Shri Santosh Jha, Hon'ble Ambassador of India to European Union congratulated ICAI on taking such an initiative. He said that the initiative would further strengthen the relations between India and Europe and reaffirm the support to ICAI and its Luxembourg Chapter to work closely towards strengthening the trading ties and investment opportunities. The event was also addressed by Ms. Devi Gopinath, First Secretary (Political).

You may recall that ICAI, had earlier this month launched 5 Representative Offices at Chicago, Dallas, Houston, New England Region and Washington D.C, thereby expanding its global presence to 53 cities of the world.

International Research Awards

Being a knowledge driven profession, research is the lifeline of accounting profession. Continuous research helps to unearth the issues and challenges faced by the global economy and how accounting profession can play its due role in the society. Research can pave the path to identify innovative practices in mitigating various emerging financial and non-financial risks and implementing good practices for promoting public interest. At ICAI, it is firmly believed that research is the key to innovation and growth in the emerging economic environment. The ICAI envisions to support research works to make a positive and tangible impact in standards setting, new reporting practices frameworks, policy making and like. To recognise the research community across the globe and their contribution in fostering innovation and value creation, ICAI has taken a major initiative in the form of International Research Awards. The awards aspire to develop a research-oriented ecosystem to promote trade, investment and public interest in the globalised financial markets. The inspiration to take awards global was to encourage researchers to work across the industry and borders to develop global standards and policy inputs imbibing elements of trust and excellence in reporting and governance in the emerging tech-enabled global world. We will keep you posted about further developments on this initiative of ICAI aimed to build a global collaborative research capacity on all accounting related issues to develop global legacy for the profession.

In the above background, I am also happy to inform that Research report on the implementation of automation technologies in finance functions jointly done by ICAEW and ICAI has been finalised under the aegis of Digital Accounting and Assurance Board. This project provided us a unique opportunity of interviewing and digging the knowledge well of major organisations from India and UK and I am sure, it will be good source of knowledge enrichment for members.

Multi-purpose Empanelment Form

Further, I am glad to share that this year we would be seeking additional optional information related to professional experience in the fields other than Bank Branch Audit. The Professional Development Committee has added certain new fields in the Multi-purpose Empanelment Form to capture varied experience of our members in different fields like internal audit, indirect tax, forensics, and international experience, etc. This will enable us to

put forward the data at appropriate fora for various professional opportunities other than Bank Audit. I request the members to come forward and fill their information, though optional, and avail the benefit of multiple opportunities under one umbrella.

National Education Policy and CA Course

In the dynamic world that we live in, change is the law of nature. To avoid stagnancy of ideas and push the wheel of growth, it is important to consistently attempt to improve and evolve. In sync with the same belief, Indian state took a leap towards a better future and reintroduced a new Education Policy to replace 34-year-old National Policy on Education (NPE), 1986. The policy intends to broaden the choices available to students and incorporate more modern initiatives to ensure greater learning. Built on the foundational pillars of access, equity, quality, affordability and accountability, the new policy is aligned with the 2030 Agenda for Sustainable Development. The change aims to transform our country into a vibrant knowledge society and global knowledge hub.

Progressive ICAI cannot lag behind and needs to attune its systems and structures in line with the new education policy. While the present education and training scheme was implemented only three years back on July 01, 2017, it is important to remain in tandem with the new policy and emerging ideologies. **I am happy to share that to analyse impact of the new policy on our scheme of education and training, we have constituted a Group, namely, *"Group for Considering the Impact of the National Education Policy on CA Course of ICAI".*** The group will recommend changes, wherever required, in the ICAI's Scheme of Education and Training to be in line with the new policy. The group will also identify and address challenges, if any, that may arise to ICAI out of the changes to be brought in vide the said policy.

ICAI - For Members and Students

The global effect of present pandemic on education is mammoth. It has not only thrown education around the world out of gear, but also led to the shutting of educational institutions including schools, colleges and universities. The raging pandemic has led to the students being confined at homes with virtual teaching as their only saviour. ICAI firmly believes that though the situation is unprecedented, the journey of learning must continue. ICAI has taken a series of steps in the overall interest of student community. These include from extension of key cut-off dates to providing live lectures.

200 New Districts covered as Examination Centres

I am happy to intimate that ICAI has almost doubled the number of examination centres in India, besides opening new overseas examination centres, taking ICAI presence to Africa besides middle east. This facility will make it convenient and safe for students to take the November 2020 examinations. It will assist the students not to travel beyond their district in most of the cases. ICAI has also released frequently asked questions to help students to get answers to the common questions. These are available at *https://www.icai.org/category/announcements.*

CABF Support to Members in COVID

Unprecedented pandemic situation, has also posed serious challenges before the members wherein professional opportunities are diminishing, resulting into dwindling income or much delayed recoveries of professional fee. Providing a helping hand, CABF management committee has approved the one-time support for hospitalisation expenses during treatment of COVID 19 for members or dependent family members for a maximum amount of ₹ 1,50,000/-. Accordingly, an intimation to all members has been issued in this regard, and I request you to bring this to the notice of those who are in need.

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The Covid-19 pandemic struck the world as an unforeseen shock, unlike anything we witnessed before. While it has brought the earth to a temporary standstill and pressed a pause button to the life as we knew it, it has also showed an ocean of opportunities to learn reform and grow by constantly testing our mental strength and resilience. In trying times like these, it is imperative to remember that door that imprisons you is also the door to liberation. After all, a free mind is the fundamental storehouse of evolved ideas and creative impressions. Even in the times of adversity, we must continue to traverse across unexplored corners of our mind and search for the answers to questions that hound us. At the end of the day, the first step to achieving progress is by believing it can happen, no matter the challenges we face or hurdles we come across.

Best wishes. Stay Safe and Healthy.

Jai Hind, Jai ICAI.

CA. Atul Kumar Gupta
President, ICAI
New Delhi, 31st August, 2020

ICAI in Action

Dedicated Foreign Helpdesk for ICAI Members Abroad

The Institute of Chartered Accountants of India is committed to provide best of the services to its student and members. Today a good number of members are taking up assignments abroad and moving to foreign countries. In order to provide services to the members abroad a dedicated helpdesk has been created by the International Affairs Committee of the Institute. The Foreign Desk will take up queries at the ICAI head office, to coordinate and communicate effectively the concerns, inputs, and answer to queries raised by Chapters, Representative Offices and ICAI members who are based abroad. The helpdesk will act as a single point of contact for all queries including self service portal, Good Standing Certificates, Transcripts and CPE Hours. Members can send their mails to foreigndesk@icai.in. Details are available at https://www.icai.org/post/dedicated-foreign-helpdesk-icai-members-aboard.

Multiple arrangements for Members

The Committee for Members in Practice has made a number of arrangements for the benefits of the Chartered Accountants. These include softwares to aid in working, insurance schemes, easy loans, credit card facility. The details are available. https://www.icai.org/post/arrangements-committee-for-members-in-practice.

Improving Services Through Internet

Dedicated Centralized Webcast Portal live.icai.org

ICAI launched its own dedicated Centralized Webcast Portal live.icai.org for all Upcoming Webcasts of ICAI. This will result in enhancing the Brand Image of ICAI amongst ICAI's stakeholders. With this launch, all ICAI webcasts undertaken by all Committees/Departments will have link on live.icai.org. Also, Post the Live Webcast, the Recorded Video of the session would be Converted in Scorm format and Published on ICAI Digital Learning Hub Portal for the benefit of Members and Students.

New and Improved Network Page

As part of having a useful website that better serves stakeholders, ICAI has launched a New and Improved Network Page of ICAI. On this page all the ICAI Network – Regional Offices, Branches, Foreign Chapters and Representative Offices have been showcased with Latest Technology using Google Coordinates through Google Maps.

Flag Hoisting on 74th Independence Day in Noida

ICAI President CA. Atul Kumar Gupta along with Central Council colleagues CA. Hans Raj Chugh and Adv. Vijay Kumar Jhalani (Government Nominee) hoisting the National Flag on the occasion of 74th Independence Day at ICAI Bhawan, Noida (15.08.2020)

Verified Accounts

The YouTube Channel of ICAI has been verified with a grey tick Icon on 8th August 2020. https://www.youtube.com/icaiorgtube. Under the aegis of DRL directorate, our Facebook, Twitter and YouTube Accounts are now verified accounts.

Representations submitted to the CBDT

As part of our endowed duty to create right economic environment and a taxation regime that is friendly to taxpayers and helps augmenting resources for the State, ICAI makes various

suggestions to the Government. In this regard, the Direct Taxes Committee of ICAI has recently submitted the following representations to the Central Board of Direct Taxes.

- Request to issue clarification regarding certain issues in Notification No. 35/2020 dated 24.06.2020 and Press Release dated 24.06.2020 and related matters.
- Request for due date extensions for compliances falling due on 31.07.2020 under Income-tax Act, 1961.
- Issues with respect to application of provisions of section 5A of the Income-tax Act, 1961 while filing/processing ITR Forms
- Issues in processing of ITR Forms by the CPC
- Specific issues in ITR Forms processing
- Request to recommend suitable amendments when applying provisions of section 115BBDA and section 115JC of the Income-tax Act, 1961 simultaneously

Creating and Spreading Knowledge - New Publications of ICAI

In the dynamic world of accounting profession, the knowledge keeps on evolving. In line with the changes happening around us, ICAI releases new publications and updates existing ones for the benefit of profession. Members may note the release of following publications:

Review Engagements on Interim Financial Information in the Current Evolving Environment Due to COVID-19

Auditing and Assurance Standards Board of ICAI has prepared a document to highlight key areas of focus in the current environment when undertaking a review of interim financial information in accordance with Standard on Review Engagements (SRE) 2410, *"Review of Interim Financial Information Performed by the Independent Auditor of the Entity".* A copy of document is hosted at https://resource.cdn.icai.org/60696aasb49345.pdf

Guidance Note on Report under section 92E of The Income-Tax Act, 1961 (Transfer Pricing) (Revised 2020)

The Committee on International Taxation of ICAI has been issuing guidance for its members in respect of Report under Section 92E of the Income-tax Act, 1961. The Committee has brought out the eighth edition of this Guidance Note in which all the amendments made up to Finance Act, 2020 have been incorporated. A copy of the report is available at https://resource.cdn.icai.org/60858citax49503.pdf.

Technical Guide on Easy Incorporation of Companies through SPICe+

The Corporate Laws & Corporate Governance Committee has brought out the, "Technical Guide for Incorporation of Companies through SPICe+" in July, 2020, to appraise complete process for incorporation of the companies. The Publication will guide and enable practicing chartered accountants with the process of company incorporation. A copy of the publication is available at https://resource.cdn.icai.org/60342clcgc49153.pdf

New Publications in Indirect Taxes

Introduction of Goods and Service Tax three year back brought a paradigm shift in the area of Indirect Taxes to have a unified common national market for India. On account of its novelty and dynamism, its knowledge domain keeps on evolving. To spread the awareness in the subject the GST & Indirect Taxes Committee has brought out following new or revised publications:

- *Background Material on GST*
- *Compliances of GST in Banking Sector*
- *Handbook on TCS under GST*
- *Handbook on Accounts and Records under GST*
- *Handbook on Show Cause Notice - Approach and Reply under GST*
- *Handbook on Input Service Distributor under GST*
- *Handbook on Composition Scheme under GST*
- *Handbook on Foreign Trade Policy-Incentives, Schemes & Related FAQ*

The above publications are available at https://idtc.icai.org/publications.php

Helping Hand for Students - Reduction of fees for OC & ITT Courses

In view of the ongoing spurt of COVID-19 virus pandemic and subsequent suspension of IT and Soft Skills Classes all across the country, it has decided that the students of Foundation and Direct Entry, as one time measure, can undergo OC & ITT Course through Virtual Mode at reduced fees as a one time measure. The details are available at https://www.icai.org/post/reduction-fees-oc-itt-courses.

On Communication with previous Auditor

Q. Whether communication on E-mail would suffice the requirement of Clause (8) of Part-I of First schedule to The Chartered Accountants Act, 1949?

A. The requirement of communication under Clause (8) of Part-I of First Schedule to The Chartered Accountants Act, 1949 is deemed to be complete on the delivery of communication to the retiring Auditor. Accordingly, members are required to communicate in such a manner as to retain in their hands positive evidence of the delivery of the communication to the addressee.

With regard to communication through E-mail, as per the revised Volume-II of Code of Ethics, 2020 applicable from 1st July, 2020, the communication would be deemed as complete on receipt of acknowledgement from the retiring Auditor's E-mail address registered with the Institute or his last known official E-mail address.

Q. Has communication vide E-mail replaced the other modes of communication?

A. No. The earlier modes of communication continue to be valid. The communication vide E-mail is only an additional alternative mode of communication.

Accordingly, henceforth, the requirement of positive delivery of communication would be deemed to be fulfilled either by (i) a letter sent "Registered Acknowledgement due", or (ii) by hand against a written acknowledgement, or (iii) by Acknowledgement from retiring auditor's vide E-mail address registered with the Institute or last known official E-mail address.

It may also be noted that another new mode of communication with the retiring Auditor is through Unique Identification Number (UDIN) generated on UDIN portal. However, it is subject to separate guidelines to be issued by the Council in this regard.

Q. How can the Incoming Auditor know the E-mail id. of retiring Auditor?

A. The Incoming Auditor may seek the E-mail id. from the retiring Auditor on phone, or from the client.

Q. Which of the two mail ids – registered with the Institute , or last known official id. is preferable for communication?

A. The member may communicate on either of the two mail ids. There is no order of the preference.

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Know Your Ethics

Q. Whether communication on E-mail would be valid only where post offices or offices of CA Firms are not open?

A. No, the members may use the option of E-mail irrespective of opening of post office or CA Firm.

Q. What will be the position if the Incoming Auditor sends an E-mail , however, does not receive an acknowledgement from the retiring auditor ?

A. In such situation, it would not be reckoned as valid communication, as the positive evidence of delivery is not available.

Q. What kind of acknowledgment from the retiring Auditor will be deemed as valid to qualify for positive evidence of delivery?

A. Any kind of acknowledgement would be deemed as positive evidence of delivery, e.g. writing "ok" , "Received" , etc.

Q. Whether the Incoming Auditor can send request for acknowledgement of receipt of communication from the Retiring Auditor?

A. Yes, the Incoming Auditor can send request for acknowledgement of receipt of communication from the Retiring Auditor. However, it would be deemed as positive evidence of delivery only if the Retiring Auditor accepts the request, and sends acknowledgement.

Q. Whether the Incoming Auditor may commence the Audit immediately after receiving acknowledgement from the retiring Auditor?

A. As the communication through E-mail is instant, the receipt of acknowledgement will be a valid proof of delivery as well as entitlement to acceptance of the Audit, unless of course, the retiring Auditor has raised such objection(s) wherein the Incoming Auditor should not accept the Audit.

Q. What are the professional reasons for not accepting Audit?

A. The professional reasons for not accepting an audit are :

(i) Non-compliance of the provisions of the Companies Act as mentioned in Clause (9) of Part-I of First Schedule to The Chartered Accountants Act, 1949;

(ii) Non-payment of undisputed audit fees by auditees other than in case of sick units for carrying out the Statutory Audit under the Companies Act, 2013 or various other statutes ; and

(iii) Issuance of a qualified report.

In the first two cases, an auditor who accepts the audit would be guilty of professional misconduct.

In the last case, however, he may accept the audit if he is satisfied that the attitude of the retiring auditor was not proper and justified. If, on the other hand, he feels that the retiring auditor had qualified the report for good and valid reasons, he should refuse to accept the audit.

Q. In case of appointments done by Government entities/Companies/Banks or their Branches, the time for acceptance of audit is sometimes so little that there is no time to wait for the reply of the Retiring auditor. What should be the recourse in such case?

A. In case the time schedule given for the assignment is such that there is no time to wait for the reply from the retiring auditor, the Incoming auditor may give a conditional acceptance of the appointment and commence the work which needs to be attended to immediately after he has sent the communication to the retiring auditor in accordance with this clause. In his acceptance letter, he should make clear to the client that his acceptance of appointment is subject to professional objections, if any, from the retiring auditor and that he will decide about his final acceptance after taking into account the information received from the retiring auditor.

Q. Whether communication with the retiring Auditor is permissible vide sms or WhatsApp?

A. No, communication vide sms or WhatsApp is not permissible as an evidence of communication being sent , as required under Clause (8) of Part-I of the First Schedule to the Chartered Accountants Act, 1949. ■

AatmaNirbhar Bharat – Role of Banking Sector

Rajnish Kumar
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The crucial role played by the banks in the economic development of the country can never be over emphasised. Over the years, banks have ensured that the benefits of the various schemes/announcements of the government reach the needy segments of our society. Banks have always provided the much needed last mile connectivity for various government schemes. As is known to all, the outbreak of the COVID-19 pandemic in China and its subsequent spread across the world has created serious economic challenges globally. A pandemic shock is a classic demand-supply shock. The supply inoperability shock emanates from disruption in global value chains. The demand side inoperability shock includes reduction in demand due to social distancing. This impacts both domestic demand as well as external demand of a country. Thus, depending upon the shock, a pandemic can be both inflationary as well as deflationary. Policy response to pandemic is a challenging task due to the inherent circularity because of social distancing leading to loss of employment and supply which amplifies loss of income and demand. The AatmaNirbhar Bharat (ANB) Package announced by the Honourable Finance Minister tried to balance these challenging economic aspects of the pandemic. Read on…

Salient Counters of the Package

ANB is a comprehensive idea elucidated by the Honourable Prime Minister on May 12th. It entails a self-reliant India which stands on five pillars viz. 'economy', which brings in quantum jump and not incremental change; Infrastructure; 'system', based on 21st century technology

driven arrangements; 'Vibrant Demography', which is our source of energy for a self-reliant India; and 'demand', whereby the strength of our demand and supply chain should be utilised to full capacity.

For the first time the approach to growth has truly turned inward towards the internal strength with the slogan "vocal for local" to make it global.

Post-COVID revival strategy of the economy will give major thrust to agriculture and the MSMEs. The Government wishes to create a unified market in agriculture commodities, push investment in agriculture supply chain, and bring modern technology in agriculture. The income generation through agriculture and allied activities is expected to support the MSME sector along with preference for our local products and government procurement.

Thrust to mining, notably in coal and other minerals, introduction of a seamless composite exploration-cum-mining-cum-production regime, civil aviation, privatisation of power distribution and space will bring private interest in these sectors. In a major development, the government has indicated domestic procurement of the "to be notified list" of defence items. Indigenisation of defence hardware will open huge opportunities downstream for domestic manufacturing.

Financial sector related announcements cover a wide turf addressing concerns of all. The de-risking of the MSMEs sector through guarantee, liquidity support to low rate NBFCs and MFs will help in damping volatility and building confidence. Banks will draw lot of comfort from changes announced in the Bankruptcy code for MSMEs and raising of threshold to initiate insolvency proceedings being raised to ₹ 1 crore. Exclusion of COVID 19 related debt from the definition of "default" under the IBC for the purpose of triggering insolvency proceedings is also a welcome move.

"Thrust to mining, notably in coal and other minerals, introduction of a seamless composite exploration-cum-mining-cum-production regime, civil aviation, privatisation of power distribution and space will bring private interest in these sectors.

The people centric approach adopted in the package deserves praise. Increase in allocation to MGNREGS by ₹ 40,000 crore to accommodate migrant workers, tax concession for salaried, faster refunds, low cost housing and ease of doing business will cushion against the adverse impact of the COVID-19 crisis. This issue of gainfully employing the migrant workers in the long run and their up-skilling, though not included in the package, should be addressed in due course, possibly through infrastructure push.

Role of Banks

The ₹ 21 lakh crore ANB package gives a major thrust to financial support to different sectors of the economy. All businesses (including MSMEs) will be provided with collateral free automatic loans of up to three lakh crore rupees. In this context, banks need to be fully ready to ensure that the ensuing demands of the businesses are met and even the smallest of the eligible & willing borrower is extended the desired help.

The government has also announced setting up of a fund of funds with a corpus of ₹ 10,000 crore for the MSMEs. This will go a long way in providing equity funding for MSMEs with growth potential and viability. Here again , the banks would be required to ensure that the willing promoters of MSMEs are given debt so as to enable them to re-infuse the same into their ventures as equity.

A Special Liquidity Scheme was announced under which ₹ 30,000 crore of investment will be made by the government in both primary and secondary

"All businesses (including MSMEs) will be provided with collateral free automatic loans of up to three lakh crore rupees.

market transactions in investment grade debt paper of Non-Banking Financial Companies (NBFCs)/Housing Finance Companies (HFCs)/ Micro Finance Institutions (MFIs). The central government will provide 100% guarantee for these securities. The existing Partial Credit Guarantee Scheme (PCGS) will be extended to partially safeguard Banks against borrowings by such NBFC through primary issuance of bonds or commercial papers (liability side of balance sheets).

Clearly, ANB package thus places huge responsibility on the banking system to make viable funds for various announcements. It, therefore, goes unstated that public sector banks in particular will have to be the role model in achieving the vision.

Challenges and Way Forward

Steady progress has been made in disbursal of loans under the ₹ 3 lakh crore collateral-free loans proposed for businesses. Commercial banks have sanctioned loans worth ₹ 1.43 lakh crore under the scheme and about half of it has already been disbursed to businesses. Out of ₹ 1.43 lakh crore sanctioned so far under this scheme, ₹ 54,415 crore has been disbursed to the PSU banks while ₹ 43,578 crore has been given to the private banks. As far as the ₹ 30,000 crore special liquidity schemes for NBFCs/HFCs is concerned, ₹ 6,399 crore amount has been sanctioned.

However, for optimal execution of various schemes in ANB banks will face operational challenges. Banks have already been putting in place Business Continuity Plans to tide over the disruption caused by the pandemic. Taking SBI efforts as an example, revamping SME branches is now under process. SBI has also created a new vertical, FI&MM Vertical to focus on various financial inclusion initiatives of Govt. of India as well as exploring opportunities in Agriculture & Microfinance in a big way. Under this initiative, the Bank has segregated around 7,800 RUSU Branches for focussed business growth in Agriculture/ Micro Markets, improved customer service, better liaison with government agencies and outreach efforts towards village community, SHGs, NGOs, small borrowers etc. District Sales Hubs (DSHs) have been created to increase sales reach of the Bank.

The pandemic has suddenly increased the value of contact-less digital banking channel. Banks, not just SBI but others also, will expand their digital product offerings and this will include innovative ways to take forward the vision under ANB. The objective of such an exercise going forward will be to improve connect with the customers and to develop SME Business, to capitalise on the opportunities created by *AatmaNirbhar Bharat* Package.

> SBI has also created a new vertical, FI&MM Vertical to focus on various financial inclusion initiatives of Govt. of India as well as exploring opportunities in Agriculture & Microfinance in a big way.

From the pure risk perspective, the understanding of risk has undergone lot of changes. It will be a challenge for banks to strike a balance between caution, prudence and responsibility.

> The objective of such an exercise going forward will be to improve connect with the customers and to develop SME Business, to capitalise on the opportunities created by *AatmaNirbhar* Bharat Package.

Lastly, going forward, apart from the banks, the role of state governments, too, in ANB will be very crucial. To reap optimum benefits out of the ANB package, some State Governments have decided to chalk out an action plan for implementation of the ambitious programme. Through the Action Plan, States will monitor the fund flow to the targeted beneficiaries. Here again, close coordination with lead banks will become critical in last mile connectivity.■■■

Disclosure of Feedstock Subsidy

A. Facts of the Case

1. A Company (hereinafter referred to as 'the Company') is a joint venture (JV) company of G Ltd., O Ltd., N Limited and Government of Assam, (GoA) under the administrative control of Department of Chemicals & Petrochemicals, Ministry of Chemicals & Fertilizers. As per JV agreement, G Ltd. holds 70% of the equity stake and O Ltd., N Ltd. and GoA shall hold 10% each. The Company has set up a 280 KTPA petrochemical complex at Lepetkata, district Dibrugarh, Assam and implemented the flagship project of Government of India called "Assam Gas Cracker Project (AGCP)". The Assam Gas Cracker project is outcome of famous Assam Accord signed on 15th August, 1985 between the Government of India and the leaders of the Assam Movement in New Delhi with the motive of overall socio-economic development of the region.

2. The Cabinet Committee on Economic Affairs (CCEA) at its meeting held on 24.12.2019 inter alia accorded approval of feedstock subsidy to the Company for 15 years of plant operation to maintain minimum internal rate of return (IRR) of 10% (post-tax). To bring the IRR to 10%, the Company has estimated feedstock subsidy of approximately ₹ 4,600 crore for the project for 15 years of plant operation as per the approved methodology. To work out the feedstock subsidy, the Company shall carry out a study to ascertain the IRR considering the current scenario w.r.t. polymer, naphtha and gas prices and actual capital cost without changing the fixed cost parameters (as approved by the Government). Based on the current IRR, the feedstock subsidy amount shall be worked out to ensure minimum post-tax Project IRR of 10% while maintaining the bankability of the project. In the proposed methodology, it has been ensured that feedstock subsidy is provided to the project only to compensate for change in gas, naphtha and polymer prices while keeping all other cost/parameters same as considered by the Government.

3. As per the approved methodology, claims for subsidy since commissioning till the last financial year (F.Y.), shall be submitted immediately after the approval of CCEA. The feedstock subsidy for previous years has been computed as differential of projected and actual gross margins per unit of actual production. The methodology ensures that subsidy is only a function of gas, naphtha and polymer prices and the total subsidy is limited to actual production only. The subsidy for 3 years has been worked out to be ₹ 930.49 crore. The claim was accordingly submitted to the Government on 07.01.2020.

Accounting for feedstock subsidy pertaining to previous years

4. The Company has submitted its claim of ₹ 930.49 crore for financial years 2015-16 (3 months), 2016-17 and 2017-18 and accounted for the same as an 'exceptional item' in the third quarter of the financial year. Referring to the Educational Material on Ind AS 1, issued by the erstwhile Ind AS Implementation Committee of the Institute of Chartered Accountants of India (ICAI), the Company has accounted for the feedstock subsidy for past years as an exceptional item considering the following:

   i. the accounting for past years of feed stock is a one-time incidence which will not recur in future;

   ii. it is arising from ordinary activity since the feedstock subsidy has been sanctioned based on initial commitments to the project for sustaining 10% post-tax IRR for a period of 15 years commencing from commissioning date;

   iii. it is a material amount considering that the income to be recognised for period ended up to 31.03.2019 will amount to estimated ₹ 1300 crore which is near to 50 % of revenue from overall operations in the year of accounting;

   iv. separate disclosure will be relevant to users of financial statements by enabling clear understanding of the nature of this income.

5. The presentation of the receivable amount of feedstock subsidy for the past periods as an 'Exceptional Item' is however a matter, which requires review since the term 'exceptional item' is neither defined nor used in Indian Accounting Standards (Ind ASs). The term 'Exceptional Items' to some extent has been clarified under the 'Guidance Note on Division II - Ind AS Schedule III to the Companies Act, 2013', issued by the Institute of Chartered Accountants of India. While noting the absence of definition of the term 'exceptional items' in Ind ASs, paragraph 9.6 of the Guidance Note states that Ind AS 1 has reference to such items in paragraphs 85, 86, 97 and 98 of that Standard. The said paragraphs conclude that separate disclosure of an item of income/ expense is warranted considering factors including materiality and the nature and function of the items of income and expense. Further, an entity shall present additional line items, headings and subtotals in the statement of profit and loss, when such presentation is relevant to an understanding of the entity's financial performance. Similar view was also been expressed in the erstwhile Accounting Standard 5.

6. *Detailed Methodology*

To work out the feedstock subsidy, the Company shall carry out revised study to ascertain the IRR considering the current scenario w.r.t. polymer, naphtha & gas prices, actual capital cost and other costs as per approved projections. Based on the current IRR, the feedstock subsidy amount shall be worked out to ensure minimum post-tax project IRR of 10% while maintaining the bankability of the project. The detailed methodology is given below:

Part A: Methodology for determination of subsidy on yearly basis shall be as under:

I. Subsidy Amount

Subsidy amount shall be calculated on yearly basis as under:

(i) Projected yearly subsidy as per the model with Projected Gross Margin (PGM) to ensure minimum Post Tax Project IRR of 10% while maintaining Bankability of the Project.

Plus

(ii) [PGM (A) – AGM (B)] (If Positive) X Quantity (C)

A. Projected Gross Margin (PGM) per unit of polymer as per the model for the relevant year.

B. Actual Gross Margin (AGM) per unit of polymer earned during that year.

C. Quantity for determination of Subsidy:

Plant Capacity Utilisation of the relevant year as per DFR or Actual Production during the relevant year, whichever is lower.

Total Yearly Subsidy Amount = (i) + (ii)

II. Computation of Gross Margin:

Total revenue of Polymer net of discounts divided by net sales quantity of Polymer for the relevant year.

less:

Total Cost of Feed Stock (i.e. Naphtha, Natural Gas etc.) divided by net production quantity of Polymer during the period.

Part B: Procedure for claiming subsidy

- Within 1 month after the audit of accounts of financial year, the Company shall submit its claim of subsidy to the administrative Ministry, as per methodology mentioned above.
- Claim for subsidy since commissioning till the last F.Y., shall be submitted immediately after the approval of CCEA.

Submission of claims for previous years:

As per the approved methodology, claims for subsidy since commissioning till the last F.Y., has been submitted immediately after the approval of CCEA. The feedstock subsidy for previous years has been computed as differential of projected and actual gross margins per unit of actual production. The methodology ensures that subsidy is only a function of gas, naphtha and polymer prices and the total subsidy is limited to actual production only. The subsidy for 3 years has been worked out and claimed as below:

	Projections as Per RCE-II **Year ended** Projected Capacity Utilization Projected Production (MT) Projected Sale (MT)	**31-Mar-16** 80.00% 54,180 40,389	**31-Mar-17** 90.00% 2,23,493 2,23,062	**31-Mar-18** 94.00% 2,46,519 2,45,054
A	**Projected Gross Margin (PGM) Per MT (₹/MT)**	**57,667**	**61,310**	**65,056**
	Actuals as per Audited Accounts Actual Capacity Utilization Actual Production (MT) Actual Sale (MT)	5% 3,349 223	37% 99,540 87,012	78% 2,12,569 2,05,275
B	**Actual Gross Margin(AGM) Per MT (₹/MT)**	**-2,72,289**	**25,444**	**43,273**
A-B	**PGM- AGM**	**3,30,074**	**35,867**	**21,778**
(A-B) X Actual Production	Feedstock Subsidy [(PGM-AGM) X Actual Qty of Production] (₹ in Cr)	110.54	357.02	462.93
Total for 3 years (₹ in Cr)				**930.49**

B. Query

7. On the basis of above, the opinion of the Expert Advisory Committee is sought as to whether the feedstock subsidy claims for previous years (till 31.03.2019) is to be presented as an 'Exceptional Item' in the statement of profit and loss for the financial year ended 31.03.2020. Alternatively, whether the above transaction can be considered as 'Other Income' as a separate line item and recognized in the financial statements accordingly.

C. Points considered by the Committee

8. The Committee notes that the basic issue raised by the querist relates to presentation of feedstock subsidy claims for previous years, viz., whether the same should be considered as an exceptional item and should be disclosed on the face of the statement of profit and loss under the head 'Exceptional Items' or the same should be considered as 'other income' as a separate line item in the financial statements. The Committee has, therefore, considered only this issue and has not considered any other issue that may arise from the Facts of the Case, such as, measurement and methodology for calculation of feedstock subsidy claims for previous years, accounting in relation to joint venture agreement, timing of accrual and recognition of feedstock subsidy, applicability of the requirements of Ind AS 8, 'Accounting Policies, Changes in Accounting Estimates and Errors', etc. Further, the opinion has been expressed in the context of Indian Accounting Standards (Ind ASs) notified under the Companies (Indian Accounting Standards) Rules, 2015 (hereinafter referred to as 'the Rules'). At the outset, the Committee notes from the Facts of the Case that claims for subsidy since commissioning (which is apparently in financial year 2015-16) till the financial year 2017-18 have been submitted immediately to the Government on 07.01.2020 after the approval of CCEA on 24.12.2019, which amounts to ₹ 930.49 crore and the same has been accounted for as an 'exceptional item' in the third quarter of the financial year 2019-20. Further, it appears that the subsidy claim for the financial year 2018-19 is yet to be submitted and the total estimated amount of subsidy claim upto financial year 2018-19 would be ₹ 1300 crore.

9. The Committee notes that Part II of Division II of Schedule III to the Companies Act, 2013

(hereinafter referred to as the 'Ind AS Schedule III'), which prescribes the format of statement of profit and loss applicable for companies adopting Ind ASs, requires presentation of 'Exceptional Items' as a separate line item in the statement of profit and loss. Further, Note 7 of the 'General Instructions for Preparation of Statement of Profit and Loss' applicable for companies adopting Ind ASs requires that a Company should disclose by way of notes, additional information regarding aggregate expenditure and income on some items. One of the items to be disclosed in this regard is 'details of items of exceptional nature'. However, the term 'exceptional item' is not defined in 'Ind AS Schedule III'. Further, the term 'exceptional item' is neither defined nor used in Ind ASs.

10. The Committee also notes the following paragraphs of Indian Accounting Standard (Ind AS) 1, 'Presentation of Financial Statements', notified under the Rules:

"31 Some Ind ASs specify information that is required to be included in the financial statements, which include the notes. An entity need not provide a specific disclosure required by an Ind AS if the information resulting from that disclosure is not material except when required by law. This is the case even if the Ind AS contains a list of specific requirements or describes them as minimum requirements. An entity shall also consider whether to provide additional disclosures when compliance with the specific requirements in Ind AS is insufficient to enable users of financial statements to understand the impact of particular transactions, other events and conditions on the entity's financial position and financial performance."

"85 An entity shall present additional line items (including by disaggregating the line items listed in paragraph 82), headings and subtotals in the statement of profit and loss, when such presentation is relevant to an understanding of the entity's financial performance."

"86 Because the effects of an entity's various activities, transactions and other events differ in frequency, potential for gain or loss and predictability, disclosing the components of financial performance assists users in understanding the financial performance achieved and in making projections of future financial performance. An entity includes additional line items in the statement of profit and loss, and it amends the descriptions used and the ordering of items when this is necessary to explain the elements of financial performance. An entity considers factors including materiality and the nature and function of the items of income and expense. For example, a financial institution may amend the descriptions to provide information that is relevant to the operations of a financial institution. An entity does not offset income and expense items unless the criteria in paragraph 32 are met."

"97 When items of income or expense are material, an entity shall disclose their nature and amount separately.

98 Circumstances that would give rise to the separate disclosure of items of income and expense include:

(a) write-downs of inventories to net realisable value or of property, plant and equipment to recoverable amount, as well as reversals of such write-downs;

(b) restructurings of the activities of an entity and reversals of any provisions for the costs of restructuring;

(c) disposals of items of property, plant and equipment;

(d) disposals of investments;

(e) discontinued operations;

(f) litigation settlements; and

(g) other reversals of provisions."

Further, the Committee notes that the concept of 'materiality' has been discussed in paragraph 7 of Ind AS 1 as below:

"*Material Omissions* or misstatements of items are material if they could, individually or collectively, influence the economic

decisions that users make on the basis of the financial statements. Materiality depends on the size and nature of the omission or misstatement judged in the surrounding circumstances. The size or nature of the item, or a combination of both, could be the determining factor."

11. From the above, the Committee notes that material items need to be presented as line items and/or disclosed in financial statements, which includes the notes. As per Ind AS 1, materiality depends on the size and nature of the omission or misstatement judged in the surrounding circumstances. The size or nature of the item, or a combination of both, could be the determining factor. Further, as per the requirements of paragraphs 85 and 86 of Ind AS 1, events and transactions which differ in frequency should be presented as additional line items/headings when such presentation is relevant to understanding of the entity's financial performance having regard to factors including materiality and the nature and function of the items of income and expense.

    The Committee also notes that paragraph 12 of Accounting Standard (AS) 5, 'Net profit or Loss for the Period, Prior Period Items and Changes in Accounting Policies', notified under the Companies (Accounting Standards) Rules, 2006 states that, "when items of income and expense within profit or loss from ordinary activities are of such size, nature or incidence that their disclosure is relevant to explain the performance of the enterprise for the period, the nature and amount of such items should be disclosed separately".

    Therefore, the Committee is of the view that exceptional items are those items which meet the test of 'materiality' (size and nature) and the test of 'incidence'; and that all material items are not exceptional items. The Committee is further of the view that 'incidence' refers to frequency of occurrence and the meaning of the term 'material' should be construed as per paragraph 7 of Ind AS 1, as reproduced above. Thus, the Committee is of the view that for an item to be classified as an 'exceptional item', it has to be both 'material' as well as infrequent/non-recurrent in nature.

    In the above context, the Committee notes that the querist has stated in the facts of the case that the accounting for past years of feedstock is one time incidence which will not recur in future, it is arising from the ordinary activities and the same is of material amount as the income to be recognized for period ended 31.03.2019 is around 50% of the revenue from overall operations in the year of accounting.

    However, the Committee is of the view that feed stock subsidy of past years is only previous years' accumulated subsidy, which without the approval of CCEA could not be processed earlier and accounted for. Just because it is an accumulated amount pertaining to past years, it cannot be considered as having one time incidence or non-recurring. Further, considering that feedstock subsidy will be received by the Company for a period of 15 years from the date of commissioning, the Committee notes that such item will arise even after the financial year 2019-20 as well (although may be pertaining to the current reporting period only). Furthermore, the Committee is of the view that considering the nature of the industry to which the Company belongs to, although the methodology of determining feed stock subsidy in the extant case may not have been used in the past, but the granting of subsidy of this nature may not be irregular and uncommon.

    As far as the issue regarding disclosure under the head 'other income', as raised by the querist, the Committee is of the view that feedstock subsidy is of the nature of grant related to income as per the requirements of Ind AS 20, 'Accounting for Government Grants and Disclosure of Government Assistance'. Accordingly, with regard to

presentation of such grant, the Committee notes paragraph 29 of Ind AS 20, which states as follows:

" **Presentation of grants related to income**

29 Grants related to income are presented as part of profit or loss, either separately or under a general heading such as 'Other income'; alternatively, they are deducted in reporting the related expense."

From the above, the Committee is of the view that the feedstock subsidy in the extant case may be presented as a part of the statement of profit and loss either separately or under the general head of 'other income' considering the materiality of the item. Further, with regard to whether the item is 'material' or not and accordingly whether or not it requires separate disclosure, the Committee is of the view that it is a matter of judgement. In this regard, the Committee notes from paragraph 7 of Ind AS 1, reproduced above, that an item should be considered material if it can influence the economic decisions of the users and that materiality depends on both size and/ or nature of an item. Accordingly, the Committee is of the view that the same should be decided by the Company in its own facts and circumstances considering the factors as discussed above and accordingly, if it is material, the Company should comply with the disclosure requirements of paragraph 97 of Ind AS 1.

However, since both the materiality and incidence tests are required to evaluate whether an item is exceptional or not and in this case, even though the item is material, it does not meet the test of incidence merely on the basis of being related to past years, as discussed above, the Committee is of the view that the feedstock subsidy claims of previous years cannot be classified as 'exceptional item'.

D. Opinion

12. On the basis of the above paragraphs, the Committee is of the opinion that the feedstock subsidy claims of previous years cannot be classified as 'exceptional item'. Further, considering the requirements of Ind AS 20, the feedstock subsidy in the extant case may be presented as a part of the statement of profit and loss either separately or under the general head of 'other income' considering the materiality of the item. However, whether this item is material or not and accordingly whether or not it requires separate disclosure, is a matter of judgement and the same should be decided by the Company in its own facts and circumstances, considering the factors as discussed in paragraph 11 above; and accordingly, if it is material, the Company should comply with the disclosure requirements of paragraph 97 of Ind AS 1, as discussed in paragraphs 10 and 11 above.

1.	The Opinion is only that of the Expert Advisory Committee and does not necessarily represent the Opinion of the Council of the Institute.
2.	The Opinion is based on the facts supplied and in the specific circumstances of the querist. The Committee finalised the Opinion on May 23, 2020. The Opinion must, therefore, be read in the light of any amendments and/or other developments subsequent to the issuance of Opinion by the Committee.
3.	The Compendium of Opinions containing the Opinions of Expert Advisory Committee has been published in thirty six volumes. A CD of Compendium of Opinions containing thirty six volumes has also been released by the Committee. These are available for sale at the Institute's office at New Delhi and its regional council offices at Mumbai, Chennai, Kolkata and Kanpur.
4.	Recent opinions of the Committee are available on the website of the Institute under the head 'Resources'.
5.	Opinions can be obtained from EAC as per its Advisory Service Rules which are available on the website of the ICAI, under the head 'Resources'. For further information, write to eac@icai.in.

Transparent Taxation- Honouring the Honest

In this article, the author discusses about taxpayers, their divergent mindsets and the six cardinal pillars which should work in coherence and in conjunction for the tax legislation to be successful, in any country. The author talks about formulating equitable and fair law, its implementation, strict dealing with tax evaders, promoting a culture of tax compliance thereby developing trust and building confidence by honouring the honest taxpayers; and judicious usage of taxpayers' money. To know his perspective on how successful implementation of this initiative would lead to a glorious era of tax compliance coupled with efficient and transparent functioning of the tax administration, read on…

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Introduction

The theme for this journal has assumed significance on account of the Hon'ble Prime Minister of India Shri. Narendra Modi launching the platform for "Transparent Taxation- Honouring the Honest" on 13th August, 2020. This initiative was the culmination of the proposals mentioned by the Hon'ble Finance Minister in the Union Budget presented this year. This theme encompasses three aspects, viz.,

1. Taxpayers' Charter wherein the Department is obligated to meet with the fourteen expectations of the taxpayer and the Citizen is mandated to meet with six expectations of the Department;
2. Faceless assessments (commenced) and faceless appeals (with effect from 25th September, 2020); and
3. Expanding the scope of the "Specified Financial Transaction" so as to capture high value transactions and thereby catch hold of tax evaders. The intent behind these are laudable and if successfully implemented would lead to a glorious era of tax compliance coupled with efficient and transparent functioning of the tax administration.

Various Kinds of Tax Payers

In my experience as a tax consultant I have come across

several taxpayers with divergent mindset. Broadly, I can segregate them into three categories:

1. Those who are by nature honest and cannot perpetrate or practice tax evasion. Even if the Government prescribes 99% as the tax rate, they would rather pay the tax due and sleep peacefully than to attempt evasion. Needless to mention that this category is a small percentage of taxpayers.
2. Those who by nature are dishonest and by culture cannot subject themselves to tax compliance attitude. Even if the Government specifies 1% as the tax rate, they would rather question why should that 1% be paid and ponder on how to circumvent the law. It goes without saying that this segment of tax payers are also a minority.
3. In between the above two extremes, there is a vast population of citizens who are fence sitters. If the rates are reasonable, if there are no procedural hassels, if there is a proper counselling and guidance by the tax advisor and if there is no harassment and corruption by some people in the tax department substantial number of these citizens would come forward to pay the taxes by disclosing their income voluntarily and truthfully. On the contrary, if the entire system is not conducive enough to induce them to pay taxes, they would be tempted to evade taxes.

Six Cardinal Pillars

In any country for the tax legislation to be successful, there are six cardinal pillars that should work in coherence and in conjunction. They are as follows:

(i) The law should be equitable and fair to enable smooth compliance by the citizens;

(ii) The implementation of the law by the tax department must be judicious and upright;

(iii) The tax evaders should be incentivised to pay taxes and simultaneously should be detected and dealt with severely (carrot and stick approach);

(iv) The culture of tax compliance must be promoted by the Professionals by proper counselling;

(v) Trust and confidence must be built by honouring the honest taxpayers; and

(vi) The Government must demonstrate to the tax payers that their hard-earned money contributed as taxes is used not for ostentation of those in power but for the welfare of the citizens, economic development and growth of the Nation.

Equitable and Fair Law

India made a progressive approach to bring down the stiff taxes to a moderate level and that improved the tax compliance. But during the last one decade the trend got reversed by imposing Education cess, surcharge and super rich surcharge resulting in pushing the maximum slab rate for an individual from 30% to 43%. In fact, Government should think of implementing Laffer curve theory whereby beyond a point, cutting the tax rates maximises the collection of taxes. Similarly, it is unfair to tax partnership firms at 35% when Companies enjoy an effective tax rate ranging from 17% to 25%. Though, this gap is neutralised with the taxation of dividend in the hands of shareholders, still, when an entity to entity is compared, it does not present a fair proposition.

Steep tax rates contribute to increase in tax evasion. When tax evasion is rampant, then corruption gets fuelled and that leads to generation of black money and growth of parallel economy. This in turn impacts on the global rating in ease of doing business. India was at 142nd rank about six years ago. Then we improved to 130, later to 100, then to 77 and now we are ranked at 63rd position among 190 economies. Besides, for the consecutive third year, India earned a place among the world's top 10 improvers, thanks to series of reforms brought out by the Government, including the tax reforms. We can further improve, if the measures launched by the Hon'ble Prime Minister are implemented in the right spirit.

Implementation of Law

Government should always ensure that those who honestly pay taxes are not harassed during the course of implementation of the tax law. Unfortunately, the past experience has been not so good for the honest tax payers. Not only that honest tax payers were harassed in the course of assessment and appellate proceedings, it is disgusting to find that tax evaders are able to escape the clutches of the tax net due to prevalent corrupt practices. It would be unfair to attribute this observation as applicable to the entire tax department. There are straight forward and honest Officials in the tax department who serve with patriotism and deal with

taxpayers in a friendly manner. But like honest tax payers, they are also not a significant percentage. This scenario must change. The Tax payer charter therefore rightly emphasis that the department shall hold its authorities accountable for their actions besides publishing standards for service delivery in a periodic manner.

There is a trust deficit in the relationship between the tax administrator and the tax payer. This must be rebuilt carefully and gradually. In this context, it is heartening to note that as part of the taxpayers' expectation and department's obligation, it is mentioned in the charter that the department shall provide prompt, courteous and professional assistance in all dealings with the taxpayer and the department shall treat every taxpayer as honest unless there is a reason to believe otherwise. No law is as good as it is enacted. It is only as good as it is implemented. A good law badly implemented can be disastrous. There are instances where an honest tax payer is compelled to generate black money (undisclosed income) only to meet the demands of the corrupt officials. This creates a vicious cycle in which he gets trapped. Let us hope that the tenets spelt out in the taxpayers' charter are faithfully practised and truly implemented by the income-tax department upholding the spirit underlying the document.

Dealing with Tax Evaders

Tax evaders must be severely dealt with. The carrot approach for tax evaders, in order to incentivise them to pay taxes, can be achieved by allowing a percentage of the tax paid for one assessment year as a deduction in the immediate subsequent assessment year. This type of a deduction, if allowed, would remove the aversion in their mind towards taxes. They would start looking at taxes as they are looking at Chapter VIA deductions in the computation of income. Further, when any bonafide additional demand is raised in the assessment, instead of agitating the matter in frivolous appeal, the tendency would be to pay the taxes demanded as anyway a % of that would be allowed as a deduction next year. In another sense, the cost of compliance would appear more economical and prudent than the cost of litigation.

Gone are the days when a person can spend huge amounts in cash hoping that it would never be found out by the department. First of all, thanks to the evolution of internet and mobile Banking and Platforms like UPI being available, the economy is moving towards less cash transactions with the ultimate objective of achieving a cash less environment. Post demonetisation digital banking gained prominence and now its usage has been accelerated by the Covid caused pandemic situation. Secondly, the Department is also using AI and Data analytics to identify cases of potential tax evasion and initiate proceedings to bring them into tax net. Under the provisions of Section 285BA of the Income-tax Act, reports from Banks, Financial Institutions and other specified persons are expected to flow in to the tax department through their reports indicating transactions exceeding certain threshold limits in terms of investments and expenses.

Now the scope of coverage has been widened to rope in outgoings such as educational fees, donations, hotel bills, purchase of Jewellery, marbles, electricity, health insurance premium, share transactions etc., which exceeds the prescribed threshold limits. By virtue of the revised Form 26AS notified from July, 2020, such specified financial transactions would be made available to the taxpayer so that he could cross check whether the source for all those transactions are duly covered while filing the return of income. The law has also been amended to require the compulsory filing of the return of income by a person having bank transactions over ₹ 30 lakhs; person paying rent over ₹ 40,000 and all professionals and businessmen having turnover over ₹ 50 lakhs. Any arrangement, which lacks commercial substance and devised exclusively with the intent of obtaining tax benefit shall be dealt seriously. In this direction, the provisions of General Anti-Avoidance Rules (GAAR) would serve as a deterrent in the minds of habitual tax evaders, if implemented with right spirit. Detecting and punishing a tax evader is as much important as recognising and honouring the honest tax payer. Actually,

> "Post demonetisation digital banking gained prominence and now its usage has been accelerated by the Covid caused pandemic situation. Secondly, the Department is also using AI and Data analytics to identify cases of potential tax evasion and initiate proceedings to bring them into tax net.

that is one way the honest tax payer's attitude gets vindicated and reinforces his conviction for faithful compliance of law.

Culture of Tax Compliance

While the rights of the tax payers become the obligations of the department, the duties of the taxpayers become the department's expectations from the taxpayers and therefore, rightly enlisted in the taxpayers' charter. In a nutshell, taxpayers are expected to make honest disclosures, ensure faithful compliance, abreast of the duties and be diligent to seek assistance of the department, maintain accurate records, monitor and know the authorised representative's submissions, respond in a timely manner to the department besides paying taxes within the due dates stipulated under law.

This is an area where we, the Chartered Accountants, must play a vital role in educating and advising the taxpayers to disclose income truly and fully and comply with the provisions of law. None of our clients should face the humiliation of being imposed with any penalty nor they should be subjected to any prosecution proceedings. They must pay taxes with national pride and sleep peacefully having fulfilled the patriotic duty. We must guide the taxpayers to realise that tax evasion is not only illegal but it is also immoral and ultimately will lead to unpalatable consequences. Even tax avoidance through sham or artificial transactions is untenable.

> The law has also been amended to require the compulsory filing of the return of income by a person having bank transactions over ₹ 30 lakhs; person paying rent over ₹ 40,000 and all professionals and businessmen having turnover over ₹ 50 lakhs.

Tax planning through genuine and real transactions within the four corners of law only is valid. While every tax payer can arrange his affairs with a view to avail lawfully permissible deductions and exemptions, no one should resort to sham or fictitious transactions or dubious methods to indulge in evasion. Tax payers must be made to appreciate, as Justice Holmes observed, that we pay taxes to buy civilization. Unless those who have the legal obligation to pay taxes, honestly complies with it, the Government will not be able to provide the best of infrastructure and facilities for enhancing the quality of life. Government exchequer needs money for implementing social schemes meant for upliftment of the poor and to pave the way for socio-economic development of our country. Thus, collective and honest compliance of tax culture is the need of the hour.

Honouring of Honest Taxpayers

In the recent years, one of the measures adopted by the CBDT is to recognise taxpayers by issuing certificates indicating the status as "Platinum Taxpayer"; "Gold Taxpayer" and "Silver Taxpayer" depending on the amount of taxes paid for a particular assessment year. While this is a welcome measure, in the emerging scenario, something more should be innovatively conceptualised and implemented. For example, a taxpayer who has contributed more than one crore rupees and recognised as a platinum category tax payer must be entitled for certain benefits and concessions in certain common facilities (for example, access to airport lounges) and must be given a preferential treatment in granting approvals and even in standing in queues for checking in at the airport flight counters. So, for each of these categories of tax payers, such entitlements may serve as a recognition and incentive for their tax compliance. Others would be inspired to see these kinds of benefits being given to the honest taxpayers and may be motivated to emulate them. These benefits may also be extended to assessees, who have efficiently complied with the TDS/TCS provisions, CSR obligations etc.

> They must pay taxes with national pride and sleep peacefully having fulfilled the patriotic duty. We must guide the taxpayers to realise that tax evasion is not only illegal but it is also immoral and ultimately will lead to unpalatable consequences.

In the light of the faceless assessment mechanism put in place there will not be personal hearing or enquiry except in select cases such as search cases, serious fraud cases, major tax evasion cases, international taxation cases and cases where the provisions of Black Money Act and Benami Property related law are invoked. Even territorial allocation of cases is done away with in the faceless assessment. All these, I am sure would remove human interface and prevent corruption. These measures in a way indirectly relieve the honest taxpayers of mental stress because subjectivity and harassment would be eliminated. Having said that, it is important for the tax department to impart knowledge to their officers, through robust training and make them understand on the intricacies of contemporary business and transaction models, which would certainly avoid unreasonable assessments, high-pitched demands and prolonged litigation, during the times of faceless assessments.

Usage of Taxpayers' Money

Due to the law being fair and equitable, implementation being judicious and taxpayer friendly, we can certainly expect significant transformation in the mindset of the people towards tax compliance. Similarly, if the dishonest persons are detected and punished that would be deterrent for those who wish to indulge in evasive measures. On the other hand, if honest taxpayers are given due recognition and certain visible benefits, there would be motivation for them as well as others who get inspired by them to pay taxes properly. So, all these measures shall cumulatively enhance the tax payers population by improving the culture of compliance in a calibrated manner.

> On the other hand, if honest taxpayers are given due recognition and certain visible benefits, there would be motivation for them as well as others who get inspired by them to pay taxes properly.

But what can sustain that positive frame of mind is the Government demonstrating to the people that it is diligently and faithfully using the taxes collected for the inclusive growth and for the socio-economic development of the Nation. When people experience that the quality of life and the modes of transportation, communication, power supply are most efficient and that goods and services including public utilities are made available at affordable cost for the common man, then everyone would come forward to contribute the taxes. When the taxpayers find that whatever they are paying is coming back to them either in the form of good infrastructure or it is getting deployed for upliftment of the downtrodden by poverty alleviation, free medical facilities and education for those who can't afford them, the citizen's pride in contributing to the Government exchequer would be immeasurable.

Conclusion

India's ratio of tax collection to GDP is not at all impressive and we have a long way to go. But longest race also starts with a small step. In that sense the proactive and positive measures launched by the Hon'ble Prime Minister on the 13th August, 2020 would go a long way in building mutual trust and confidence between the taxpayers and the tax department. Consequent to these reforms, the countries rating in Ease of Doing Business will improve further as a tax compliant Nation devoid of corrupt practices. This in turn is bound to attract more foreign investment resulting in more production of goods and services, more employment opportunities, more earning capacity, more taxes and savings and overall better quality of life. These measures, over a period of time, would certainly improve the per capita GDP and the gap between the rich and the poor shall diminish. We all know that 19th Century belonged to Europe, 20th Century to the USA but we must aspire that 21st Century must belong to

> Consequent to these reforms, the countries rating in Ease of Doing Business will improve further as a tax compliant Nation devoid of corrupt practices.

India and we can certainly make it happen with these kinds of laudable reforms being launched by the Government of India. ■■■

TAXPAYERS' CHARTER

THE INCOME TAX DEPARTMENT

is committed to

1. **provide fair, courteous, and reasonable treatment**

   The Department shall provide prompt, courteous, and professional assistance in all dealings with the taxpayer.

2. **treat taxpayer as honest**

   The Department shall treat every taxpayer as honest unless there is a reason to believe otherwise.

3. **provide mechanism for appeal and review**

   The Department shall provide fair and impartial appeal and review mechanism.

4. **provide complete and accurate information**

   The Department shall provide accurate information for fulfilling compliance obligations under the law.

5. **provide timely decisions**

   The Department shall take decision in every income- tax proceeding within the time prescribed under law.

6. **collect the correct amount of tax**

   The Department shall collect only the amount due as per the law.

7. **respect privacy of taxpayer**

   The Department will follow due process of law and be no more intrusive than necessary in any inquiry, examination, or enforcement action.

8. **maintain confidentiality**

   The Department shall not disclose any information provided by taxpayer to the department unless authorized by law.

9. **hold its authorities accountable**

   The Department shall hold its authorities accountable for their actions.

10. **enable representative of choice**

    The Department shall allow every taxpayer to choose an authorized representative of his choice.

11. **provide mechanism to lodge complaint**

    The Department shall provide mechanism for lodging a complaint and prompt disposal thereof.

12. **provide a fair & just system**

    The Department shall provide a fair and impartial system and resolve the tax issues in a time-bound manner

13. **publishservice standards and report periodically**

    The Department shall publish standards for service delivery in a periodic manner.

14. **reduce cost of compliance**

    The Department shall duly take into account the cost of compliance when administering tax legislation.

and expects taxpayers to

1. **be honest and compliant**

   Taxpayer is expected to honestly disclose full information and fulfil his compliance obligations.

2. **be informed**

   Taxpayer is expected to be aware of his compliance obligations under tax law and seek help of department if needed.

3. **keep accurate records**

   Taxpayer is expected to keep accurate records required as per law.

4. **know what the representative does on his behalf**

   Taxpayer is expected to know what information and submissions are made by his authorised representative.

5. **respond in time**

   Taxpayer is expected to make submissions as per tax law in timely manner.

6. **pay in time**

   Taxpayer is expected to pay amount due as per law in a timely manner.

Taxpayers can approach the Taxpayers' Charter Cell under Principal Chief Commissioner of Income tax in each Zone for compliance to this charter. For more Information, visit http://incometaxindia.gov.in

Residential Status of An Individual, Post Budget 2020

Determination of the residential status in India as per the Income-tax Act, 1961 is the first and foremost pursuit to compute any person's taxable income in India. In other words, every person – citizen or non-citizen, corporate or non-corporate – who may be liable to pay Income-tax in India needs to determine the residential status as per the provisions of the Act. It is the residential status of any person that determines, the incomes on which the person would be liable to pay tax in India and at specified rates, the applicability of various provisions of Direct Tax Avoidance Agreements (DTAAs), the availment of Foreign Tax Credits (FTCs), the extent of declarations and forms required to be submitted to the Income Tax Department, etc. Read on....

CA. Rishabh Mittal

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The Income-tax Act, 1961 (hereinafter referred to as "the Act") provides for three categories of residential status in India – Resident, Not Ordinarily Resident and Non-Resident..

1. Definition

Section 2(42) defines "resident" as - *"resident" means a person who is resident in India within the meaning of* ***Section 6"*** and Section 2(30) defines "non-resident" as - *"non-resident" means a person who is not a "resident".....*

Therefore, the term "Not Ordinarily Resident" has not been explicitly defined in the Act but can be derived from the definitions of other two terms. Basically, *not ordinarily resident status* is a transition phase when a person gets transferred from the status of "non-resident" to the status of "resident". This has been provided under the Act so that the ambit of tax in India does not get increased all of a sudden for a non-resident.

2. Criteria (refer summarised chart also)

Section 6 of the Act lays different principles to determine the residential status for different categories of persons – individuals, Hindu Undivided Family, firm, or other association, company, and every other person. Here, we shall discuss provisions relating only to the determination of individual's residential status.

> Not ordinarily resident status is a transition phase when a person gets transferred from the status of "non-resident" to the status of "resident".

- **Criteria under the Act to treat an individual as "resident" in India**

An individual – citizen or non-citizen - is said to be resident in India, for the year, if he:

(a) is in India in that year for a period or periods amounting in all to 182 days or more; or

(b) having within the four years preceding the year under consideration been in India for a period or periods amounting in all to 365 days or more *and* is in India for a period or periods amounting in all to 60 days* or more in the year under consideration; or

(c) being a citizen of India, having total income, other than the income from foreign sources#, exceeding ₹ 15 lakhs during the year and is not liable to tax in any other country or territory by reason of his domicile or residence or any other criteria of similar nature.

*** Exceptions to the criterion of 60 days**

(A) The criterion of 60 days shall be raised to 182 days in following cases:

(i) in case of a person being a citizen of India, who leaves India as a member of the crew of an Indian ship, or for the purposes of employment outside India, and

(ii) in case of a person being a citizen of India or a person of Indian origin who, being outside India, comes on a visit to India.

(B) The criterion of 60 days shall be raised to 120 days in case of the citizen or person of Indian origin having total income, other than the income from foreign sources, exceeding ₹15 lakhs during the year.

 # Income from foreign sources

Income which accrues or arises outside India (except income derived from a business controlled in or a profession set up in India i.e. this shall be included in calculating the threshold).

- **Criteria under the Act to treat an individual as "non-resident" in India**

An individual who does not meet any of the conditions laid for a "resident" shall be treated to be a "non-resident" for the purposes of the Act.

- **Criteria under the Act to treat an individual as "not ordinarily resident" in India**

An individual is **said to be "not ordinarily resident"** in India **if** he:

(i) has been a **non-resident** in India in **nine out of the ten years** preceding the year under consideration; or

(ii) has during the **7 years** preceding the year under consideration **been in India** for a period of, or periods amounting in all to, **729 days or less**; or

(iii) is a person referred to in point (c) of "resident" criteria or point (B) of "Exceptions to the criterion of 60 days" of "resident" criteria above.

3. Incomes taxable in India

As per Section 5 of the Act, following are the incomes which shall be taxable in India depending on the residential status of an individual:

S. No.	Nature of income/ Residential Status	Received or is deemed to be received in India	Accrues or Arises or is deemed to accrue or arise to him in India	Accrues or Arises to him outside India
1	Resident	✓	✓	✓
2	Not ordinary resident	✓	✓	✗^
3	Non-resident	✓	✓	✗

^ included if it is derived from a business controlled in or a profession set up in India.

Analysis

Assessee's perspective

1. Marginal relief for this amendment has been given by the Memorandum to Finance Bill, 2020. It states that there are cases in which individuals who are actually carrying out substantial economic activities from India manage their period of stay in India, so as to remain a non-resident in perpetuity and therefore not required to declare their global income in India.

It is entirely possible for an individual to arrange his affairs in such a manner that he is not liable to tax in any country during a year. This arrangement is majorly employed by high net worth individuals (HNWI) to avoid paying taxes to any country. The current rules governing tax residence makes it possible for HNWIs and other individuals, who may

be Indian citizen to not to be liable for tax anywhere in the world. Such a circumstance is certainly not desirable; particularly in the light of current development in the global tax environment where avenues for double non-taxation are being systematically closed.

2. Before the amendment by the Finance Act, 2020, an individual who is an Indian citizen or a person of Indian origin was virtually under the ambit of only 182 days criterion, i.e., if such individual lives outside India and comes to India only for the purpose of visit, then he could have stayed in India for any period less than 182 days and he would still be classified as non-resident and therefore, any of his income which accrues or arises outside India would remain outside the ambit of tax in India.

3. Now, after the amendment by the Finance Act, 2020, above criterion shall stand restricted only to such Indian citizens or persons of Indian origin who live outside India and come to India only for the purpose of visit and have income upto ₹15 lakhs from sources other than foreign sources.

4. For Indian citizens and persons of Indian origin whose income from sources other than foreign sources exceeds ₹ 15 lakhs, following shall be the criteria:

S.N.	Individual is	Category
1	Indian citizen not liable to tax in **any other** country or territory **by reason of** his domicile or **residence** or any other criteria of similar nature.	Not ordinary resident
2	(i) Indian citizen other than above i.e. he is liable to pay tax in any other country or he is not liable to pay tax in any other country because of reason **other than** his domicile or residence or any other criteria of similar nature, or (ii) Person of Indian origin who has been in India for less than 120 days	Non-resident
3	(i) Indian citizen as referred to in S.N. 2, or (ii) Person of Indian origin who has been in India for 120 days or more but less than 182 days in this year and has been in India for 365 days or more in 4 preceding years	Not ordinary resident
4	(i) Indian citizen as referred to in S.N. 2, or (ii) Person of Indian origin who has been in India for 120 days or more but less than 182 days in this year and has been in India for less than 365 days in 4 preceding years	Non-resident

> The current rules governing tax residence makes it possible for HNWIs and other individuals, who may be Indian citizen to not to be liable for tax anywhere in the world. Such a circumstance is certainly not desirable; particularly in the light of current development in the global tax environment where avenues for double non-taxation are being systematically closed.

It is needless to mention here that if any individual is in India for 182 days or more, he shall automatically be treated as resident subject to other two conditions, fulfilling which he shall be classified as not ordinary resident.

5. In accordance with above analysis, it can be concluded, for persons mentioned in table above, that:

   (i) because of the amendment made through the Finance Act, 2020 the residential status can be raised only to the level of not ordinary resident and not to the level of resident.

   (ii) the ambit of taxation in India will get increased **only to** income derived from a business controlled in or a profession set up in India.

   (iii) the disclosure requirements under Schedule FA – for foreign assets and Schedule AL – for assets and liabilities (except for Indian assets) shall not apply, as instructions to file Income Tax Returns explicitly exempt / reduce the ambit of disclosure for not ordinary residents.

   (iv) the amended Act distinguishes between the Indian citizens who are not liable to tax anywhere in the world **because of their residential status** and those who are not liable to tax anywhere in the world **because of any**

other criteria.

(v) citizens of India, who come under the ambit of this amendment will need to decide the reason because of which they are not liable to tax in any other country and upon such determination, the criteria for determining their residential status in India can be ascertained.

Government's perspective

India is the largest recipient of personal remittances in the world. India's personal remittances receipts in 2019, in accordance with the World Bank's data, stand over US $83 billion. As per data from various other sources, including that from RBI, majority portion of this remittance is received from the Gulf Cooperation Council (GCC) countries (United Arab Emirates (UAE), Saudi Arabia, Qatar, Kuwait, Oman).

Majority portion of these remittances is for the purpose of Family maintenance, followed by Deposits in banks, Others, and Investments (land property / equity shares).

There is a common perspective that after the amendment in residential status by Finance Act, 2020, India may lose a portion of personal remittances sent by number of Indian citizens or persons of Indian origin working abroad. This argument is made on the ground that majority of GCC countries including UAE, Qatar, Kuwait and Oman do not levy any tax on individual's income because of which all Indian citizens or persons of Indian origin working in such countries will now come under the ambit of Indian Income-tax law and will have to pay taxes on their global income.

However, in accordance with analysis done above, it is clear that there is no provision inserted under the Act which makes Indian citizen or person of Indian origin residing and earning abroad as 'resident' for the purpose of levying tax on their foreign incomes in India. Residential status of Indian citizens having income exceeding ₹ 15 lakhs in India including income derived from a business controlled in or a profession set up in India, can only be raised to 'not ordinary resident' in India for the purpose of Indian Income-tax law and therefore, *income which accrue or arise to such citizens outside India except income derived from a business controlled in or a profession set up in India shall not be taxable in India.* Further, disclosure requirements for such citizens and persons of Indian origin shall be limited. *However, there will now be a reduction in number of days for which such citizens or persons of Indian origin can stay in India.*

Therefore, there is no reason because of which there may be a reduction in above remittances. However, business investments by such citizens and persons of Indian origin may see a slump because of increased taxability ambit on business incomes of such citizens and persons of Indian origin.

Issue in the drafting of amendment

Clause (1) of Section 6 of the Act states the criteria of 182 days and 365 days for any individual to be classified as resident.

For making amendment in the Act, the Finance Act has inserted clause (1A) after clause (1) in Section 6.

Clause (1A) reads as under:

*"**Notwithstanding anything contained in clause (1),** an individual, being a citizen of India, having total income, other than the income from foreign sources, exceeding fifteen lakh rupees during the previous year shall be deemed to be resident in India in that previous year, if he is not liable to tax in any other country or territory by reason of his domicile or residence or any other criteria of similar nature;"*

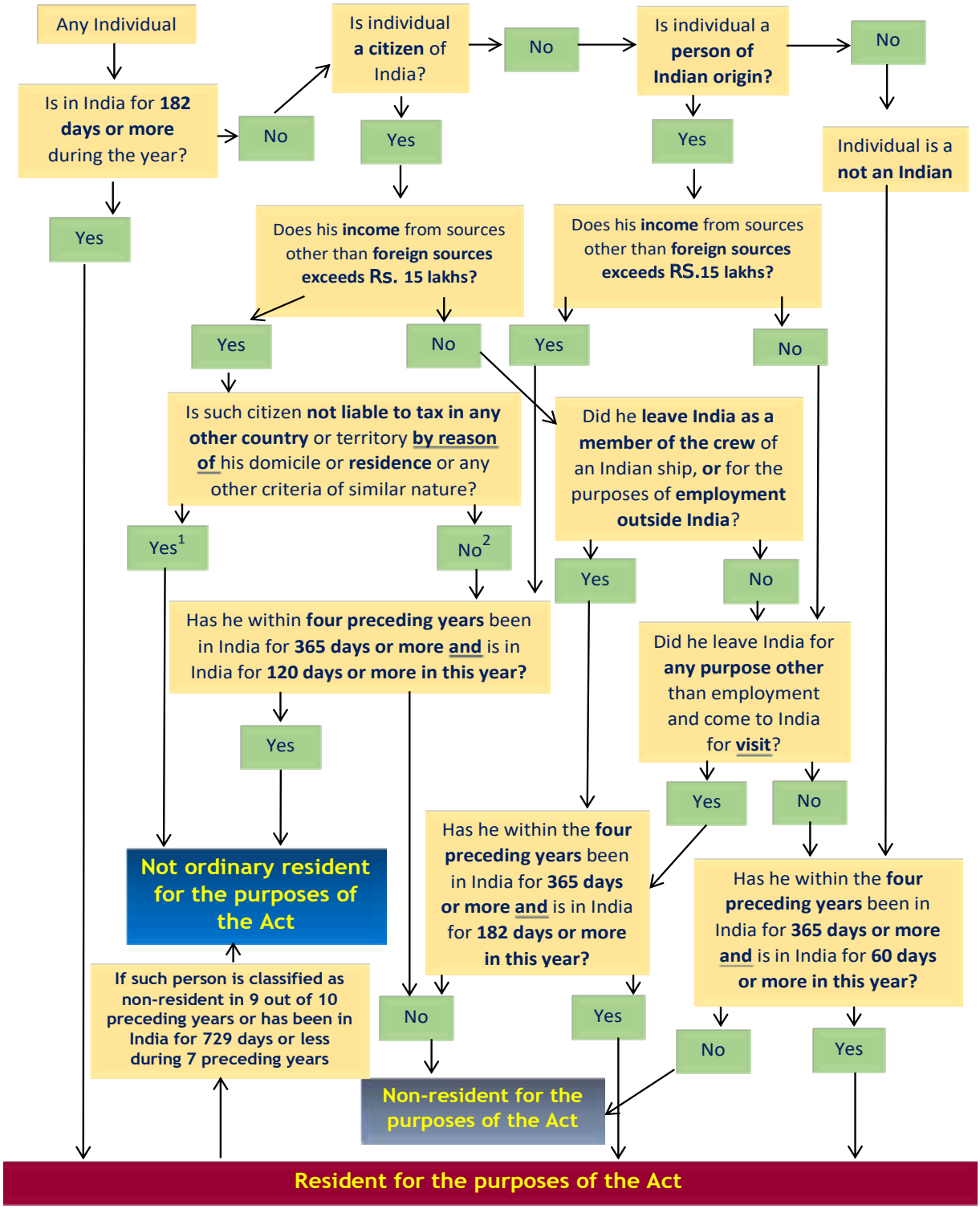
"India is the largest recipient of personal remittances in the world. India's personal remittances receipts in 2019, in accordance with the World Bank's data, stand over US $83 billion. As per data from various other sources, including that from RBI, majority portion of this remittance is received from the Gulf Cooperation Council (GCC) countries (United Arab Emirates (UAE), Saudi Arabia, Qatar, Kuwait, Oman).

Now, clause (1A) clearly overrules clause (1). All the conditions, viz. individual shall be an Indian citizen, Indian sources income exceeds ₹ 15 lakhs and he shall not be liable to tax in any other country by reason of his domicile or residence, can virtually be satisfied by any Indian citizen i.e. even by those who permanently reside in India.

Further, newly inserted sub-clause (d) in clause (6) of Section 6 makes above persons as 'not ordinary resident' and therefore by virtue of clause (1A) read with clause (6) of Section 6 of the Act, any Indian citizen can be classified as 'not ordinary resident' and thereafter he is not required to pay tax on global income in India. Furthermore, the disclosure requirements will also get reduced.

The above interpretation can never be the intent of the amendment, therefore, clarification in this regard is awaited.

Summarised chart for the determination of residential status of an individual under the Act



1. i.e. he is not liable to pay tax in that country because of the above reason.
2. i.e. he is liable to pay tax in that country or not liable to pay tax in that country because of reason other than that mentioned above.

Ascertaining Period of Holding for Computation of Capital Gains on Transfer of Immovable Property

It has been nearly six decades since the Income Tax Act, 1961 was introduced, yet the issue remains unresolved as to what date is to be considered for computing the period of holding for computation of capital gains on transfer of immovable property. Perhaps, it is a burning question which needs to be brought to light, as it is the tax payer who is bearing the brunt of various tax authorities on this complicated matter. Keeping in view the difficulties faced by tax payers and increased cases of litigation on this complicated issue, an attempt has been made through this article to ease out the difficulties and bring more clarity. The article discusses and interprets the provisions, circulars, notifications thereto. Read on…

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Bare provisions of Section 2(42A) of Income Tax Act, 1961 (The Act) and the third proviso to it which defines **short term capital asset** and its detailed analysis:

Bare Provisons:

Short-term capital asset means a capital asset 'Held' by an assessee for not for than [thirty-six] months immediately preceding the date of its transfer:

Provided also that in the case of a share of a company not being a share listed in a recognised stock exchange in India or an immovable property, being land or building or both, the provisions of this clause shall have effect as if for the words "thirty-six months", the words "twenty-four months" had been substituted. [The period of twenty-four months with respect to immovable property instead of thirty-six months has been made applicable from A.Y. 2018-19]

Detailed Analysis of Section 2(42a) of the Income Tax Act, 1961:

Perusal of the aforesaid definition shows that the legislature has used the expression *held.* It is to further noted that in various other allied or similar sections, the legislature has preferred to use the expression

owned (in Sections 26 and 27 of The Act), purchased (Section 54/54F of The Act).

Thus, it shows that the legislature was conscious while making use of this expression. The expression "owned" has not been used in Section 2(42A) of The Act for the purpose of determining the nature of asset as short term capital asset or long term capital asset. Thus, the intention of the legislature is clear that for the purpose of determining the nature of capital gain, the legislature was concerned with the period during which the asset was ***held*** by the assessee for all practical purposes on de facto basis.

The legislature was apparently not concerned with absolute legal ownership of the asset with a registered deed of conveyance conferring a title for determining the holding period.

It is also to be noted that Section 2(42A) uses the term "capital asset" which has been defined in clause (a) of Section 2(14) of The Act to mean *"property of any kind* ***held*** *by an assessee, whether or not connected with his business or profession."* Thus, a conjoint reading of Section 2(14) read with Section 2(42A) makes it crystal clear that what is to be transferred as per Section 2(47) of The Act to calculate capital gains on transfer of immovable property is a capital asset which has to be construed as per clause (a) of Section 2(14) of The Act which nowhere uses the expression "owned".

It has been observed during litigations that various tax authorities have taken a view that the period of holding shall be taken from the date the property is registered before the sub registrar as the legal ownership and title of the property passes on from the seller to the buyer after payment of requisite stamp duty and registration charges. The tax authorities have further went on to say going by the provisions of Indian Evidence Act, 1872, instruments which are not duly stamped are inadmissible in evidence and as per Section 35(a) of the Indian Stamp Act, 1899, no instrument chargeable with duty shall be admitted in evidence or shall be acted upon, registered or authenticated by the public officer, unless such instrument is duly stamped.

"Thus, a conjoint reading of Section 2(14) read with Section 2(42A) makes it crystal clear that what is to be transferred as per Section 2(47) of The Act to calculate capital gains on transfer of immovable property is a capital asset which has to be construed as per clause (a) of Section 2(14) of The Act which nowhere uses the expression "owned".

As pointed out above, the expression owned has neither been used in Section 2(14) of The Act nor in Section 2(42A) of The Act which if taken a stand amounts to re-writing the provisions of law which can only be done in the parliament and no tax authorities have the power to do so.

Therefore, what has to be ascertained is the point of time from which it can be said that assessee started ***holding*** the asset on de facto basis. Normally, the following chronology of events are looked at from booking an immovable property to claiming an exemption under section 54/54F of The Act :

a. Allotment of an immovable property on payment of token money or first instalment as the cost of construction and thus, issuing an allotment letter.
b. Entering into a purchase agreement/deed to purchase the property.
c. Registration of the property before the sub-registrar.
d. Sale of the aforesaid property.
e. Either purchasing or constructing the new property under Section 54/54F.

When an allotment letter is issued to an allottee on payment of token money or first instalment of the cost of construction, the allotment is final unless it is cancelled. Generally, in an allotment letter, the property is already identified on a specific floor admeasuring the area.

The allottee, thereupon, gets title to the property which is nothing but a right in the property which is nothing but a capital asset as per clause (a) of Section 2(14) of The Act on the issuance of the allotment letter and the payment of instalments is only a follow-up action and taking delivery of possession is only a formality.

It has generally been seen that this is the view that the assessee's normally relies upon before the various tax authorities during litigations which the tax authorities do not agree to and take a different view as discussed above.

The CBDT has concurred with the assessee's view by way of clarifying vide circular no.471 dated 15.10.1986 and circular no. 672 dated 16.12.1993 that for the purpose of Income Tax Act, 1961, the allottee gets title to the property on the issuance of the allotment letter and the payment of instalments is only a formality. In case of construction agreements, the tentative cost of construction is already determined and the agreement provides for payment of cost of construction in instalments subject to the condition that the allottee has to bear the increase, if any, in the cost of construction. Therefore, for the purpose of capital gains tax, the cost of the new asset is the tentative cost of construction and the fact that the amount was allowed to be paid in instalments does not affect the legal position.

It is a well settled proposition of law and there is no dispute whatsoever that transfer of property shall be effective only on registration of conveyance deed in view of Section 54 of Transfer of Property Act, 1882. The transfer of ownership is not the issue to be decided here for computing the holding period. As discussed earlier, holding period is to be determined in terms of Section 2(42A) of The Act. In light of the expanded definition as contained in Section 2(47) of The Act, even when a sale, exchange or relinquishment of any right, under a transaction whereby the assessee is allowed the possession of an immovable property or retained the same in part performance of the contract under Section 53-A of Transfer of Property Act, 1882, it amounts to transfer. Similarly, any transaction whether by way of becoming a member of or acquiring shares in a cooperative society, company or other association of persons or by way of any agreement or any arrangement or in any other manner whatsoever, which has the effect of transferring, or enabling the enjoyment of any immovable property, also constitutes transfer and the assessee is said to ***hold*** the said property for the purpose of the definition of 'short-term capital gain'.

"Therefore, for the purpose of capital gains tax, the cost of the new asset is the tentative cost of construction and the fact that the amount was allowed to be paid in instalments does not affect the legal position.

It is important to draw the attention towards Section 47 of The Registration Act, 1908 which says; *"A registered document shall operate from the time which it would have commenced to operate if no registration thereof had been required or made, and not from the time of its registration."*

The CBDT has made it clear by way of circular no. 495 dated 22.09.1987 that transactions of the nature referred to above are not required to be registered under The Registration Act, 1908. Such arrangements confer the privileges of ownership without transfer of title in the building and are common mode of acquiring flats particularly in multi-storied constructions in big cities. A person holding the Power of Attorney is authorized the powers of owner, including that of making construction though the legal ownership in such cases continues to be with the transferor.

"A person holding the Power of Attorney is authorized the powers of owner, including that of making construction though the legal ownership in such cases continues to be with the transferor.

The intention of legislature is to treat even such transactions as transfers and the capital gain arising out of such transactions are brought to tax.

In construing such taxation, what should be the approach of the courts and the tax authorities and the interpretation to be placed is clearly set out by the Apex Court in the case of ***Smt. Saroj Aggarwal vs. CIT 156 ITR 497*** wherein it was noted that courts should, whenever possible unless prevented by the express language by any section or compelling circumstances of any particular case, make a benevolent and justice oriented inference.

Therefore, keeping the aforesaid principles in mind, when we look at Section 2(14), Section 2(42A) along with circular nos. 471, 672, and 495 it is very clear that for the purpose of holding an asset, it is not necessary that the assessee should be the owner of the asset based upon the registration of conveyance conferring a title, what is to be looked at is the date from which the assessee has got a right in the property (title) which is nothing but the date of issuance of allotment letter. ■■■

References:

1. CBDT circulars (circular no. 471, 495 and 672)
2. Various citations.

Substance Over Form – The New Mantra in the BEPS World!

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Backdrop:

Tax laws have been in existence for centuries and have evolved over time to account for the changing business environment. Globalization coupled with the unprecedented spurt in the digitalization of the economy, prompted a revisit of the existing tax laws to keep pace with the new age business models. In this backdrop, the G-20 countries mandated the OECD[1] in 2012 to develop a program to address BEPS[2] which was estimated to lead to potential revenue losses of USD 100-240 billion annually (equivalent to 4-10% of global corporate income tax revenues). The outcome of the program was the prescription of the 15 Action Plans (BEPS AP) meant to be effective deterrent of BEPS activities. One of the key themes of the BEPS AP is the 'substance over form' concept that intends to align the profits with the underlying value creation activity.

This article analyses the espousal of the said concept in the real world scenario by considering the verdict of the **Swedish Tax Agency ('STA')** in case of **PUMA Nordic AB** ('PUMA Sweden')- a Swedish distributor wherein the said principles were methodically applied to:

- delineate the inter-company transactions;
- marry the contractual obligations with actual conduct;
- identify the economically significant risks and parties exercising the control over the same; and
- finally align the transfer pricing outcomes to value creation based on the above.

Setting the context:

PUMA, the German sportswear group with PUMA SE as the parent company has presence across the globe through its distribution and sales companies including in Sweden (PUMA Sweden). One of the group companies - PUMA International Trading GmbH (PIT) was entrusted with the responsibility for liaising with contract manufacturers for manufacture of the of PUMA products.

The value chain of the group revolves around three most critical functional drivers:

[1] *Organization for Economic Co-operation and Development*
[2] *Base Erosion and Profit Shifting*

With a focus on marketing, design and product development, the manufacturing was predominantly outsourced to third party contract manufacturers.

Taxpayers Position

As per the licensing agreement, PUMA Sweden was designated as the entrepreneur distributor for the Swedish market with the following attributes:

- Responsible for the development of the market for PUMA in Sweden by incurring the necessary promotion & marketing spend (without any compensation from PUMA SE);
- Payment of royalty to PUMA SE for marketing license; and
- Import of goods from PIT on a cost plus basis (cost plus 8.5%)

PUMA Sweden was entitled to retain the residual return (profit/loss) from the sales in Sweden. Result of the arrangement was that PUMA Sweden incurred a loss in range of 7-10% over the years 2015-17, with the local marketing spend for brand promotion being the significant contributor of the losses.

In line with the contractual arrangement, PUMA Sweden contended that as it is an entrepreneurial entity for market, it was responsible for undertaking effective local marketing & sales strategy without any interference from PUMA SE (or any other Group entities) and in turn was entitled to bear the losses from the said business.

Critical Analysis by the STA

STA assessed the arm's length nature of the arrangement on the touchstone of the guidance provided in AP 8-10 which emphasizes on the actual conduct (of the concerned parties) rather than the contracts. STA undertook a detailed study, critically analyzing the various functions performed by the relevant group entities (PUMA Sweden, PIT and PUMA SE), identifying the economically significant risks - owner of such risks and thus defining the commercial or financial relationship between the parties in order that the controlled transaction is accurately delineated.

The **functional and risk analysis** undertaken by the STA is summarised below:

A. Functional Analysis:

Function	Performed by and Observations by STA	Controlled by
Design and product development	**PUMA SE (parent company)** Strategic design and development decisions undertaken by PUMA SE	PUMA SE
Manufacturing & procurement	**External contract manufacturers** Purchase price / o other Contractual terms / quality control & oversight with external manufacturers negotiated by PITand	PIT with support from PUMA SE
Marketing and brand strategy	**PUMA SE** PUMA SE is the legal and economic owner of the brand & IP of PUMA group	PUMA SE
Sales & Distribution	**PUMA Sweden** PUMA Sweden has its own customer relationships and it sells products to external retailers in Sweden.	PUMA Sweden subject to a Framework Purchase Agreement and an International Marketing Agreement with PIT

B. Risk Analysis:

The STA relied on analytical framework of the OECD - the six-step procedure to identify the economically significant risks recommended under the OECD AP 9. The STA concluded that PUMA Group's economically significant risks are linked to the ability to create value and long-term profitability and therefore focused on:

- ✓ Brand risk (building a strong international brand);
- ✓ Product risk (designing and developing new products);

The findings of the STA using the six step plan are detailed below:

Step No	Particulars	Findings of the STA
1	Identification of economically significant risks	**a. Brand Risk:** Creating a strong and a well perceived international brand is instrumental to success; **b. Product design & development risk:** Innovative designing and development of high quality products is vital to remain competitive and create value for customers.
2	Contractual obligations	PUMA Sweden was contractually obligated to compensate PUMA SE and PIT for the functions performed by them and retain the residual. Thus, PUMA Sweden implicitly bears the brand and product design & development risks.
3	Actual conduct of the parties	As evident from the above analysis, it was clear that PUMA SE had the actual control over such significant risks and also the appetite to actually bear such risks.
4	Alignment of contractual terms with actual conduct	The STA concluded that since PUMA Sweden was actually bearing the key risks though the control over such risks remained with PUMA SE, contractual terms did not marry with actual conduct of the parties.
5	Re-allocating the risks, if contractual terms are not in alignment with actual conduct	Since PUMA Sweden did not have the actual control of such key risks nor did it have the financial ability to bear such risks, these significant risks should be re-allocated to PUMA SE.
6	Correct pricing based on the re-aligned risks	Basis the above, the STA concluded that PUMA Sweden is a **distributor bearing limited risks** as it performed less strategic and complex functions vis-à-vis its AEs.

STA's position:

Taking cue from the OCED guidelines, the STA expressing its dissatisfaction with contractual allocation of risks determining return allocation amongst the PUMA group entities, concluded that in a third party scenario, an independent dealer would have either renegotiated the pricing of the products or may have terminated the distribution agreement to opt for any other brand rather than incurring recurring losses thereby connecting the dots of appropriate remuneration for the functions and risks. The lack of freedom to PUMA Sweden to have done any of these indicated that PUMA Sweden was not entrepreneurial or capable of bearing economically significant risks.

Hence, the STA held that both the intercompany transactions i.e. payment of royalty and purchase of goods are intrinsically linked to one another and hence must be tested on an aggregate basis. Thus, the STA selected TNMM[3] as the MAM for benchmarking both the intercompany transactions on an aggregate basis. Based on the same, the

[3] *TNMM= Transactional Net Margin Method*

STA chose lower quartile of 3.01% as the arm's length operating margin and adjusted PUMA Sweden's results accordingly.

India Context and Key Takeaways

The ruling reinforces the criticality of conducting a robust FAR analysis and marrying it to actual conduct between parties. Articulating the value creating activities in the supply chain, identifying how it is distributed and controlled between various entities is an essential element.

While FAR analysis remains the cornerstone of TP, in the past it has often been undertaken at a prima facie basis, but nevertheless in the post BEPS era, there is a renewed focus and a dire need for both Taxpayers and Tax Authorities to take a deep dive into the "value chain" of business transactions to determine appropriate allocation of functions and risks to ultimately determine the distribution of profit pie. The Indian company should vet the functional analysis with the Value Chain Analysis performed in the global master file to identify key risks, if any.

In other words, *'substance over form' and 'rewards for function-performer over mere risk-taker'* would be the key determinants during an arm's length analysis. The MNEs operating in India and Indian head-quartered companies need to analyze whether the taxable outcomes of their current profit allocations would be different if they ignore the existing inter-company 'legal contracts / structures'.

The subject of TP has been traversing up the learning curve and with the Master File and CbCR[4] data being at the disposal of the Tax authorities, the emphasis on a detailed FAR analysis will be further intensified as this data will provide the tax administrations with the information an in-depth analysis of the value creation and profit attribution across the globe.

It is pertinent to note that the OECD is currently developing a *CbCR Tax Risk Evaluation & Assessment Tool ('TREAT'),* which will support Tax Authorities in reading and interpreting CbCRs. As per the discussion draft, TREAT will allow Tax Authorities to see quickly and easily where some of the factors could be interpreted as potential risk indicators and use this, together with other available information, to determine that an MNE group is low risk, or that further consideration is needed .

Accordingly, MNE groups should proactively identify potential areas of focus by the Tax Authorities in future audits and start preparing audit defense documentation. The time to do that is now as the current transfer pricing assessment cycle (i.e. for FY 2016-17) is the first cycle for which CbCR and master file compliances were introduced in India. Thus, it is now imperative that the FAR in today's scenario should be conducted from a holistic and synchronized perspective. ■■■

[4] *Country by Country Report*

Revisiting Business Responsibility Reporting

Businesses across the globe have voluntarily come forward to support fight against the global pandemic COVID -19. The pandemic has forced us to reconsider almost every aspect of how we live. Our responsible and sustainable conduct both as individuals and as stakeholders of the corporate entity matters. Especially in this scenario, businesses face an abundance of risks and opportunities vis a vis environmental and social issues. The stakeholders seek disclosures from businesses on their environmental and societal impacts. The roadmap to responsible business conduct, called National Guidelines on Responsible Business Conduct (NGRBC) released in 2018 assumes even more importance. Read on...

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NGRBC guidelines are an update of 'National Voluntary Guidelines on Social, Environmental and Economic Responsibilities of Business, 2011' (NVGs). Securities and Exchange Board of India Business Responsibility Report (SEBI-BRR) disclosure mechanism which originated from the NVGs needed a revision as per NGRBC. A Committee on Business Responsibility was constituted by the Ministry of Corporate Affairs for this purpose. The Committee released its report recently recommending that Business Responsibility Report should be called **Business Responsibility and Sustainability Report (BRSR)** to be prepared either in a comprehensive format or a Lite version. It is a welcome step that will enhance responsible business conduct along with achieving the three pillars of the United Nations Guiding Principles (UNGP) namely, Protect – Respect – Remedy.

Introduction

Business Responsibility and Sustainability Report is an open and transparent way of disclosing non-financial information to the stakeholders. In a way, such information provides businesses a "social license to operate". The report focuses on the adoption of responsible business practices in the interest of a business's social set up and the environment on one hand and explains how an organization impacts the environment and society

over time together with its governance perspective on the other. The increased reporting of responsible business conduct and sustainable practices have benefitted businesses in the form of increased access to capital, market share, and value creation. This has also facilitated the reduction of various business and governance risks, namely, asset risk, failure risk, liability risk, regulatory and compliance risk, operational risk, strategic risk, reputational risk, information and innovation risk, and cyber risk.

COVID 19 and Responsible Business Conduct

Responsible Business Conduct (RBC) in the COVID-19[1] is a real-life test as well as a lesson for businesses to become more resilient, adaptable, and perform better in the long-term. The crisis has forced businesses to ensure that its business decisions help avoid and address potential adverse impacts on environment and society, including their supply chain. Various proactive steps and measures would most likely build more long-term value and resilience. Some of the areas include:

- Stakeholders demand of reporting on the wide range of financial, environmental, social and governance risks companies face as well as the crisis management/ contingency plans put in place.
- Increased market volatility and threat to corporate brand and reputation leading to increased investor interest in environmental, social and governance (ESG) impacts, outputs and outcomes.
- Leadership and clearly defined responsibility of top management for disaster management, continuity and contingency planning. This requires strong policies, internal controls, information systems and communication lines to understand vulnerabilities in the supply chain, and rapid start-up of operations.
- Robust health and safety management practices, including related to chemical use, hygiene and sanitation, and worker health.
- Retention of critical employee skills and know-how, quick recovery from its medium and long term effects.
- Avoidance of layoffs, maintaining wage payments, abrupt suspension of contracts, cancellation of orders through innovative ways.
- Access to fresh capital, special emergency funds and funds to ensure business continuity.

Philosophy

The Government of India's motto - *Sabka Saath Sabka Vikas* - collective efforts for inclusive growth aims to ensure that the benefits of good governance reach everyone. This collective journey to equitably deliver benefits of growth requires the involvement of businesses, without which not much can be achieved. 'India Inc.' can contribute in the country's developmental agenda by their responsible and sustainable behaviour. Responsible Business Conduct (RBC) is one of the endeavours to achieve so which would make businesses more responsible and accountable. Indian businesses shall not only gain global prominence but also garner goodwill and growth for their business and contribute beneficially to society. Further, a whole ecosystem to 'Protect-Respect- Remedy' would be created.

A lot of emphasis is now laid on the negative impacts of business operations on environment and society. Businesses must act responsibly and sustainably and be held accountable for their environmental and social impacts. Likewise, the performance of businesses needs to be measured not only on financial parameters i.e., return to owners, but also on how businesses achieve their environmental, social, and good governance objectives. Since businesses use natural resources which are not replenishable and are finite, a natural resource scarcity is inevitable. In the process of production of goods and services, businesses damage environment through various ways and means like waste disposal, pollution. While employing human capital, businesses should respect and

[1] *http://www.oecd.org/coronavirus/policy-responses/covid-19-and-responsible-business-conduct-02150b06/*

promote employee's wellbeing as well as human rights.

Environmental, social, and governance issues are now a major factor in investment decisions. Investing with an eye to environmental or social issues, not just financial returns, has become mainstream in the past decade since financiers and fund providers evaluate proposals on non-financial parameters also. Employees prefer to work for businesses that opt for sustainable raw materials, adopt non-polluting production processes, give fair rewards, and at the same time is sensitive to social issues. It is rightly said enterprise flourishes in more stable and equal societies where governance institutions are consultative and transparent which further enables all businesses to engage more meaningfully with their stakeholders.

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The Committee on Business Responsibility Reporting

The Committee on Business Responsibility Reporting constituted by The Ministry of Corporate Affairs (MCA) was formed to revise the SEBI-BRR framework. The revision would be to incorporate the changes in the 'National Voluntary Guidelines on Social, Environmental and Economic Responsibilities of Business, 2011' (NVGs) released as the 'National Guidelines for Responsible Business Conduct' (NGRBCs). Further, it was felt that NGRBC-BRR framework needs to be aligned to the broader context of United Nations Guiding Principles on Business & Human Rights (UNGPs) and Sustainable Development Goals (SDGs), along with other widely accepted international non-financial/sustainability reporting frameworks – United Nations Global Compact (UNGC), Global Reporting Initiative (GRI), Integrated Reporting (IR), CDP (formerly Carbon Disclosure Project), ISO26000, Sustainability Accounting Standards Board (SASB). The Government of India has endorsed UNGPs and is one of the Member States for the achievement of SDG's. Corporates as partners of global value chains, and/or partners of multinational companies fulfil their global commitments to demonstrate their sustainability performance under varied reporting frameworks often encounter challenges such as multiple or repetitive disclosures. The proposed formats would be a welcome step for aligning across various reporting frameworks.

Highlights of the Report of the Committee on Business Responsibility Reporting

The Committee in its report[2] addressed various aspects and issues that could improve the quality and utility of disclosures by providing two standardized formats - Comprehensive format and a Lite version - to include both quantitative and qualitative information. The required disclosures would be for each NGRBC principle wherein a set of relevant quantitative parameters are chosen. The information on subjective issues would be sought through qualitative responses. A Guidance Document is included as a part of the BRSR for both Comprehensive format and Lite version to define and interpret the scope of each question which would enable consistent, comparable, complete, material, and reliable reporting by companies. Specific inclusions have been added to seek information on initiatives taken by companies related to

- value chains so that companies are encouraged to extend their policies to value chain partners

[2] *http://www.mca.gov.in/Ministry/pdf/BRR_11082020.pdf*

- responsibility of businesses towards the wellbeing of contract/casual employees
- responsibility of businesses towards women employees and those that are differently abled to address the gender gap.

Chronology of Initiatives for Responsible Business Conduct

2009 - The 'Voluntary Guidelines on Corporate Social Responsibility' issued by The Ministry of Corporate Affairs (MCA).

2011 (June) - India endorsed United Nations Guiding Principles on Business and Human Rights (UNGPs) adopted by The United Nations Human Rights Council (UNHRC).

2011 (July) - The 'National Voluntary Guidelines on Social, Environmental and Economic Responsibilities of Business, 2011' (NVGs) issued by The Ministry of Corporate Affairs (MCA).

2012 - Mandatory filing of Business Responsibility Reports (SEBI-BRRs/ BRR) by the top 100 listed companies by market capitalisation through the Listing Agreement of The Securities and Exchange Board of India (SEBI).

2013 - Furnishing of non-financial information mandatorily by companies under The Companies Act 2013.

2015-16 (Financial Year) - Mandatory filing of Business Responsibility Reports (SEBI-BRRs/ BRR) extended to top 500 listed companies by market capitalisation through the Listing Agreement of The Securities and Exchange Board of India (SEBI).

2018 - Constitution of the Committee on Business Responsibility Reporting by The Ministry of Corporate Affairs (MCA) while the NVGs were being updated.

2019 (March) - Release of the 'National Guidelines for Responsible Business Conduct' (NGRBCs) by The Ministry of Corporate Affairs (MCA)

2019 (December) - SEBI extended the BRR requirement to the top 1000 listed companies by market capitalisation, from the financial year 2019-20.

2020 (August) - Release of the Report of the Committee on Business Responsibility Reporting by The Ministry of Corporate Affairs (MCA).

Format for Business Responsibility and Sustainability Reporting

Both the Comprehensive format and the Lite version of BRSR has three sections namely:

Section A: General Disclosures

Section B: Management and Process

Section C: Principle-wise performance

Section A provides basic information about the company – size, location, products, number of employees, CSR activities, etc along with certain additional disclosures on proximity of a company's operations to environmentally sensitive sites such as protected areas, water-stressed zones, etc.

Section B comprehends policies and processes, called building blocks, which are foundational in nature to enable and ensure responsible business conduct. The building blocks relate to the NGRBC Principles concerning leadership, governance, and stakeholder engagement.

Section C requires companies to demonstrate their intent and commitment to responsible business conduct as per each of the nine undermentioned Principles and Core Element of the NGRBCs.

Principle 1: Businesses should conduct and govern themselves with integrity in a manner that is Ethical, Transparent and Accountable.

Principle 2: Businesses should provide goods and services in a manner that is sustainable and safe.

Principle 3: Businesses should respect and promote the wellbeing of all employees, including those in their value chains.

Principle 4: Businesses should respect the interests of and be responsive towards all stakeholders.

Principle 5: Businesses should respect and promote human rights.

Principle 6: Businesses should respect and make efforts to protect and restore the environment.

Principle 7: Businesses, when engaging in influencing public and regulatory policy, should do so in a manner that is responsible and transparent.

Principle 8: Businesses should support inclusive growth and equitable development.

Principle 9: Businesses should engage with and provide value to their customers and consumers in a responsible manner.

A company should disclose its principle wise actions, impacts and outcomes via two categories of indicators:

1. **Essential Indicators**: mandatory for all companies.
2. **Leadership Indicators**: voluntary in nature.

Essential Indicators

The essential indicators are the disclosures that need to be mentioned and adopted by all businesses, irrespective of size, sector, or ownership structure. It is expected that all businesses, investing or operating in India, including foreign multinational corporations (MNCs) should be able to complete the Essential Indicators to consider themselves responsible at a base level – the extent to which they are able to complete this indicates how mature they are. Moreover, Indian MNCs who operate overseas will be guided by these norms governing responsible business conduct which would further facilitate alignment with local national standards applicable there.
A list of principle wise essential indicators has been given below:

Principle	Essential Indicators
Principle 1: Businesses should conduct and govern themselves with integrity in a manner that is Ethical, Transparent and Accountable	1. Percentage coverage by training and awareness programmes on any or all the Principles in the financial year. 2. Meetings/ dialogues organised on responsible business conduct and sustainability with shareholders. 3. Details of fines/ penalties/ punishment /award/ compounding fees/ settlement amount paid in proceedings with regulators/ law enforcement agencies imposed on your company b-y regulatory/judicial institutions in the financial year. 4. Monetary and Non-Monetary details (of Point 3) 5. Details of the Appeal/ Revision preferred in cases where fines/ penalties have been impugned. 6. Number of complaints / cases of bribery/corruption received/registered in the financial year. 7. Details of disclosure of interest involving members of Board.
Principle 2: Businesses should provide goods and services in a manner that is sustainable and safe	1. Has the company conducted Life Cycle Assessment (LCA) for any or all of its top 3 products manufactured. 2. List 3 of your products or services whose design has incorporated social or environmental concerns and/or risks and briefly describe the actions taken to mitigate the adverse environmental and social impacts in production and disposal as identified in the LCA or any other means. 3. Percentage of R&D and capital expenditure (capex) investments in specific technologies to improve the environmental and social impacts of product and processes to total R&D and capex investments made by the company, respectively. 4. a. Does the company have procedures in place for sustainable sourcing? (Yes/No) b. If yes, what percentage of your inputs was sourced sustainably? 5. Percentage of input material (by value of all inputs) to total inputs sourced from suppliers. 6. Describe the processes in place to safely collect, reuse, recycle and dispose after sale and at the end of life of your products, separately for Plastics, E waste, Other Waste.

Principle	Essential Indicators
Principle 3: Businesses should respect and promote the wellbeing of all employees, including those in their value chains	1. a. Details of measures for the well-being of employees (including differently abled) b. Details of welfare measures for differently abled employees c. Details of welfare measures for workmen (including differently abled) d. Details of welfare measures for differently abled workmen. 2. Details of statutory dues (PF, Gratuity, ESI) deducted and deposited with the authorities approved by government, for Current Financial Year and Previous Financial Year. 3. Is there a mechanism available to receive and redress grievances for – Permanent Workmen, Other than Permanent Workmen, Permanent Employees and Other than Permanent Employees. 4. Number of complaints made by employees and workmen. 5. Percentage of membership of employees and workmen in association(s) or Unions recognized by the Board. 6. Assessments for the year – Child Labour, Forced/involuntary labour, Health and safety practices, Sexual Harassment. 7. a. Details of employees and workmen in terms of minimum wages paid. b. Details of differently abled employees and workmen in terms of minimum wages paid. 8. Details of safety related incidents during the current Financial Year. 9. a. Details of training to employees and workmen (% to total no. of employees/workmen in the category) b. Details of training imparted to the differently abled employees and workmen (% to total no. of differently abled employees/workmen in the category). 10. Describe the measures taken by the company to ensure a safe and healthy workplace.
Principle 4: Businesses should respect the interests of and be responsive towards all stakeholders	List stakeholder groups identified as key for your business and frequency of engagement with each stakeholder group.
Principle 5: Businesses should respect and promote human rights	1. a. Percentage of employees and workmen that have been provided training on human rights issues and policy(ies) of the company in the Financial Year: b. Percentage of differently abled employees and workmen that have been provided training on human rights issues and policy(ies) of the company in the Financial Year. 2. a. Details of remuneration/salary/wages (including differently abled) b. Details of remuneration/ salary/ wages of differently abled. 3. Do you have a focal point (Individual/Committee) responsible for addressing human rights impacts or issues caused or contributed to by the business? 4. Describe the internal mechanisms to address and redress grievances related to human rights issues. 5. Stakeholders groups covered by the grievance redressal mechanism for Human Rights issues.

Principle	Essential Indicators
	6. Details of Human Rights related grievances. 7. Do human rights requirements form part of your business agreements and contracts?
Principle 6: Businesses should respect and make efforts to protect and restore the environment	1. Does the company have strategies/ initiatives to address global environmental issues such as climate change resource scarcity, health pandemics and emergencies, natural disasters etc.? 2. Does the company have any project related to Low Carbon Economy? 3. Have the emissions/waste generated by the company exceeded the limits prescribed under the relevant environmental laws? 4. Details of environmental impact assessments of projects undertaken by the company. 5. What are the material environmental risks to the business identified and the mitigation measures adopted by the company with regard to – land use, emissions, water, energy, biodiversity, other. 6. Details of energy and water consumption by the company. 7. Air emissions and liquid discharges per unit of production for the 3 major facilities of the company as reported to regulatory authorities. 8. What is the percentage of solid waste generated that is recycled and sent to the landfill?
Principle 7: Businesses, when engaging in influencing public and regulatory policy, should do so in a manner that is responsible and transparent	1. a. Number of affiliations with trade and industry chambers/ associations. b. List the top 10 trade and industry chambers/ associations you are a member of/are affiliated to, on the basis of no. of members. 2. Details of adverse judicial or regulatory orders for anti-competitive conduct by your company in the current Financial Year.
Principle 8: Businesses should support inclusive growth and equitable development	1. Details of Social Impact Assessments (SIA) undertaken by the company for projects in the current Financial Year. 2. Information on project(s) for which ongoing Rehabilitation and Resettlement is being undertaken by your company. 3. Provide information on CSR projects undertaken by your company in designated aspirational districts as identified by government bodies. 4. Describe the mechanisms to receive grievances of the community. 5. Have the benefits derived from the various intellectual properties owned or acquired by your company based on traditional knowledge been shared equitably? 6. List of adverse orders and case details of intellectual property rights disputes related to traditional knowledge during the Financial Year.

Principle	Essential Indicators
Principle 9: Businesses should engage with and provide value to their customers and consumers in a responsible manner	1. Describe the mechanisms in place to receive and respond to consumer complaints and feedback. 2. Percentage of products and services (by turnover) of your business carrying information about – Environmental and Social parameters relevant to the product, Safe and Responsible usage, Recycling and Safe disposal. 3. Number of consumer complaints in respect of – Data Privacy, Advertising, Delivery of Essential Services, Restrictive Trade Practices, Unfair Trade Practices, Other.

Leadership Indicators

The Leadership Indicators being voluntary in nature, provides an opportunity for many businesses/ companies who aspire to progress to a higher level in their quest to be socially, environmentally, and ethically responsible. Principle- wise leadership indicators are as stated in the table:

Principle	Leadership Indicators
Principle 1: Businesses should conduct and govern themselves with integrity in a manner that is Ethical, Transparent and Accountable	1. Percentage coverage by awareness programmes on any or all the Principles in the Financial Year. 2. Have full details of non-disputed fines/penalties imposed on your company by regulatory and judicial bodies in the financial year been made available in public domain. Provide web links/ details of places where such reports are available. 3. Provide details of such instances (up to 3) where corrective actions have been taken on the above punishment/fines/penalties imposed. 4. Provide details of such instances (up to 3) where corrective measures were taken on the complaints/cases of corruption and conflicts of interest. 5. Does the company have a business continuity and disaster management plan?
Principle 2: Businesses should provide goods and services in a manner that is sustainable and safe	1. Describe the improvements in environmental and social impacts of product and processes due to R&D and Capex Investments in specific technologies. 2. Do you have a preferential procurement policy where you give preference to purchase from suppliers comprising marginal/vulnerable groups? From which marginal/vulnerable groups do you procure? What percentage of total procurement (by value) does it constitute? 3. Information on the impact of your products has been communicated to stakeholders. 4. Provide details of at least three instances on how the feedback received from stakeholders was used for improvements or modifications in the company's existing policies and practices. 5. Percentage of recycled or reused input material to total raw material (by value) used in production. 6. Provide separate details of quantities collected for reuse, recycling, safe disposal after sale, and at end of life of your products of – plastics, e waste, other waste.

Principle	Leadership Indicators
Principle 3: Businesses should respect and promote the wellbeing of all employees, including those in their value chains	1. Provide the measures undertaken by the company to ensure that statutory dues have been deducted and deposited by the value chain partners. 2. Provide the corrective actions taken for children/adolescents identified as employed in your establishments and value chain. 3. Provide the corrective actions taken for forced/involuntary labour identified in your establishments and value chain. 4. Provide the actions taken to prevent adverse consequences to the complainant in discrimination and harassment cases. 5. Provide the corrective actions taken on the outcomes of health and safety audits of your establishments, including value chain partners. 6. Percentage of accident-affected persons rehabilitated and placed in suitable employment. 7. Details on assessment of value chain partners – Sexual Harassment, Working Conditions, Health and Safety, Discrimination at workplace, Child Labour, Forced Labour/Involuntary Labour, Wages and Other.
Principle 4: Businesses should respect the interests of and be responsive towards all stakeholders	1. Provide details of instances of engagement with, and actions taken to, address the concerns of vulnerable/marginalized stakeholder groups. 2. Provide details of 3 instances as to how the inputs received from stakeholders are incorporated into policies and activities of the company.
Principle 5: Businesses should respect and promote human rights	1. Details of a business process being modified / introduced as a result of addressing human rights grievances/complaints. 2. Details of the scope and coverage of any Human rights due diligence conducted, including in the value chain.
Principle 6: Businesses should respect and make efforts to protect and restore the environment	1. Carbon emitted per unit of production and revenue/turnover for each major product manufactured by the company. 2. Percentage of renewable energy consumed to total energy consumed. 3. Details of solid waste management - Percentage of non-biodegradable, recyclable, hazardous waste to total waste generated. 4. Briefly describe the solid waste management practices in your establishments. 5. Briefly describe the strategy adopted by your company to reduce usage of hazardous and toxic chemicals in your products and processes and the practices adopted to manage such wastes. 6. List innovative technologies, solutions and initiatives undertaken resulting in lower environment footprint adopted by the company, if any.
Principle 7: Businesses, when engaging in influencing public and regulatory policy, should do so in a manner that is responsible and transparent	1. Details of public policy positions advocated by the company. 2. Details of corrective action for anti-competitive conduct by the company taken based on adverse orders from regulatory authorities.

Principle	Leadership Indicators
Principle 8: Businesses should support inclusive growth and equitable development	1. Provide details of actions taken to mitigate any negative social impacts identified in the Social Impact Assessments. 2. Details of the benefits derived of the various intellectual properties owned or acquired by your company based on traditional knowledge shared. 3. Details of corrective actions taken in intellectual property related cases wherein usage of traditional knowledge is involved. 4. Details of beneficiaries of CSR Projects.
Principle 9: Businesses should engage with and provide value to their customers and consumers in a responsible manner	1. Channels / platforms where information on goods and services of the company can be accessed. 2. Steps taken to inform and educate consumers, especially vulnerable and marginalised consumers, about safe and responsible usage of products and services. 3. Corrective actions taken in respect of complaints received on data privacy, advertising, and delivery of essential services. 4. Mechanisms in place to inform consumers of any risk of disruption/ discontinuation of essential services. 5. Does the company display product information on the product over and above what is mandated as per local laws? 6. Did your company carry out any consumer survey?

Lite Version

Some small and medium enterprises (SMEs) are familiar with non-financial disclosures and prepare sustainability reports as their overseas customers seek such disclosures while many SMEs are not familiar with non-financial disclosures. A lite version with both Essential and Leadership indicators (but lesser in number) has been proposed for those making their first effort to prepare a sustainability report with an intent to facilitate them to prepare so.

Guidance Note on BRSR

The two proposed formats are accompanied by their respective Guidance Note which will form a part of the BRSR. The Guidance Notes would enable companies to interpret questions unambiguously and facilitate interpretation of the scope of each question. The businesses can disclose their actions on the nine principles of NGRBC in a more meaningful manner. It has also provided clear and precise definitions, wherever needed. An attempt has been made to keep the usage of terms consistent with the Companies Act, 2013, any other prevalent statute(s), and NGRBC.

Other Highlights

The proposed formats have been developed in a manner that makes it easy to be integrated with filings made on the MCA21 Portal. The information already filed on the MCA21 Portal would automatically get

prefilled. Further, where there are multiple options, dropdown menus for appropriate selection have been proposed. This feature would enable leveraging of technology for capturing machine-readable data which can further be used for data analysis and decision making.

The Committee envisions that this information provided through proposed formats would facilitate the development of a Business Responsibility-Sustainability Index which would act as a signal of market sentiment. This index will enable the evaluation of information to assess the credibility of the businesses by financial institutions, credit rating agencies, government, to name a few.

The Committee has proposed to make disclosures as per the suggested formats effective from the financial year 2021-2022 so that suitable time is available for adaptation. Over the passage of time, formal large businesses would become more mindful of their value chain partners, and, hence, considerations of business responsibility and sustainability shall also become operational to small-sized companies, LLP, and informal sector. For listed entities, the formats may be made applicable for the top 1000 listed companies (by market capitalisation) as they are already mandatorily preparing BRR, or else suitable applicability may be prescribed by SEBI. To bring unlisted companies in the regime of business responsibility reporting, a specified threshold of turnover and/or paid-up capital may be prescribed above which mandatory reporting would be made applicable. Other unlisted companies may adopt the *lite* version of the format, on a voluntary basis, to begin with.

Role of Chartered Accountants in Non-financial Reporting

Chartered Accountants working in both the public and private sectors has played and will play a significant role in non-financial reporting. They act as preparers of reports and assurance providers of those reports. They can influence as well as guide businesses to integrate sustainability matters into all business practices dealing with strategy, finance, operations, and communications. The International Federation of Accountants[3] (IFAC) has provided a matrix that highlights how accountants, depending on their position and sphere of influence, can facilitate the resilience of their organisations.

The three focus areas identified for training and capacity building of accountants are:

- Make sustainability strategic, not just tactical
- Improve the process of information and data collection, analysis, and reporting
- Communications, Reporting and Disclosure.

It is necessary to build knowledge, train professionals in business responsibility reporting and sustainability matters via continuing professional development. Such initiatives should include learning about related challenges and opportunities of business responsibility and sustainability reporting along with specific sustainability matters that are relevant to an industry/sector/ organisation. The proposed formats would lead to the furtherance of the need for professionals to be hand-held through various capacity building and training initiatives. Partnerships with professional institutes, business associations, industry chambers, and academic institutions need to be explored on an urgent basis. Equally important is to develop assurance standards and guidelines to ensure that there is consistency and objectivity in reporting. ■■■

“The three focus areas identified for training and capacity building of accountants are making sustainability strategic and not just tactical; improving the process of information and data collection, analysis, and reporting; and communications, reporting and disclosure.

Transitioning from 'doing no harm', to proactively 'doing good'.

[3] *https://www.ifac.org/system/files/publications/files/IFACJ3441_Accounting_for_sustainability_FINALWEB.pdf*

Accounting System of the Urban Local Bodies— Issues and Challenges

India ranks second in the population after China and contribute nearly 1/6 of the world's population. Since majorly, India is occupied by rural areas, substantial initiatives are required to enhance the economic growth and improve the living standards of its citizens. Urbanisation and digitalisation hold the key to this process. The urbanisation trends in the country indicate that by 2025, more than half of the country's population will be living in cities. Therefore, if urban agglomerations are to play an important role as engines of economic growth, it is imperative that the national and state governments catalyse a program of institutional, fiscal and financial reforms at the Urban Local Body (ULB) level. Read on…

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Administrative Structure of India

Indian Constitution follows a three-tier federal structure i.e. Union, State and Local Self- Government. The powers and responsibilities of all the tiers are well defined and they work in a cohesive manner for the urban infrastructural development of India. Local self-government lies at the third tier of administrative structure of India. Local self-government is responsible to assist in the financial and administrative work of the government and enhance the development of the locality both economically and socially. It serves as an important pillar of the government in the developmental of the country.

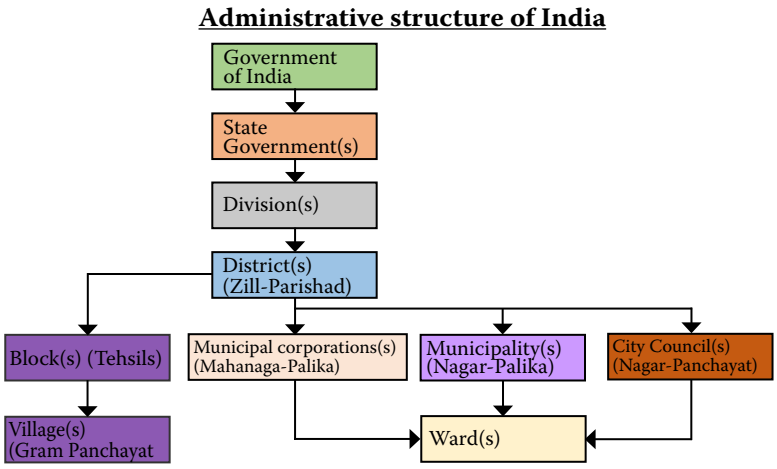

Figure 1: Administrative structure of India[1]

Role of Urban Local Bodies

With the introduction of 73rd Constitutional Amendment Act 1992 ,Local self-government expanded further in rural areas with the name Panchayati Raj Institutions (PRIs) and they were entrusted with the powers and responsibilities for the economic development and social justice of the rural areas. Further, 74th Constitutional Amendment Act with the Article 243Q classified urban areas into three tier structure depending on the population of the area :

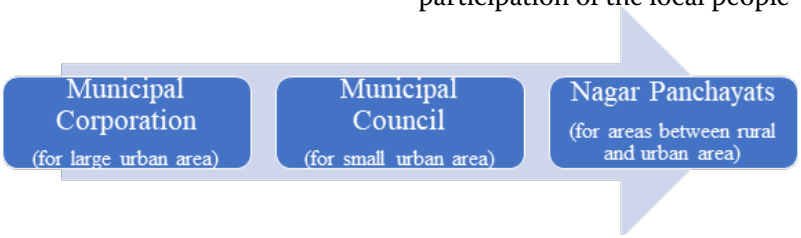

Figure 2 : Three tier structure of the ULBs

All the Urban Local bodies were conferred with such powers and responsibilities to enable them to function as effective institutions of self- government. In totality, eighteen areas of function were covered under the Twelfth Schedule of the Indian Constitution which primarily focussed on to create a democratic, effective, rational, and transparent local governance framework thereby promoting accountability and responsiveness. Overall objective of the Government of India was to strengthen the deliverability functions of the ULBs both economically and socially and ensure active participation of the local people in the governance of these bodies.

These ULBs are expected to play different roles in the economy such as:

"Overall objective of the Government of India was to strengthen the deliverability functions of the ULBs both economically and socially and ensure active participation of the local people in the governance of these bodies.

Regulator	• to administer different acts, rules and regulations
Service Provider	• to provide effective and equitable services
Agent	• to ensure Infrastructural development • to assist the government in delivering and distributing the equitable services to the local masses.

Figure 3: Role of ULBs

The administrative freedom of the local bodies is affected by their finances which are further governed by their tactfulness in raising revenue and the independence in framing budgets. An improved quality of urban services and governance essentially mandates improved decision making by urban managers. It also assists in the efficient use of municipal resources and acts as a benchmark for comparison and evaluation of efficiency in civic services. Traditionally, capital investments in civic infrastructure by cities in

1 *Source: https://en.wikipedia.org/wiki/Municipal_governance_in_India*

India are financed through inter-governmental transfers. This does not encourage performance, rather this model of financing urban infrastructure is not sustainable given the fiscal constraints faced by governments at all levels. For ensuring rapid and planned urban growth, urban infrastructure would necessarily require an element of market financing. However, market-based financing demands urban governance to be done on the principle of creditworthiness and financial information as per capital market requirements.

Again, as one of the representatives of the government entities, ULBs have the utmost responsibility to present to its stakeholders the necessary collated data in the form of government reports to many organisation and groups including various other units of the government, government officials, creditors, investors and most importantly, the citizens of the respective country.

Accounting System and Accounting Reforms

Accounting is an integral part of good governance and this can be achieved by providing timely, accurate financial information to the public. Proper accounting information helps in finding out the solution for the following considerations which are fundamental to municipal financial management i.e.

a. Valuation of municipal services.
b. Adequacy of the revenues to cover the cost of operating public services.
c. Improvisation of services without raising taxes and charges.
d. Efficient utilisation of assets.

Thus, in order to instil good and better financial management in the ULBs, a robust accrual-based double entry accounting system should be followed. An accrual-based double entry system recognises the occurrence of the transaction irrespective of its receipt/payment, and factors like reliability, objectivity, relevance, completeness, timeliness, and comparability of the books of accounts and financial statements are fulfilled. It also enables the preparation of annual financial reports as per the prevailing accounting framework and principles i.e. National Municipal Account Manual (NMAM) to disseminate financial information to all the different stakeholders. ICAI has also issued Accounting Standards for Local Bodies (ASLBs) to assist in the preparation of annual financial reports which are recommendatory in nature at present.

Initially, ULBs were following diverse accounting practises especially cash based single entry accounting system which depicted only the information related to cash inflow and cash outflow. They lack financial transparency, integrity and accountability as required by the International Financial Reporting System. In order to bring transparency and accountability in the financial reporting system, the Government of India is striving hard to convert the cash-based single-entry accounting system into accrual-based double entry accounting system of ULBs by initiating different Accounting Reforms.

The trends of the accounting reforms which were initiated by the joint collaboration of the World Bank and Asian Development Bank can be divided in three phases:

Phases	Period	Accounting Reforms
First phase	1981-1991	Implemented in Mumbai and Chennai but was restricted to only water supply and sewerage system. However, Chennai tried to improve the accounting operations but was not able to get the required result
Second phase	1991-1995	Under the banner of Gujarat Urban Development Project, accounting reforms were introduced in selected municipal local bodies of Gujarat
Third phase	1998 – till present	Several accounting reforms together with computerisation were introduced in Tamil Nadu, Jaipur, Anand (Gujarat), Tumkur (Karnataka), Mirzapur (Uttar Pradesh), Andhra Pradesh, Haryana and so on.

> In order to bring transparency and accountability in the financial reporting system, the Government of India is striving hard to convert the cash-based single-entry accounting system into accrual-based double entry accounting system of ULBs by initiating different Accounting Reforms.

Table 1. Phases of Accounting Reforms

The third phase also witnessed one of the major and important accounting reforms i.e. introduction of Accrual based Double Entry Accounting System. The actual era of the accounting Reform started with the Supreme Court judgement *Union of India vs Almitra Patel* () (2001) which directed the Government of India to improvise the financial reporting system by developing guidelines for accrual based accounting system and ULBs were asked to take necessary steps for the conversion of prevailing cash based single entry accounting system to accrual based double entry accounting system. On the recommendation and direction of the Eleventh & Twelfth Finance Commission, the Government of India (Ministry of Housing and Urban Affairs (MOHUA) earlier known as Ministry of Urban Development) in collaboration with the Comptroller and Auditor General of India (C&AG) appointed a Task Force in 2002 to implement a new system of accounting for ULBs which provides better and transparent financial reports to the stakeholders. The report of the Task Force suggested adoption of accrual basis of accounting and recommended different models and formats for books of accounts and budgets along with the adoption of Management Information System and computerisation in the accounting system of ULBs. On the basis of the report submitted by Task Force, Government of India (GOI) alongwith with C&AG constituted Government Accounting Standards Board (GASAB) through a notification dated 12th August 2002. GASAB prepared a "RoadMap for Accrual Accounting" and developed a detailed operational framework for accrual basis of accounting for both Central and State Government(s) through various accounting standards which were termed as Indian Government Financial Reporting Standards (IGFRS).

1. Government of India in joint collaboration with C&AG , initiated the formulation of National Municipal Accounts Manual (NMAM) to be provided to the State Governments for the development of state-specific Budget and Accounts Manuals according to their specific requirements. Accordingly, a National Municipal Accounts Manual (NMAM) was prepared under the guidance of C&AG and GOI and was made available to all States in December 2004. The basic aim of NMAM is to improvise the financial management and internal government operations for stimulating good governance. As per NMAM, municipal accounts have to be prepared on accrual-based double entry accounting system and the process results in preparation of the following 4 annual financial statements. - Income and Expenditure Statement - Balance Sheet, - Receipt and Payment Account, and - Cash-flow Statement . ULBs were asked to prepare an opening balance sheet and prepare different chart of accounts to

> GASAB prepared a "RoadMap for Accrual Accounting" and developed a detailed operational framework for accrual basis of accounting for both Central and State Government(s) through various accounting standards which were termed as Indian Government Financial Reporting Standards (IGFRS).

facilitate financial statements in a well-structured and reformed manner. NMAM was later followed by the introduction of the National Municipal Accounts Training Manual (NMATM) and the National Municipal Asset Valuation Methodology Manual (NMAVM).

Apart from the introduction of NMAM, following other initiatives, are also considered to be the most important Accounting Reforms:

Model Municipal Law, 2003 facilitated by Indo-USAID FIRE –D (Financial Institutions Reform and Expansion– Debt and Infrastructure) project in order to assist the state governments in revising municipal legal and administrative framework as per their requirement. The law focussed mainly on :

a. Improvement in the municipal finances through the recommendations of Sustainable Furnishing councils;
b. Mandatory framing of ULB debt limitation policy;
c. Development of a state-wide municipal accounting manual;
d. Formation of a committee for the preparation accounts of municipalities and the financial statements;
e. Mandatory requirement for ULBs to prepare an inventory of all municipal assets;
f. Encouragement for ULBs to implement their own development plans;
g. Framework for private sector participation in the construction, financing and delivery of services.

The above provisions would have a great impact on Public Finance Management Act and had they been implemented by the municipalities. However, the Model Municipal law was not readily welcomed by the councils and it has not been adopted completely by several states.

The Right to Information Act (RTI), 2005, introduced to ensure transparency in the governance and financial management of the public bodies. It requires government bodies to provide operational information and disclose it publicly in order to maintain transparency and accountability. The RTI Act, though not directly related to Municipal Accounting Reforms, gave much needed impetus to promote transparency and accountability in the working of the Public Bodies.

Jawaharlal Nehru National Urban renewal Mission (JNNURM), 2006 was launched to aid the Urban Local Bodies and the state governments to build proper infrastructural facilities and improvise their capacity building and governance by providing requisite financial assistance. It also aimed at the implementation of the accrual-based double entry accounting system to bring transparency and reliability in the financial reporting system by making the new accounting system as the mandate condition for the sanction of the grants.

JNNURM was later on replaced by **Atal Mission for Rejuvenation and Urban Transformation (AMRUT)** in 2015. The basic objective of AMRUT is to channelise the activities of ULBs not only towards infrastructural facilities but also on the achievement of Accounting Reforms and capacity building of the ULBs. Besides improvisation of the deliverability of services to the local people, it strives to reduce the cost of the services, augment resources and enhance transparency through digitalisation. It aims at migrating completely to accrual based double entry accounting system with regular audits of the books of accounts by appointing both internal and statutory auditors. Publication of annual financial statement on the government website has been mandated under the AMRUT mission.

Public Disclosure Law (PDL), 2008, aimed at disclosing necessary financial and operational information of the variety of governmental services and generating a uniform and consistent structure of financial statements to the citizens of India. The PDL also set a precedent to the ULBs for maintaining transparency and accountability in the accounting system.

The Fourteenth Finance Commission under the

supervision of MOHUA has also introduced **Performance Grant Scheme** to ensure reliable audited accounts, data of receipts and expenditure and maximisation of revenue by improvisation of the deliverability of services to expediate the implementation process of the Municipal Accounting Reforms,.

In order to formulate a single set of uniform, consistent and high-quality financial reporting standards for Local Bodies, a Technical Guide on Accounting and Financial Reporting by Urban Local Bodies was issued by ICAI for ULBs. A Committee was also constituted by the Council of ICAI known as, Committee on Accounting Standards for Local Bodies (CASLB) in 2005. The primary responsibility of the committee was to develop and formulate Accounting Standard for Local Bodies (ASLBs) and assist the Local Bodies in adoption of the accrual based double entry accounting system. ASLBs are modified to the extent possible in line with the International Public Sector Accounting Standard (IPSAS) after giving due consideration to the conditions prevailing in Local Bodies of India. Later, another committee, Committee on Public Finance and Government Accounting (CPF&GA) was constituted to facilitate the transition process of Accounting Reforms. During the Council year 2019-20, a new committee was formed, Committee on Public and Government Financial Management (CP&GFM) to carry forward functions of both the erstwhile committees, i.e., CASLB and CPF&GA. The new committee CP&GFM of ICAI strives to assist Central and State Government and Local Bodies in the successful implementation of the accounting reforms and public financial management. The primary objective of the Committee is to formulate Accounting Standards for Local Bodies and capacity building of the Government finance officials through workshops and developing e-learning lectures etc. ICAI has also formed ICAI Accounting Research Foundation (ICAI ARF). The ICAI ARF has undertaken and completed many projects in the past involving basic and applied research which help in drawing out learning lessons for future similar assignments for the guidance of ICAI members and other stakeholders. Some of such prestigious projects include accounting reforms at Indian Railways, Municipal Corporation of Delhi, Kolkata Municipal Corporation.

ICAI, through its committee has issued following Accounting Standards for Local Bodies so far:

List of Accounting Standards for Local Bodies

Accounting Standards	Title
ASLB 1	Presentation of Financial Statements
ASLB 2	Cash Flow Statements
ASLB 3	Accounting Policies, Changes in Accounting Estimates & Errors
ASLB 4	The Effect of Changes in the Foreign Exchange Rates
ASLB 5	Borrowing costs
ASLB 9	Revenue from Exchange transactions
ASLB 11	Construction contracts
ASLB 12	Inventories
ASLB 13	Leases
ASLB 14	Events after the Reporting Date
ASLB 16	Investment Property
ASLB 17	Property, Plants & Equipment
ASLB 18	Segment Reporting
ASLB 19	Provision, Contingent Liabilities & Contingent Assets
ASLB 20	Related Party Disclosures
ASLB 21	Impairment of Non-Cash Generating Assets
ASLB 23	Revenue from Non-Exchange Transactions (Taxes and Transfer)

ASLB 24	Presentation of Budget Information in Financial Statements
ASLB 31	Intangible Assets
ASLB 32	Service Concession Arrangements : Grantor
ASLB 33	First Time Adoption of Accrual Basis ASLBs
ASLB 34	Separate Financial Statements
ASLB 36	Investment in Associates and Joint Ventures
ASLB 39	Employee Benefits
ASLB 42	Social Benefits
Cash Basis ASLB	Financial Reporting under Cash Basis of Accounting

Table 2. List of Accounting Standards for Local Bodies

> The new committee CP&GFM of ICAI strives to assist Central and State Government and Local Bodies in the successful implementation of the accounting reforms and public financial management.

Issues and challenges in the implementation of the new accounting system

But the implementation of the accrual based double entry accounting system in ULBs is not a smooth process and is facing lot of issues and challenges on its path. Though many ULBs have successfully adopted the new accounting system still some Local Bodies are reluctant or struggling to adopt the accrual based double entry accounting system.

A survey of the selected ULBs have highlighted the following issues and challenges confronted by them in the implementation of the Accrual based Double entry accounting system:

Accounting department and accounting staff

- Non-existence of Accounts department.
- Non-qualified and non-commerce graduate accounting staff.
- Most of the accounting staff are computer illiterate and are not well versed with the basic computer operations. They are trained to operate a tailormade software specially designed for recording only the cash transactions.
- Irregular and non-continuous training for the new accounting system
- Centralised work culture and absence of autonomy in the middle and lower layer

Infrastructural facilities

- Paucity of the continuous and regular electricity supply and lack of proper arrangement of inverter/ generators
- Dearth of the computer system and limited licensed version of the accounting software.
- Irregular and non-continuous internet facilities
- Improper data backup system

Accounting System

There are several lacunas in the areas of assets and liabilities management. Even there are discrepancies in the disclosure of the income and expenses of the local bodies. The main problem areas are:

Liabilities management

- Lag in recognising outstanding expenses. This results in overdue payables like contractors thereby affecting the creditability of the ULBs.
- Non availability of proper documentation of the loan statements. This leads to misleading information related to interest and principal of the outstanding loan.
- Non-disclosure of the contingent liability

Asset management

- Lack of proper system of recognising Receivables/ arrear income.
- Non-maintenance and irregular updation of the assets register.

- Irregularity in the maintenance of the database of rental properties.
- Absence of a proper record of advance money disbursed for a particular project,
- Recording and maintenance of accounting data in handwritten book wherein the details of only cash receipts and payments are recorded.
- Irregular reconciliation of the bank book with the cash book.
- Improper system of recognising interest accrued on unutilised earmarked funds.

Financial statements and other relevant reports

- Non availability of the requisite data for the timely preparation of the financial statements.
- Absence of a proper system for reconciling the actuals with the budgeted amount.
- Irregular and non-periodic statutory audit of the books of accounts
- Improper and non-systematic reporting system of the status of the ongoing project and unutilised grants for the said project.
- Absensce of a proper system of MIS report for the collection and expenditure of the councils.
- Non availability of published financial information/ reports at the local level.

Improper internal control system

- Absence of a proper internal control system

Suggestions to overcome the issues and challenges

In order to overcome the issues and challenges faced by the Urban Local Bodies in the implementation of the new accounting system, the following steps can be adopted

- Complete digital transformation of both the accounting and administrative system.This can be done by

i. setting up of specific digital targets and promoting IT investments

ii. redesigning the e-government services as per demand of the end users

iii. recruiting skilled staffs especially from IT sector

iv. imbibing big data and analytics together with cybersecurity strategies

- Capacity building of the staff by

i. forming a separate municipal cadre of accountants

ii. introducing a certification program for ULB accountants

iii. imparting regular training of the new system to the existing staffs

- Development of Institutional and Infrastructural arrangements by

i. appointing a state level body to monitor and supervise the functioning of the accounting system of the ULBs,

ii. delegating the power at all levels so that responsibility and authority can be entrusted to all the concerned persons involved in accounting and administrative work,

iii. installing adequate computer systems and updated latest version of the accounting software with continuous internet facility,

iv arranging continuous and regular flow of electricity with proper arrangement of inverters, if required,

v. availing a proper data backup system with special emphasis to Clouds or other digital platforms, and by

vi. Implementing a proper and effective internal control system.

- Improvising the data/ information collection facility by formulating a proper Management Information System (MIS) with proper communication among the different departments
- Reporting of unutilised grants to the DMA office at periodic intervals in a prescribed format
- Embracing a comprehensive accounting module for the adoption of the new accrual based double entry system of accounting for both recording and finalisation of the books of accounts. In order to facilitate this, the accounting modules should consist of sub modules for fixed assets, current assets, payroll, inventory, liabilities, etc.
- Preparation of both long term and short-term budgets as per the scheduled timeliness fixed by the DMA along with the implementation of a proper system of reconciliation of the actual amount with the budgeted amount periodically.
- Appointment of both statutory and internal auditors for the verification and authentication of the correctness and fairness of the financial statements and ensuring audit within the due date.

> This will augment the profitability of the Local Bodies and ultimately, both the Central and State governments will reap the benefits of the enhanced profitability of the ULBs.

Conclusion

A Chartered Accountant can play a very important role in assisting and executing the above suggestions and recommendations thereby smoothening the implementation process of the new accounting reforms and system initiated by the government. The proper and systematic adoption of the new accounting system and reforms will prove beneficial to both the ULBs and the Government in many ways like:

- Preparation and finalisation of the financial statements and reports as per the prevailing NMAM and ASLBs issued by ICAI
- Timely submission of the financial statements to the DMA office
- Easy accessibility and availability of the latest financial reports in a published form
- In short, it will lead to the path of more accountability and transparency in the Financial Reporting in the Local Bodies and will boost the confidence of the stakeholders. It will also ease the process of exploring alternative avenues of funds especially the possibility of floatation of municipal bonds. This will augment the profitability of the Local Bodies and ultimately, both the Central and State governments will reap the benefits of the enhanced profitability of the ULBs. ■■■

Path Ahead for IFRS for SMEs Standard

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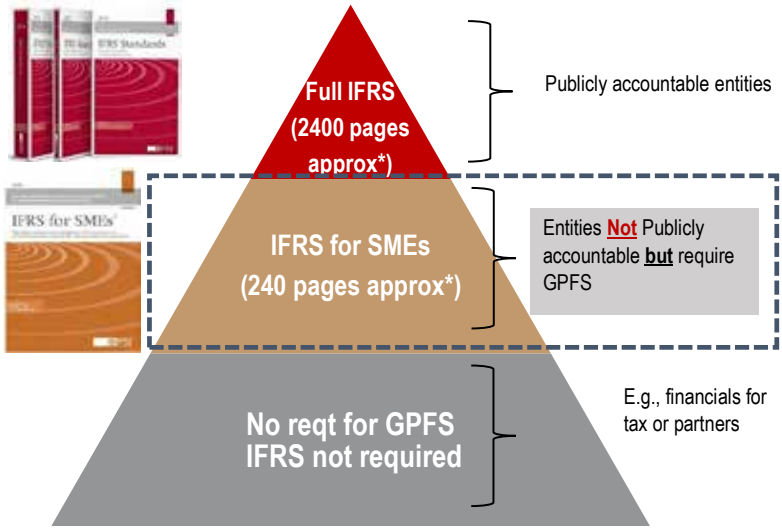
Aligning the IFRS for SMEs Standard with full IFRS Standards

In January 2020, the International Accounting Standards Board (IASB) issued Request for Information (RFI) as a first step towards second Comprehensive Review of the IFRS for SMEs Standard, for comments from stakeholders. Comments are sought on whether and how the IFRS for SMEs Standard should be amended to take account of IFRS Standards and amendments to IFRS Standards.

What is International Financial Reporting Standard for Small and Medium-sized Entities (IFRS for SMEs)?



*Excluding Basis of conclusion and supporting guidance

The types and needs of users of SME financial statements are different from the types and needs of users of financial statements of entities that are publicly accountable and use full IFRS. Users of the financial statements of SMEs are more interested in knowing short-term cash flows, liquidity, balance sheet strength, interest coverage and solvency issues.

Full IFRS impose a burden on SME preparers because they contain topics and detailed implementation guidance in many areas that are not relevant to SMEs. This burden becomes much higher as IFRS become more detailed.

Therefore, a significant need existed for an accounting and financial reporting standard for SMEs that would meet the needs of their financial statement users while balancing the costs and benefits from a preparer perspective. IFRS for SMEs was designed to meet that need.

In this view, on 9th July 2009, IASB issued IFRS for SMEs Standard which is the first set of international accounting requirements developed specifically for SMEs. Though it has been prepared on the basis of IFRS, it is a stand-alone product separate from the full set of IFRS. The Standard is a product of 5 years development process with extensive consultation of SMEs world-wide. It is intended for entities that prepare general purpose financial statements except

those entities whose securities are publicly traded and financial institutions, such as, banks and insurance companies.

As on date, 86 out of 166 jurisdictions require or permit use of the IFRS for SMEs Standard.

With the issuance of IFRS for SMEs, many SMEs around the world will have the option of using a much simplified, IFRS-based accounting framework to prepare their financial statements.

The IFRS for SMEs Standard comprises of 250 pages and is divided into 35 sections and includes a preface and a glossary. While based on the principles in full IFRS Standards, the IFRS for SMEs Standard reflects following simplifications from full IFRS Standards:

- some topics in full IFRS Standards are omitted because they are not relevant to typical SMEs;
- some accounting policy options in full IFRS Standards are not allowed because a more simplified method is available to SMEs;
- many of the recognition and measurement principles that are in full IFRS Standards have been simplified;
- substantially fewer disclosures are required; and
- text of full IFRS Standards has been redrafted in 'plain English' for easier understandability and translation

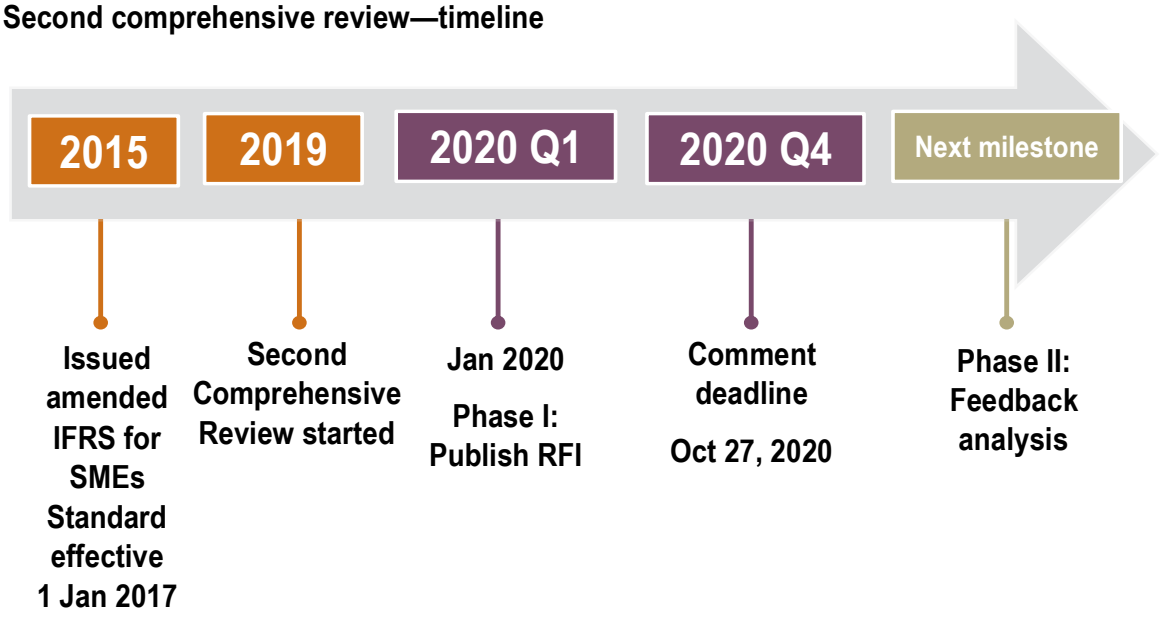
First Comprehensive Review 2015 Amendments

- IASB completed first comprehensive review of the IFRS for SMEs Standard in May, 2015.
- Some IFRS Standards and amendments to IFRS Standards were considered by the IASB
- Considering the fact that the IFRS for SMEs Standard was then relatively a new Standard, IASB issued only limited amendments
- Amendments were made effective w.e.f. 1 January 2017 with early application permitted.

Second Comprehensive Review 2020

- Request for Information on Comprehensive Review of the IFRS for SMEs Standard is the first step by the IASB in its second comprehensive review of the IFRS for SMEs Standard.
- It was issued by IASB in January 2020 for comments to be received by 27th October, 2020.
- Comments are sought on whether and how the IFRS for SMEs Standard should be amended to take account of IFRS Standards, amendments to IFRS Standards and IFRIC Interpretations in the scope of this review.

Second comprehensive review—timeline

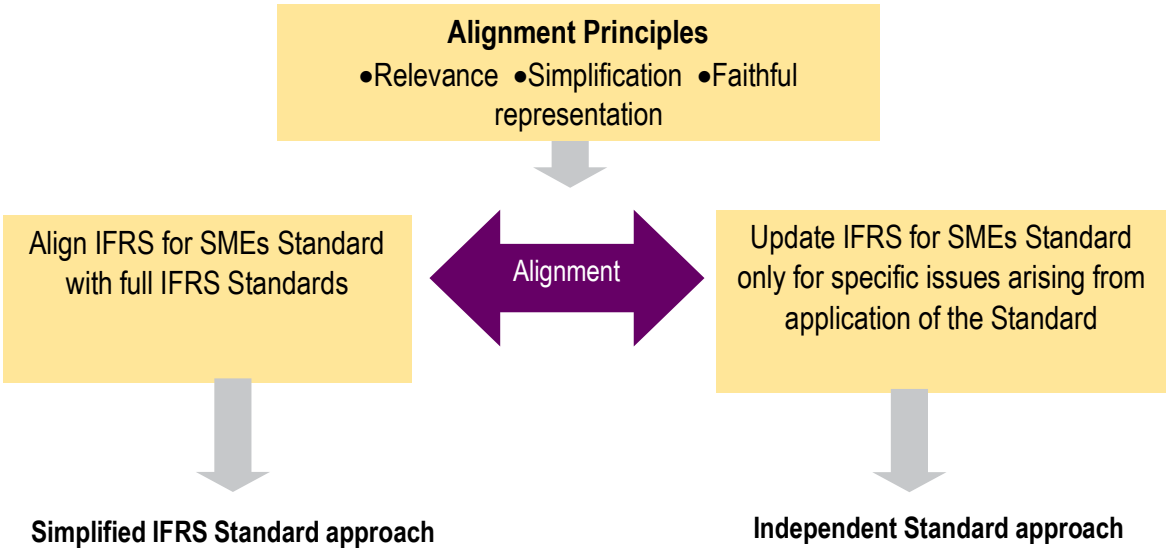


Scope of the Second Comprehensive Review[1]
IFRS Standards, amendments to IFRS Standards and IFRIC Interpretations issued since the first comprehensive review of the IFRS for SMEs Standard
IFRS Standards and IFRIC Interpretations issued before the first comprehensive review, but that did not result in amendments to the IFRS for SMEs Standard
General implementation experience and issues arising from the application of the IFRS for SMEs Standard

Structure of the Second Comprehensive Review	
Part A	Strategic approach and general framework to align with IFRS Standards
Part B	Aligning specific sections of the IFRS for SMEs Standard
Part C	New topics and other matters

Part A—Strategic and general questions

Part A sets out the framework developed by IASB for approaching the second comprehensive review and asks for comments on its approach. Two possible approaches to the second comprehensive review of IFRS for SMEs are:



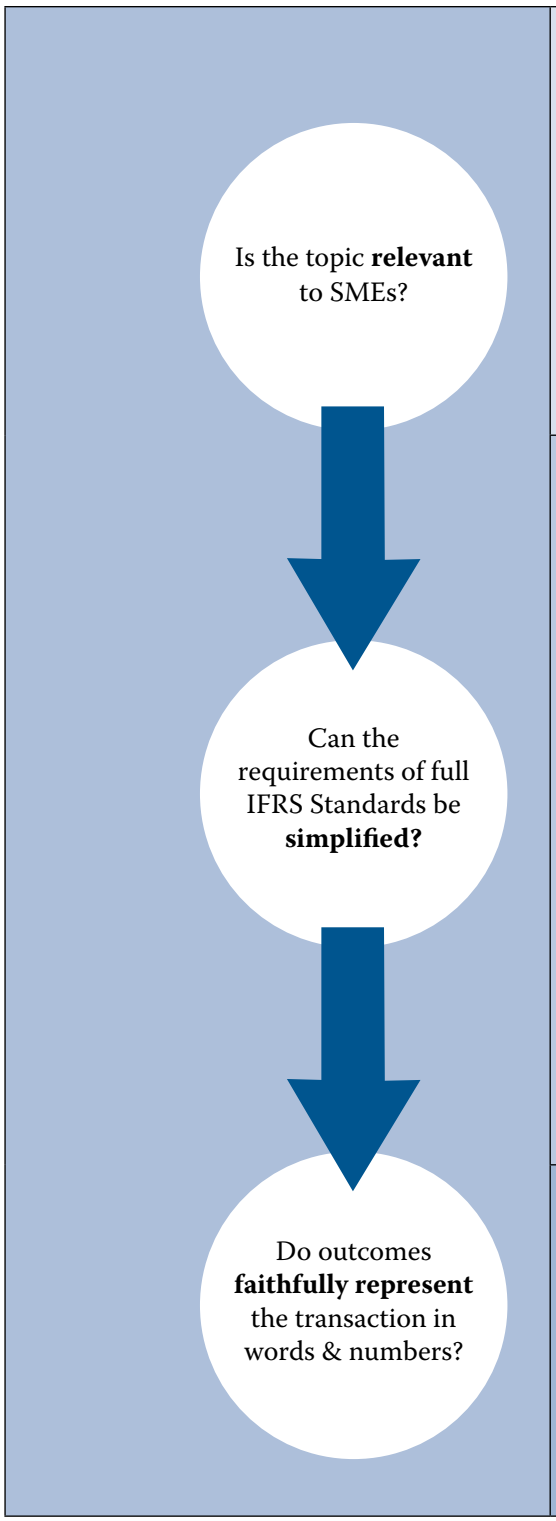
- Allows the experience gained from developing full IFRS Standards to be used efficiently
- Consistent with the expectation that the IFRS for SMEs Standard reflects the same principles as full IFRS Standards, and
- Sufficiently flexible to allow the specific requirements and characteristics of SMEs to be considered.

IFRS for SMEs Standard should be developed and amended considering only the explicit and specific requirements of SMEs

[1] *IASB is not seeking views on the scope of the IFRS for SMEs Standard as part of its second comprehensive review.*

The Request for Information follows the simplified IFRS Standard approach

In considering alignment approach, the IASB decided to apply following three principles for deciding whether and how the IFRS for SMEs Standard should be aligned with IFRS Standards:



RELEVANCE	Assessing whether the problem addressed under IFRS would make a difference in the decisions of users of financial statements prepared applying the IFRS for SMEs Standard which includes determining: • whether requirements for the problem addressed by the IFRS Standard are to be added in the scope of the comprehensive review • whether the changes are at a level of detail beyond the scope of the IFRS for SMEs Standard.
SIMPLIFICATION	The IFRS for SMEs Standard simplifies recognition and measurement requirements, makes reductions in the number of disclosures required and simplifies language. Five ways in which the requirements of full IFRS Standards can be simplified are: (a) omitting some topics; (b) when an IFRS Standard permits options, permitting only the simplest option; (c) simplifying recognition and measurement requirements; (d) reducing disclosures; and (e) simplifying language. Applying the principle of simplicity involves looking at the IFRS Standards that have satisfied the relevance condition and then assessing what simplifications are appropriate.
FAITHFUL REPRESENTATION	Intended to assess whether financial statements would faithfully represent the substance of economic phenomena in words and numbers. If this criterion is not met, it could damage the quality of information reported to users.

EXAMPLE: ALIGNMENT PRINCIPLES		
Relevance	Simplification	Faithful Representation
Leasing is widely used by SMEs and is ranked as their third most important source of financing	Suggestions: • requiring a single model for lease accounting • introducing recognition exemptions for short-term leases and leases of low-value assets • simplifying the requirements for measuring variable lease payments, determining the discount rate, determining and reassessing the term of the lease, and subsequent measurement (reassessment) of a lease liability • retaining the existing disclosures for finance leases • simplifying the language of the Standard	The IASB considered whether financial statements prepared using the simplified requirements would faithfully represent an entity's lease assets and liabilities

When (date) to consider alignment

The views are sought as to how soon after the introduction of an IFRS Standard, an amendment to an IFRS Standard or an IFRIC Interpretation should be incorporated by the IASB into the IFRS for SMEs Standard. The options are to incorporate changes:

1. Issued before the publication date of the Request for Information
2. Effective before the publication date of the Request for Information
3. Effective and on which the post-implementation review was completed before the publication date of the Request for Information
4. Based on some other date

Part B—Questions on aligning specific sections of the IFRS for SMEs Standard with IFRS Standards

Part B contains questions on sections of the IFRS for SMEs Standard that are being considered for alignment with IFRS Standards, amendments to IFRS Standards or IFRIC Interpretations in the scope of this review.

Some of the critical areas are summarized below:

S.No	Topic	Comments sought by IASB
1.	Conceptual Framework for Financial Reporting (Section 2)	• Whether to align IFRS for SMEs Standard with the 2018 Conceptual Framework for Financial Reporting and retain the concept of 'undue cost or effort' in IFRS for SMEs Standard.
2.	Consolidated Financial Statements (Section 9 and 15)	• Whether to align the definition of 'control' and 'joint control' in IFRS for SMEs Standard with the definition in IFRS • Whether to retain the simplification in IFRS for SMEs Standard stating that control is presumed to exist when the parent entity owns, directly or indirectly through subsidiaries, more than half the voting power of the entity • Whether to retain three categories of joint arrangements in IFRS for SMEs Standard along with their accounting requirements.
3.	Leases (Section 20)	• Whether to align IFRS for SMEs Standard with new IFRS 16 on leases with simplifications.
4.	Revenue (Section 23)	3 possible approaches to align IFRS for SMEs Standard with IFRS 15 • Update IFRS for SMEs Standard to align outcomes with IFRS 15 • Rewrite IFRS for SMEs Standard to align with IFRS 15 • Wait until the next review.
5.	Fair Value Measurement (Section 2)	• Whether to align the definition of fair value in IFRS for SMEs Standard with the definition given in IFRS • Whether to align guidance on fair value measurement in the IFRS for SMEs Standard with IFRS to incorporate the principles of the fair value hierarchy set out in IFRS.
6.	Business Combinations (Section 19)	• Whether to include requirements for step acquisitions in IFRS for SMEs Standard and if so, whether these requirements should be aligned with IFRS • Whether to align the definition of a business in IFRS for SMEs Standard with the amendment to IFRS 3 issued in October 2018.
7.	Financial Instruments (Section 11 and 12)	• Whether to align IFRS for SMEs Standard with IFRS 9, Financial Instruments, by supplementing the list of examples in IFRS for SMEs Standard with a principle based on the contractual cash flow characteristics of financial assets; and introducing the simplified approach for the impairment of financial assets, replacing the incurred loss model in IFRS for SMEs Standard • Whether IFRS for SMEs Standard should include requirements on hedge accounting, and if so, whether to retain the current hedging requirements • Whether entities opt to apply the recognition and measurement requirements of IAS 39 with the disclosure requirements of IFRS for SMEs Standard, and, if so, whether to update the option by IFRS 9 recognition and measurement requirements

Part C—Questions on new topics and other matters related to the IFRS for SMEs Standard

Part C seeks views on topics not addressed in the IFRS for SMEs Standard and whether, in relation to these topics, the Standard should be aligned with full IFRS Standards. Comments are also sought on specific topics on which IASB has received feedback.

IFRS 14 REGULATORY DEFERRAL ACCOUNTS	SIMPLIFICATIONS IN MEASURING A DEFINED BENEFIT OBLIGATION	OTHER NEW TOPICS
IFRS 14 addresses regulatory deferral account balances that arise when an entity provides goods or services to customers at a price or rate that is subject to rate regulation. Presently, IFRS for SMEs Standard have no section that corresponds to IFRS 14. Entities subject to rate regulation may be in the scope of the IFRS for SMEs Standard and hence the topic may be relevant. The IASB is seeking views on not aligning the IFRS for SMEs Standard with IFRS 14 because IFRS 14 may be replaced by an active standardsetting project.	Section 28 of the IFRS for SMEs Standard allows an entity to apply simplifications (i.e., to ignore estimated future salary progression, the effect of future service and death in service) when measuring a defined benefit obligation if the entity is unable, without undue cost or effort, to use the projected unit credit method. The IASB is seeking information on how often the simplifications are applied and whether constituents experience difficulties in applying them.	Though, Section 10 IFRS for SMEs Standard provides guidance on how an entity's management should exercise judgement in developing an accounting policy in a case in which the IFRS for SMEs Standard does not specifically address a topic The IASB is seeking views on any topics not addressed by the IFRS for SMEs Standard that constituents think should be the subject of specific requirements for which the general guidance in Section 10 is insufficient.

CRYPTOCURRENCY	ADDITIONAL MATTERS
The IASB is seeking further information on whether holdings of cryptocurrency and issues of crypto-assets are prevalent among entities eligible to apply the IFRS for SMEs Standard. Obtaining this information will help the IASB decide whether the IFRS for SMEs Standard should address the accounting for holdings of cryptocurrency and issues of crypto-assets.	The final question in Part C offers respondents the opportunity to raise other questions relating to the IFRS for SMEs Standard.

Reference :
This article contains some material from publicly available presentations and documents of IASB.

Udyam Registration - Rebirth of MSMEs

Micro, Small and Medium Enterprises (MSME) sector has emerged as a highly growing and dynamic sector of the Indian economy over the last decade. India has more than 6 crore units falling under MSME categories which contribute approximately 29% to the country's GDP. These enterprises not only play a crucial role in providing large employment opportunities at comparatively lower capital cost than large industries but also help in industrialisation of rural and backward areas, thereby, reducing regional imbalances, and assuring more equitable distribution of national income and wealth. MSMEs are complementary to large industries as ancillary units and this sector contributes enormously to the socio-economic development of the country. Read on…

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The Micro, Small and Medium Enterprises Development (MSMED) Act was notified in 2006 to address policy issues affecting MSMEs as well as the coverage and investment ceiling of the sector.

In 2015, Modi Government introduced new Udyog Aadhaar Scheme under the campaign of 'Make in India' to make the process of registration easy with only requirement of one Aadhaar for one enterprise.

Then, after 14 years, the much-expected change in the definition of MSME was brought to reality by the Modi Government under the "Atmanirbhar Bharat Package". Also, a new procedure of Udyam Registration was introduced which actuated the reclassification for all MSME enterprises exiting on 30th June 2020.

The article discusses and compares the changes which have been made through the Notification S.O. 2119(E) dated 26th June, 2020 in the MSMED Act, 2006 and also an attempt has been made to explain the new method of classification of enterprises.

A. Role of MSMEs in Indian Economy-

I. Total No. of Registered Enterprises-

Total No. of Registered Enterprises	Micro Enterprises	Small Enterprises	Medium Enterprises
6.33 Crores	6.30 Crores	3.31 Lakhs	0.05 Lakhs
	99.40%	0.52%	0.007%

(Source- Annual Report of MSME FY2019)

II. Total No. of Registrations done in FY2020-

Total	Micro Enterprises	Small Enterprises	Medium Enterprises
25.12 Lakhs	22.06 Lakhs	2.95 Lakhs	0.11 Lakhs
	87.82%	11.74%	0.44%

(Source- Data Shared by Mr. Nitin Gadkari)

III. Employment Generation-

Over 11.10 Crores Indians were employed in micro, small or medium businesses across India in financial year 2019. *(Source- Annual Report of MSME FY2019)*

IV. Contribution in Exports

The share of MSME related products in total exports from India during FY 2018-19 was 48.10%

B. Benefits to MSMEs -

- Bind the buyer to pay the SME supplier within the statutory due date.
- Provide for penal interest statutorily in case buyer defaults in making payment and provide for efficient statutory mechanism for expeditious resolution of supply and payment related disputes.
- Ensure SME supplier to recover at least 75% of the due amount along with interest for disbursal of finance to the SME supplier to keep it viable in case buyer appeals in court.
- The Government of India has made collateral-free credit available to all small and micro business sectors upto certain limits.
- Certain Government tenders are made available only to MSMEs.
- 50% subsidy to the Enterprise registered as MSME for patent registration by giving application to respective ministry.
- Registered MSME can avail a benefit of 1% on interest on the Over Draft facility. However, the OD facility may differ from bank to bank.
- Registered MSMEs can avail concession in electricity bill of the enterprise.

Specific and One-time Measures due to COVID 19 –

- ₹ 3 lakh crores Collateral-free Automatic Loans for Businesses, including MSMEs
- ₹ 20,000 crores Subordinate Debt for Stressed MSMEs
- ₹ 50,000 crores Equity infusion for MSMEs through Fund of Funds (FoF)

C. Change in Definition of MSME-

Previous MSME Classification			
Criteria : Investment in Plant & Machinery or Equipment			
Classification	**Micro**	**Small**	**Medium**
Manufacturing Enterprise	Investment < ₹ 25 lakhs	Investment < ₹ 5 Cr.	Investment < ₹ 10 Cr.
Service Enterprise	Investment < ₹ 10 lakhs	Investment < ₹ 2 Cr.	Investment < ₹ 5 Cr.

Revised MSME Classification (Updated up to 28-06-2020)			
Composite Criteria : Investment and Annual Turnover			
Classification	**Micro**	**Small**	**Medium**
Manufacturing & **Services**	Investment < ₹ 1 Cr. And Turnover < ₹ 5 Cr.	Investment < ₹ 10 Cr. And Turnover < ₹ 50 Cr.	Investment < ₹ 50 Cr. And Turnover < ₹ 250 Cr.

D. Now there will be no "Udyog Aadhaar Registration". The same will be replaced by "Udyam Registration" w.e.f. 1st July 2020.

Change in method of calculation of Value of Investment in Plant and Machinery or Equipment-

Particulars	Previous Manner of Calculation	New Manner of Calculation
Related Notification	S.O. 1722(E) dated October 5, 2006	S.O. 2119(E) dated June 26, 2020
Meaning of Plant and Machinery or Equipment	No such clear meaning provided earlier	The meaning as assigned to the plant and machinery in the Income Tax Rules, 1962 and shall include all tangible assets (**other than land and building, furniture and fittings**). (This has expanded the scope of items which can be included in Plant and Machinery. As per Income Tax Rules, vehicle, computer and its peripherals, books etc. are considered as P &M)
Value to be taken from	For the Value, following documents could be relied upon: (1) **A copy of the invoice** of the purchase of plant and machinery; or (2) Gross block for investment in plant and machinery **as shown in the audited accounts**; or (3) **A certificate issued by a Chartered Accountant** regarding purchase price of plant and machinery. (As per RBI Notification RBI/2017-18/21 - FIDD.MSME & NFS. BC.No.10/06.02.31/2017-18)	**In case of Existing Enterprises-** - The value will be taken from **Income Tax Return (ITR)** of the previous years filed under the Income Tax Act, 1961. **In case of New Enterprises** (where no prior ITR is available)- - The value will be based on **self-declaration*** of the promoter of the enterprise (such relaxation shall end after the 31st March of the financial year in which it files its first ITR) *The purchase (invoice) value of the plant and machinery, whether purchased first hand or second hand, shall be taken into account excluding Goods and Services Tax (GST) for self- declaration by the promoter. i.e. the GST part will not be considered while calculating the value of Plant and machinery.
Exclusions from the Value	The cost of items specified in Explanation I to Section 7(1) shall be excluded. (The list of such items is provided by S.O. 1722(E) dt. October 5, 2006)	The cost of items* specified in Explanation I to Section 7(1) shall be excluded. ***Items provided under the explanation-** Pollution Control, Research and Development, Industrial Safety Devices & such other items as may be specified. (**Note**: The old notification S.O. 1722(E) issued under this explanation is superseded by the new MSME notification.)

Basis of criteria of Enterprises	One Udyog Aadhaar Registration was available to one PAN.	- All units with GSTIN listed against the same PAN shall be collectively treated as **one enterprise** and -the turnover and investment figures for all of such entities shall be seen together and only the aggregate values will be considered for deciding the category as micro, small or medium enterprise.

E. New Criteria: How to calculate Turnover of the Enterprise-

Previous method of Calculation- The calculation of turnover was not required in the previous MSME Categorisation.

New manner of Calculation- the value of turnover is to be calculated as follows:

Particulars	In case of Existing Enterprises	In case of New Enterprises
Value of Turnover to be taken from	ITR and GST Returns	Self-declaration Basis (for a period upto 31st March, 2021 and thereafter PAN and GSTIN shall be mandatory.)
Exclusions from the turnover	Export of Goods or services or both	Export of Goods or services or both

F. Validity of Enterprises (Udyog Aadhaar) Registered till 30th June 2020-

Particulars	Validity
All existing Enterprises registered prior to 30th June 2020	31st March 2021

All existing enterprises registered under EM Part-II or UAM shall register again on the Udyam Registration portal on or after the 1st day of July, 2020 which will be reclassified according to this notification.

G. Udyam Registration Process-

- The form for registration shall be as provided on the Udyam Registration portal.
- There will be no fee for filing Udyam Registration.
- Aadhaar number shall be required for Udyam Registration.

Nature of Concern	Document Required
a proprietorship firm	Aadhaar Number of Proprietor
a partnership firm	Aadhaar Number of Managing Partner
a Hindu Undivided Family (HUF)	Aadhaar Number of Karta
a Company or a Limited Liability Partnership or a Cooperative Society or a Society or a Trust	GSTIN and PAN along with Aadhaar number of the Concern itself

- In case, an enterprise is duly registered as an Udyam with PAN, any deficiency of information for previous years when it did not have PAN shall be filled up on self-declaration basis.
- No enterprise shall file more than one Udyam Registration, provided that any number of activities including manufacturing or service or both may be specified or added in one Udyam Registration.

"All existing enterprises registered under EM Part-II or UAM shall register again on the Udyam Registration portal on or after the 1st day of July, 2020 which will be reclassified according to this notification.

H. Updation of information on Portal and Reclassification of Category:

- An enterprise having Udyam Registration Number shall update its information online in the Udyam Registration portal, including the

details of the ITR and the **GST Return for the previous financial year** and such other additional information as may be required, **on self-declaration basis**.

- Failure to update the relevant information within the period specified in the online Udyam Registration portal will render the enterprise liable for suspension of its status.
- Based on the information furnished or gathered from Government's sources including ITR or GST return, the classification of the enterprise will be updated.
- In case of graduation (from a lower to a higher category) or reverse-graduation (sliding down to lower category) of an enterprise, a communication will be sent to the enterprise about the change in the status.

> An enterprise having Udyam Registration Number shall update its information online in the Udyam Registration portal, including the details of the ITR and the GST Return for the previous financial year and such other additional information as may be required, on self-declaration basis.

I. Validity of Old Category and Applicability of Reclassified Category-

Particulars	Details	Validity of Old Category	New Category to be effective
Graduation (Upward Classification) (Eg. Small to Medium)	Due to change in terms of investment in plant and machinery or equipment or turnover or both (Turnover is exceeding ₹ 50 crore)	Till expiry of one year from the end of the year of registration (31st December 2021)	From the subsequent Year after the expiry of one year from the close of the year of registration (1st January 2022)
Reverse Graduation (Downward Classification) (Eg. Small to Micro)	Due to change in terms of investment in plant and machinery or equipment or turnover or both (Investment in Plant and Machinery is less than ₹ 1 crore and Turnover is less than ₹ 5 crore)	Closure of the Financial Year in which change took place (31st March 2021)	From 1st April of the financial year following the year in which such change took place (1st April 2021)

FAQs

Question/Doubt	Answer
Applicability of New Udyam Registration	On or after 01.07.2020
Validity of Udyog Aadhar	Till 31.03.2021
How value of Plant & Machinery will be taken - Cost or WDV	WDV
Exclusions from Plant & Machinery	As per Section 7(1) of MSMED Act, following will be excluded: ➢ Pollution control, ➢ Research and development and ➢ Industrial safety devices ➢ As specified by notification (Previous notification S.O. 1722(E) dt. October 5, 2006 not in force)

Inclusions in Plant & Machinery	As per the latest notification of MSME, for the purpose of meaning of P&M, the Income Tax Rules, 1962 has to be referred. Due to above, certain components like First Insurance, Freight, Installation Charges, Bank Charges etc. will now be the part of the cost which were earlier excluded by the notification S.O. 1722(E) 05.10.2006.
How value of Plant & Machinery will be linked with ITR	It will be done through feeding of data on portal for getting new Udyam Registration.
How Turnover will be calculated	Turnover (from GST returns) of all GSTIN linked with one PAN has to be aggregated and also it will be linked with turnover as per ITR.
Trader is eligible being MSME	Trading activity is neither a manufacturing activity nor a service activity hence cannot be registered as MSME.
Our Role w.r.t. these new MSME changes	• IA cum consultancy services • Bank Audit • Tax Auditors Form MSME - Filing with MCA on HY Basis – Verification of status of vendors
Allowability of Interest paid by Buyer to Seller (MSME) under IT	Not allowed as expenses under Income Tax, 1961. Also, the same has to be reported under Tax Audit Report (As per section 23 of MSMED Act, 2006)
Penalty of contravention of MSMED Act	Minimum ₹ 10,000/-
Change in status under MSME every year	Automatic, as per the latest update & study

It was correctly said by the Finance Minister that there always was this fear, even in very successful MSMEs also, that if they outgrow the size of what is defined as an MSME, they'll lose the benefits that they get as an MSME itself. Outgrowing this definition meant outgrowing and going out of receiving benefits. With this revision and a further future favourable attitude of the government towards this sector, the MSMEs would now be able to procure more, produce more, hire more and will play a vital role in India's dream of 5 trillion dollar economy.

The revision of the definition had been a longstanding demand of the sector and the sector is welcoming this change. However, the change in definition brought through a single notification does not clear all the things right now. This has changed the whole scenario of MSME sector and will need more clarifications regarding investment criteria and automatic reclassification procedure to be linked with ITR and GST return.

"This has changed the whole scenario of MSME sector and will need more clarifications regarding investment criteria and automatic reclassification procedure to be linked with ITR and GST return.

Relaxations from Regulatory Compliances Due to Outbreak of Covid-19 Pandemic

Initiatives and Measures, the Government of India has taken in order to mitigate the hit on the economy and provide some relief to the Companies and Limited Liability Partnership firms, in these times of the pandemic. The details/actions have been enumerated below:

Ministry of Corporate Affairs (MCA)

1. Companies Affirmation of Readiness towards COVID-19 Form

MCA has deployed the Companies Affirmation of Readiness towards COVID-19 Form on 23rd March 2020, for companies/LLPs to confirm their readiness to deal with COVID-19 threat, which should be filed by the authorized signatory of Companies.

The form has been deployed as a purely confidence building measure to assess the readiness of the companies to deal with COVID-19 threat in India.

2. Special Measures under the Companies Act, 2013 (CA-2013) and Limited Liability Partnership Act, 2008 in view of COVID-19 outbreak

In order to support and enable Companies and Limited Liability Partnerships (LLPs) in India to focus on taking necessary measures to address the COVID-19 threat, including the economic disruptions caused by it, the following measures have been implemented by MCA to reduce their compliance burden and other risks:

i. No additional fees shall be charged for late filing during a moratorium period from 01st April to 30th September 2020, in respect of any document, return, statement etc., required to be filed in the MCA-21 Registry, irrespective of its due date, which will not only reduce the compliance burden, including financial burden of companies/ LLPs at large, but also enable long-standing noncompliant companies/ LLPs to make a 'fresh start'. The Circulars specifying detailed requirements in this regard are being issued separately.

ii. The mandatory requirement of holding meetings of the Board of the companies within the intervals provided in section 173 of the Companies Act, 2013 (CA-13) (120 days) stands extended by a period of 60 days till next two quarters i.e., till 30th September. Accordingly, as a one-time relaxation the gap between two consecutive meetings of the Board may extend to 180 days till the next two quarters, instead of 120 days as required in the CA-13.

iii. The Companies (Auditor's Report) Order,2020 shall be made applicable from the financial year 2020-2021 instead of being applicable from the financial year 2019-2020 notified earlier. This will significantly ease the burden on companies & their auditors for the financial year 2019-20. A separate notification has been issued for this purpose.

iv. As per Para VII (1) of Schedule IV to the CA-13, Independent Directors (lDs) are required to hold at least one meeting without the attendance of Non-independent directors and members of management. For the financial year 2019-20, if the lDs of a company have not been able to hold such a meeting, the same shall not be viewed as a violation. The lDs, however, may share their views amongst themselves through telephone or e-mail or any other mode of communication, if they deem it to be necessary.

v. Requirement under section 73(2)(c) of CA-13 to create the deposit repayment reserve of 20% of deposits maturing during the financial year 2020-21 before 30th April 2020 shall be allowed to be complied with till 30th June 2020.

vi. Requirement under rule 18 of the Companies (Share Capital & Debentures) Rules, 2014 to invest or deposit at least 15% of amount of debentures maturing in specified methods of investments or deposits before 30th April 2020, may be complied with till 30th June 2020.

vii. Newly incorporated companies are required to file a declaration for Commencement of Business within '180 days of incorporation

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under section 10A of the CA-13. An additional period of 180 more days is allowed for this compliance.

viii. Non-compliance of minimum residency in India for a period of at least 182 days by at least one director of every company, under Section 149 of the CA-1 3 shall not be treated as a non-compliance for the financial year 2019-20.

3. Applicability of CARO 2020 extended by 1 year, CARO, 2020 will be now applicable to accounting periods commencing on or after 01.04.2020

MCA vide its notification dated the 25th February, 2020 has extended the applicability of the Companies (Auditor's Report) Order, 2020.

4. Clarification on spending of CSR funds for COVID-19.

MCA has issued a clarification mentioning that spending of Corporate Social Responsibility (CSR) funds for COVID-19 is eligible CSR activity. The funds may spent for various activities related to COVID-19 under Schedule VII(i) and (xii) relating to promotion of health care, including preventive health care and sanitation, and disaster management.

5. COVID-19 related Frequently Asked Questions (FAQs) on Corporate Social Responsibility (CSR)

A set of FAQs along with clarifications have been provided by MCA for better understanding of the stakeholders giving clarifications on eligibility of CSR expenditure related to COVID-19 activities.

The Frequently Asked Questions are listed below:

i. Whether contribution made to 'PM CARES Fund' shall qualify as CSR expenditure?
Contribution made to 'PM CARES Fund' shall qualify as CSR expenditure under item no (viii) of Schedule VII of the Companies Act, 2013 and it has been further clarified vide Office memorandum F. No. CSR-05/1/2020-CSR-MCA dated 28th March, 2020.

ii. Whether contribution made to 'Chief Minister's Relief Funds' or 'State Relief Fund for COVID-19' shall qualify as CSR expenditure?
Chief Minister's Relief Fund' or 'State Relief Fund for COVID-19' is not included in Schedule VII of the Companies Act, 2013 and therefore any contribution to such funds shall not qualify as admissible CSR expenditure.

iii. Whether contribution made to State Disaster Management Authority shall qualify as CSR expenditure?
Contribution made to State Disaster Management Authority to combat COVID-19 shall qualify as CSR expenditure under item no (xii) of Schedule VII of the 2013 and clarified vide general circular No. 10/2020 dated 23rd March, 2020.

iv. Whether spending of CSR funds for COVID-19 related activities shall qualify as CSR expenditure?
Ministry vide general circular No. 10/2020 dated 23rd March, 2020 has clarified that spending CSR funds for COVID-19 related activities shall qualify as CSR expenditure. It is further clarified that funds may be spent for various activities related to COVID-19 under items nos. (i) and (xii) of Schedule VII relating to promotion of health care including preventive health care and sanitation, and disaster management. Further, as per general circular No. 21/2014 dated 18.06.2014, items in Schedule VII are broad based and may be interpreted liberally for this purpose.

v. Whether payment of salary/wages to employees and workers, including contract labour, during the lockdown period can be adjusted against the CSR expenditure of the companies?
Payment of salary/ wages in normal circumstances is a contractual and statutory obligation of the company. Similarly, payment of salary/ wages to employees and workers even during the lockdown period is a moral obligation of the employers, as they have no alternative source of employment or livelihood during this period. Thus, payment of salary/ wages to employees and workers during the lockdown period (including imposition of other social distancing requirements) shall not qualify as admissible CSR expenditure.

vi. Whether payment of wages made to casual /daily wage workers during the lockdown period can be adjusted against the CSR expenditure of the companies?
Payment of wages to temporary or casual or daily wage workers during the lockdown period is part of the moral/ humanitarian/ contractual obligations of the company and is applicable to all companies irrespective of whether they have any legal obligation for CSR contribution under

section 135 of the Companies Act 2013. Hence, payment of wages to temporary or casual or daily wage workers during the lockdown period shall not count towards CSR expenditure.

vii. **Whether payment of exgratia to temporary/ casual /daily wage workers shall qualify as CSR expenditure?**
If any ex-gratia payment is made to temporary / casual workers/ daily wage workers over and above the disbursement of wages, specifically for the purpose of fighting COVID 19, the same shall be admissible towards CSR expenditure as a onetime exception provided there is an explicit declaration to that effect by the Board of the company, which is duly certified by the statutory auditor.

6. Company Fresh Settlement Scheme, 2020 (CFSS-2020)

As part of the government's efforts to provide relief to companies in the wake of Covid-19, MCA, has introduced the "Companies Fresh Start Scheme, 2020" The Fresh start scheme will be condoning the delay in filing the specified documents with the Registrar, insofar as it relates to charging of additional fees, and granting of immunity from launching of prosecution or proceedings for imposing penalty on account of delay associated with certain filings.

Further, the scheme gives an opportunity to inactive companies to get their companies declared as 'dormant company' under section 455 of the Act by filing a simple application at a normal fee. The said provision enables inactive companies to remain on the register of the companies with minimal compliance requirements.

However, the immunity is only against delayed filings and not against any substantive violation of law.

ICAI has also prepared and issued FAQs on the Companies Fresh Start Scheme for the benefit of its members and other stakeholder that are uploaded on ICAI website.

7. Modification to LLP Scheme 2020

MCA vide its notification dated 30th March, 2020 has revised the LLP Settlement Scheme, 2020. The modified LLP Settlement Scheme incentivise compliance and reduce compliance burden during the unprecedented public health situation caused by COVID-19.

The scheme is a one time waiver of additional filing fees for delayed filings by the LLPs with the Registrar of Companies during the period starting from April 1, 2020 and ending on September 30, 2020.

ICAI has prepared and issued FAQs on the LLP Settlement Scheme, 2020 (Original and Modified) for the benefit of its members and other stakeholder that are uploaded on ICAI website.

8. Relaxation for DIN holders marked as Deactivated

MCA has given relaxation that the DIN holders marked as "Deactivated" and companies marked as "ACTIVE non-compliant" can become compliant once again.

9. Filings under section 124 and section 125 of the Companies Act 2013 r/w IEPFA (Accounting, Audit, Transfer and Refund) Rules 2016 in view of emerging situation due to outbreak of COVID– 19.

In view of the situation emerging due to the outbreak of COVID 19, stakeholders had pointed about difficulties and relaxation especially in procedures related to transfer of money remaining unpaid or unclaimed for a period of seven years in terms of the provision of section 124(5) of the Companies Act, 2013 and transfer of shares under 124(6) of the Companies Act, 2013 read with IEPFA Rules.

It may be noted that MCA has already allowed filing without additional fees till 30th September, 2020. Therefore, stakeholders may plan their concomitant actions accordingly.

10. Clarification on passing of ordinary and special resolutions by companies under the Companies Act, 2013 and rules made thereunder on account of the threat posed by Covid-19

MCA vide its circular dated 8th April, 2020 brought greater clarity on the modalities to be followed by companies for conduct of EGMs during the COVID-19 related social distancing norms and lockdown for the period. Clarifications were given regarding manner and mode of issue of notices to the members before convening the general meeting.

The modalities have been given for companies which are required to provide the facility of e-voting under the Act, or any other company which has opted for such facility and for companies which are not required to provide the facility of e-voting under the Act.

- Relevant companies were allowed to pass resolutions in certain cases through show of hands.

- Passing of certain items only, through postal ballot without convening a general meeting
- Sending of e-mails by members where a poll on any item is requited for companies covered in para 3-B of the Circular No. 14/2020.

Due to the increasing pandemic COVID-19, MCA has further issued a Circular on 15th June, 2020, where the companies were allowed to hold relevant EGMs or transact relevant business through postal ballot as per procedure specified therein, upto 30th June, 2020 has been further extended to 30th September, 2020.

11. Holding of AGMs by companies whose financial year ended on 31st December, 2019

MCA vide it's circular dated 21st April, 2020, clarified that if the Companies whose financial year (other than first financial year) has ended on 31st December, 2019, hold their AGM for such financial year within a period of nine months from the closure of the financial year (i.e. by 30th September, 2020), the same shall not be viewed as a violation.

12. Clarification on holding of annual general meeting (AGM) through video conferencing (VC) or other audio visual means (OAVM)

As per Section 96 (2) of the Companies Act, 2013, every annual general meeting shall be called during business hours, that is, between 9 a.m. and 6 p.m. on any day that is not a National Holiday and shall be held either at the registered office of the company or at some other place within the city, town or village in which the registered office of the company is situated subject to the conditions.

In this regard, MCA issued various Circulars to allow companies to hold annual general meeting (AGM) in a prescribed manner which deal with conduct of extraordinary general meeting (EGM) and by virtue of the same the companies have been allowed the holding of annual general meeting (AGM) through video conferencing (VC) or other audio visual means (OAVM).

Further, companies whose financial year ended on 31st December, 2019, have already been allowed to hold their AGM by 30th September, 2020 as per General Circular No. 18/2020, dated 21.04.2020.

In view of the continuing restrictions on the movement of persons at several places in the country, it has been decided that the companies be allowed to conduct their AGM through video conferencing (VC) or other audio visual means (OAVM), during the calendar year 2020, subject to the fulfilment of the certain requirements.

The companies referred shall ensure that all other compliances associated with the provisions relating to general meeting viz., making of disclosures, inspection of related documents/ register by members or authorisations for voting by bodies corporate etc as provided in the Act or Articles of Association of the company are made through electronic mode.

Further, the Companies which are not covered by the General Circular No. 18/2020, 21.04.2020 and are unable to conduct their AGM in accordance with the framework provided in this Circular are advised to prefer applications for extension of AGM at a suitable point of time before the concerned Registrar of Companies.

13. Companies (Meetings of board and its powers) 2nd Amendment Rules 2020

MCA via notification dated 23rd June, 2020 has provided that board meetings may be held through video conferencing or other audio visual means in accordance with rule 3 for the period ending on 30th September, 2020.

14. Clarification on dispatch of notice under section 62(2) of Companies Act, 2013 by listed companies for rights issue opening upto 31st July, 2020

Section 62 of the Companies Act, 2013 (the Act) prescribes law for 'Further Issue of Share Capital'. Sub-section (2) of the said section provides that the notice referred to in Section 62(1)(a)(i) shall be despatched through registered post or speed post or through electronic mode to all the existing shareholders at least three days before the opening of the issue.

However, MCA has clarified that inability of any Listed Company to dispatch the notice referred in section 62 of the Act to shareholders through registered post or speed post or courier for the rights issue opening upto 31st July, 2020, would not be viewed as violation of section 62(2) of the Act if the SEBI Circular No SEBI/ HO/CFD/DIL2/ CIR/P/2020/78 dated 6th May, 2020 is complied with (https://www.sebi.gov.in/legal/circulars/may-2020/relaxations-relating-to-procedural- matters-issues-and-listing_46652.html).

An announcement in this regard, has also been hosted on the ICAI website, Committee page. Link for the same has been given below.

15. Scheme for relaxation of time for filing forms related to creation or modification of charges under the Companies Act, 2013

In order to help and support Companies and charge holders, MCA has introduced a new scheme called **"Scheme for relaxation of time for filing forms related to creation or modification of charges under the Companies Act, 2013".** The Purpose of the scheme is to condone the delay in filing certain forms related to creation/ modification of charges particularly during the pandemic period.

The Scheme has come into effect from 17th June, 2020 and shall be applicable to the filing of form CHG-1 and form number CHG-9. The relaxation for such form has been provided till September 30, 2020.

Along with the extension, normal fees rules shall be applicable. No additional fees shall be charged. However, if there is further delay in the filing, additional charges shall be applicable. Any further issues shall be raised in front of the competent authority.

FAQs on this Scheme for the benefit of its members and other stakeholder, has also been prepared and hosted on the ICAI website.

16. Companies (Appointment and Qualification of Directors) 3rd Amendment Rules 2020

MCA via notification dated 23rd June, 2020 has amended the Companies (Appointment and Qualification of Directors) Rules, 2014, and by virtue of the same, the last date for registration of details of Independent Directors in the ID Data Bank has been further extended by three months, i.e. upto 30th September, 2020.

17. Clarification with regard to creation of deposit repayment reserve of 20% u/s. 73 (2) (C) of the companies Act 2013 and to invest or deposit 15% of amount of debentures u/r.18 of Companies (Share capital and Debentures) Rules 2014 - COVID-19 - Extension of time

MCA has issued Clarification wherein time limit with regard to creation of deposit repayment reserve of 20% u/s. 73 (2) (c) of the companies Act 2013 and to invest or deposit 15% of amount of debentures u/r.18 of Companies (Share capital and Debentures) Rules 2014 - COVID-19 has been extended from 30th June 2020 to 30th September 2020.

18. Period/Days Of Extension For Names Reserved And Re-submission Of Forms

Time Period has been extended fir Names Reserved ad Resubmission of Forms.

19. Extension of the last date of filing of Form NFRA-2

MCA vide its circular dated 6th July, 2020 has provided that the time limit for filing of Form NFRA-2, for the reporting period Financial Year 2018-19' will be 270 days from the date of deployment of this form on the website of NFRA, i.e, date of filing of NFRA form 2 has been further extended to 4th September, 2020.

Securities and Exchange Board of India (SEBI)

20. Relaxation provided by Securities and Exchange Board of India (SEBI)

- Relaxation in timelines for compliance with regulatory requirements by trading members/ clearing members dated 16th April, 2020. Also, further relaxation was provided in timelines for compliance with regulatory requirements by trading members / clearing members via circular dated 21st April, 2020.
- Relaxation in time period for certain activities carried out by depository participants, RTAs / issuers, KRAs, stock brokers dated 16th April, 2020.
- Additional relaxations / clarifications in relation to compliance with certain provisions of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 ('LODR') due to the COVID – 19 pandemic dated 17th April, 2020. Further, relaxation is provided in conjunction with the MCA Circular, dated 5th May, 2020 in relation to AGM's of the Company so accordingly related provisions of LODR were relaxed by SEBI dated 12th May, 2020.
- One-time relaxation with respect to validity of SEBI Observations which would have expired/will expire between March 1, 2020 and September 30, 2020 has been extended by 6 months, from the date of expiry of such observation dated 21st April, 2020.
- Relaxations from certain provisions of the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018 in respect of Rights Issue dated 21st April, 2020.
- Relaxation in Regulation 24(i)(f) of the SEBI (Buy-back of Securities) Regulations, 2018 due to the COVID 19 pandemic dated 23rd April, 2020.
- Relaxation in relation to Regulation 44(5) of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 ('LODR') on

holding of Annual General Meeting (AGM) by top 100 listed entities by market capitalization, due to the COVID –19 pandemic dated 23rd April, 2020.

- Relaxation in timelines for compliance with regulatory requirements by Depository and depository participants dated 24rd April, 2020.
- Relaxation in compliance with requirements pertaining to Mutual Funds dated 30th April, 2020.
- Relaxations relating to procedural matters – Issues and Listing dated 6th May 2020.
- Relaxation from the applicability of SEBI Circular dated October 10, 2017 on non-compliance with the Minimum Public Shareholding (MPS) requirements dated 14th May, 2020.
- Advisory on disclosure of material impact of COVID-19 pandemic on listed entities under SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 dated 20th May, 2020.
- Relaxation in compliance with requirements pertaining to Alternate Investment Funds (AIFs) and Venture Capital funds (VCFs) dated 4th June,2020.
- Relaxation from compliance with certain provisions of the SEBI (Issue and Listing of Debt Securities) Regulations, 2008 and SEBI (Non-Convertible Redeemable Preference Shares) Regulations, 2013 and certain SEBI Circulars due to the COVID -19 virus pandemic dated 8th June, 2020.
- Relaxations from certain provisions of the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018 in respect of Further Public Offer dated 9th June, 2020.
- Relaxation in timelines for compliance for Client Funding Reporting and Reporting for Artificial Intelligence (AI) and Machine Learning (ML) applications.

21. Further extension of time for submission of Annual Secretarial Compliance Report by listed entities due to the continuing impact of the CoVID-19 pandemic

SEBI, vide various circulars had extended the timeline for submission of financial results under regulations 33 and 52 of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 ('LODR Regulations') to June 30, 2020 (extension of one month) due to the impact of the CoVID-19 pandemic.

SEBI, under Regulation 33 of the LODR Regulations, has further extended the last date for submission of financial results for the quarter and the year ending 31st March 2020, by a month, i.e. to July 31, 2020.

Similarly, under Regulation 52 of the LODR, last date for submission of half yearly and/or annual financial results for the period ending March 31, 2020 for entities that have listed NCDs, NCRPS', CPs, MDS' is also extended to July 31, 2020.

22. SEBI Settlement Scheme, 2020 – One Time Settlement Scheme

SEBI has introduced a new scheme vide Public Notice dated 27th July, 2020 called Settlement Scheme ("the Scheme") in terms of Regulation 26 of SEBI (Settlement Proceedings) Regulations 2018.

The purpose of the Scheme is to provide a one-time settlement opportunity to the entities that have executed trade reversals in the stock options segment of BSE during the period from April 1, 2014 to September 30, 2015 against whom any proceedings are pending.

The ICAI has prepared and issued FAQs on SEBI Settlement Scheme, 2020 – One Time Settlement Scheme for the benefit of its members and other stakeholder.

23. Extension of time for submission of financial results for the quarter/half year/ financial year ended 30th June, 2020.

SEBI had extended the timeline for submission of financial results by listed entities for the quarter/ half-year/financial year ended 31st March 2020 to July 31, 2020 due to the impact of the CoVID-19 pandemic.

It has been decided by SEBI to extend the timeline for submission of financial results under Regulation 33 of the LODR Regulations, for the quarter/half year/financial year ended 30th June 2020 to 15th September,2020.

24. Relaxation in timelines for compliance with regulatory requirements

SEBI had further extended timelines/period of exclusion for certain compliance requirements by the trading members/clearing members/ depository participants and by the depository participants (DPs) / Registrars to an Issue & Share Transfer Agents (RTAs) to further 30th September, 2020. ■■■

Relationship between The Constitution of India and The Income Tax Law

Dr. Babasaheb Ambedkar once quoted 'Constitution is not a mere lawyer's document, it is a vehicle of life, and its spirit is always the spirit of age.' Being qualified Chartered Accountants; we are well versed with the law of Income Tax, however, the very premise of this law (in fact any Indian Law) lies in the 'Constitution of India.' Thus, before interpreting or enforcing any statute one should always refer the Constitution to determine the validity of such law or provisions thereof. This write-up is an attempt to identify certain Articles of the Constitution which empowers the legislature to enact taxation laws, the legislative procedure for its enactment and how the provisions of the Income Tax Act, 1961 has link to the Fundamental Rights which have been bestowed upon us by the Constitution. Read on…

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A. Brief Introduction:

In India the constitution is regarded as the 'Mother Law' or the 'Law of the land' i.e. the supreme law. Hereunder, an effort is made to focus upon the basics of the 'Constitution of India' and its nexus to the 'Income-tax Act'. If we symbolize the constitutional aspect of the Income Tax Law as a fully grown tree, then we can classify these constitutional aspects as the following three major parts of a tree:

(i) **The Crown (branches and leafs)** - Power to levy & collect Taxes

(ii) **The Stem/Trunk** - Procedural aspects for enacting a statute

(iii) **The Roots** - Preamble and Part III of the Constitution

Before proceeding with the above aspects, it is vital to have a glance on the history of taxation laws and the Constitution, albeit briefly.

B. Brief History of Taxation in India.

Taxation system in India persists since the ancient times. There are traces of well elaborated and planned taxing scriptures in *Kautilya's* (Chanakya) *Arthasastra* pertaining to 300 B.C. when the Mauryan Empire was at its glory. In the first chapter of *Arthashastra,* Chanakya quoted *"Kosha Moolo Danda"* ; meaning - 'revenue is the backbone of administration', which is also a part of the official logo of the Income Tax Department of India. Also in 5th Century A.D., classical *Sanskrit* writer, *Kalidas* praising king Dalip stated that *"It was only for the good of his subjects that he collected taxes from them, just as the Sun draws moisture from the Earth to give it back a thousand fold".*

"There are traces of well elaborated and planned taxing scriptures in *Kautilya's* (Chanakya) *Arthasastra* pertaining to 300 B.C. when the Mauryan Empire was at its glory. In the first chapter of *Arthashastra,* Chanakya quoted *"Kosha Moolo Danda"* ; meaning - 'revenue is the backbone of administration', which is also a part of the official logo of the Income Tax Department of India.

Thus, taxation system in India is not a recent concept but has its roots stretched even in the Indian history. However, a codified taxing structure was introduced by Sir James Wilson in the year 1860 in India's First Union Budget. The Indian Income-tax Act of 1860 was enforced to meet the losses sustained by the British government on account of the military mutiny of 1857. Thereafter, new income tax statutes were passed in the year 1886, 1918 for a comparatively shorter period of time. Then, 'The Income Tax Act, 1922' was introduced, which is referred even today for various judicial pronouncements. Post-independence, in consultation with the Ministry of Law the 'Income-tax Act, 1961' was enacted which was brought into force from April 01, 1962.

C. Brief Introduction of 'The Constitution of India'

The Indian Constitution was adopted on November 26, 1949 [celebrated as *'Samvidhan Divas'*]. As per Article 394, some of the Articles were given immediate effect. However, majority of the Articles became operative from January 26, 1950. The provisions relating to Citizenship, elections, provisional parliament, temporary and transitional provisions were given immediate effect ie. November 16, 1949. The rest of the constitution came into force on 26th January, 1950 and this date is referred to in the Constitution as the date of its commencement, which is celebrated in India as the 'Republic Day'.

The Indian Constitution is the longest written constitution of all the sovereign countries. The original Constitution was handwritten by *Prem Behari Narain Raizada* using beautiful calligraphy. As per Article 393, this Constitution is called the *'Constitution of India'* (hereafter referred to as 'the Constitution').

D. Broad areas of the Constitution covered in this article:

(i) **The Crown (branches and leafs) - Power to levy & collect Taxes:**

1.1 **Article 265: Taxes not to be imposed save by authority of law.**

As per Article 265 under Part XII of the Constitution, **no tax can be levied or collected except by the authority of law**, implying that, in India for levying any tax a dedicated legislation or a law is required to be enacted, in that respect. A tax without any legislation/ law shall be regarded as unconstitutional.

Thus, in order to levy income tax, a dedicated law named the Income-tax Act, 1961 was enacted by the parliament which came into force w.e.f. 01/04/1962.

However, when one refers to Section 4 of the Income-tax Act, 1961, it provides that income tax can be charged in respect of the total income, *when any Central Act enacts that income-tax shall be charged for an assessment year at any*

rate or rates. Thus, Income-tax Act, 1961 in itself does not provide for the rate of taxation, instead it provides that only if any Central Act enacts that income tax shall be charged at the specified rates; only then income tax at such specified rates shall be charged on the total income of a person for an assessment year.

It is for this reason, every year, generally in the month of February 'Union budget' is presented wherein one of the agendas is the introduction of the 'Finance Bill', which is subsequently enacted in accordance with the provisions of the constitution and is referred as the 'Finance Act'.

Generally, Section 2 under Chapter II of the relevant Finance Act provides for charge of income tax at the specified rate for a particular Assessment Year. Following is the extract of the Finance Act, 2020 for easy understanding:

"2. (1) Subject to the provisions of sub-sections (2) and (3), for the assessment year commencing on the 1st day of April, 2020, income-tax shall be charged at the rates specified in Part I of the First Schedule and such tax shall be increased by a surcharge, for the purposes of the Union, calculated in each case in the manner provided therein."

From the conjoint reading of the above provisions, one can conclude that under Part I of the First Schedule of the Finance Act, the rates of tax are specified. Section 2 of the Finance Act spells the charge of such rate as income tax for a particular assessment year. Once the Finance Act is enacted, section 4 of the Income-tax Act, 1961 provides for the Charge of Tax on a person's total income for a particular assessment year.

Q1. What if the Finance Act is not enacted for a particular year? Whether there would be no Income Tax payable for that year?

As per Section 294 of the Income-tax Act, 1961, in case where as on the 1st day of April if provision are not yet been enacted by a Central Act (Finance Act) for an assessment year, then in such case, the Income-tax Act, 1961 will still remain in force until the Finance Act is enacted. However, till that time, the provisions of tax in such circumstances can either be one of the following, whichever is more favourable to the assessee:

(a) provision of the Act in force during the preceding assessment year; or

(b) The provision proposed in the Finance Bill (which is yet to be enacted).

Q2. Whether tax can be levied by way of notification/ circulars or rule?

In a very recent decision of *Hon'ble Supreme Court in case of ACIT vs. Bharat V. Patel [2018] 404 ITR 37 (SC)*, it was held that a Circular cannot be used to introduce a new tax provision in a statute which was otherwise absent.

In case of *CIT vs. McDowell & Co. Ltd. [2009] 314 ITR 167 (SC)*, Hon'ble Supreme Court has laid down a principle that the term 'Law' in the context of Article 265 means an Act of the Legislature and cannot comprise an executive order or rule without express statutory authority.

1.2 Article 271: Surcharge on certain duties and taxes for purposes of the Union.

As per this Article, the parliament has the power to levy surcharge on duties/ taxes (except on GST) for the purpose of union and the whole proceeds of any such surcharge shall form part of the Consolidated Fund of India.

Thus, even the Surcharge levied by the Finance Act on the Income Tax derives its power to levy such surcharge from Article 271 of the Constitution.

As per Article 270, duties, taxes and cess (includes income tax) levied by the union under any law made by Parliament shall be levied and collected by the Government of India and shall be distributed between the Union and the States. Thus, Income Tax collected by the government is subsequently also apportioned to the state government.

However, as per Article 271, the surcharge (including that collected on income tax) is earmarked only for the Consolidated Funds of India i.e. it cannot be distributed or shared with the state government.

> As per Article 270, duties, taxes and cess (includes income tax) levied by the union under any law made by Parliament shall be levied and collected by the Government of India and shall be distributed between the Union and the States. Thus, Income Tax collected by the government is subsequently also apportioned to the state government.

1.3 **Article 285 & 289: No tax on the property of Central/State Government.**

Broadly, these articles provide that the union cannot charge tax on property and income of state government. Further, the state cannot charge tax on property of union, except where parliament passes specific legislation in this respect.

It is on account of these Articles, the 'Central Government' or the 'State Government' are neither included in the definition of the term 'person' u/s. 2(31) or 'assessee' u/s 2(7); of the Income-tax Act, 1961.

1.4 **Article 245 & 246: Distribution of Powers to make law between Parliament & State Legislature.**

a) **Territorial Jurisdiction: Article 245:**

The Parliament has the power to make laws for the whole or any part of India, whereas the State Legislature may make laws for the whole or any part of the State.

b) **Legislative Jurisdiction: Article 246:**

In order to avoid any multiplicity or overlapping of the laws, the Constitution has provided very clear distinction and exclusiveness with respect to who has the power to make law on which legislative subject.

Article 246(1) provides that only the Parliament has exclusive powers to make laws with respect to any matters enumerated in List I in the Seventh Schedule (referred as the 'Union List').

Article 246(2) provides that, both, Parliament as well as State Legislature have powers to make laws with respect to any of the matters enumerated in List III in the Seventh Schedule (referred as the "Concurrent List").

Article 246(3) provides that State Legislature have exclusive powers to make laws for the respective states with respect to any of the matters enumerated in List II in the Seventh Schedule (referred as the "State List").

Entry No. 82 of the Union List in Seventh Schedule of the Constitution reads as follows:

"Taxes on income other than agricultural income."

Thus, it is the Parliament which has exclusive powers to make laws relating to Income Tax (except for agricultural income) and it is not the subject matter of the State Legislature. It is for this reason that the 'Income-tax Act, 1961' was passed in the Indian Parliament and not in any State Legislature, this same logic also applies in case of 'Finance Acts'.

Q1. Can the parliament impose Tax on agricultural income?

No. Entry No. 82 of Union List specifically excludes the jurisdiction of the Parliament to make laws in such respect.

Q2. Section 10(1) of the Income-tax Act, 1961 provides that 'agricultural income' shall not form part of total income. What would be the implication if no such exemption is provided?

If in case specific exemption to agricultural income had not been provided in the Income-tax Act, 1961 then it may have been covered under the ambit of 'income' as defined in Section 2(24) and could have been formed as the part of total income.

> it is the Parliament which has exclusive powers to make laws relating to Income Tax (except for agricultural income) and it is not the subject matter of the State Legislature.

However, as stated earlier, the constitution is the supreme law; no law can violate any provisions of the Constitution and hence in such case if Parliament exercises powers to impose income tax on agricultural income, it would be *ultra-vires* and unconstitutional.

Q3. Who has the power to make law relating to income tax on agricultural income?

Entry No. 46 of the State List in Seventh Schedule of the Constitution reads as *"Taxes on agricultural income".* Thus, it is the State Legislature who has the power to levy income tax on agricultural income. However, presently, there is no state in India which has made laws for imposing income tax on agricultural income.

(ii) **The Stem/Trunk - Procedural aspects for enacting a taxing statute.**

- Powers with the Lok Sabha:

Generally speaking, a Bill is a draft statute which becomes law after it is passed by both the Houses of Parliament and assented to by the President. All legislative proposals are brought before Parliament in the form of Bills. In this article we shall restrict the explanation only in respect of a Finance Bill.

Article 109 of the constitution provides for the procedure in respect of Money Bill. Clause (a) to (g) of Article 110(1) enlist certain matters; the bill relating to which is construed as a 'Money Bill'. As per clause (a) of Article 110(1), a bill dealing with the matters relating to the imposition, abolition, remission, alteration or regulation of any tax shall be considered as 'Money Bill'

As per Article 117, a bill which is relating to matters specified in clause (a) to (f) of Article 110(1), shall be considered as a 'Finance Bill'. Thus, every Finance Bill is a Money Bill but every Money Bill may not be a Finance Bill.

Procedure for passing a Finance Bill and a Money Bill

Finance Bill	Money Bill
It can be introduced/moved only on the recommendation of the President. However, if the amendment provides for reduction or abolition of any tax then recommendation of president is not required.	Recommendation of the President is not required.
Finance Bill as well as the Money shall not be introduced in the Rajya Sabha. They are introduced only in Lok Sabha. [Art. 117(1) & Art. 109(1)]	
It is then transmitted to the Rajya Sabha for its recommendations. The Rajya Sabha has to return the Bill with recommendations in 14 days. The Lok Sabha can either accept or reject the recommendation of the Rajya Sabha.	
After the above is done, the Bill is deemed to have been passed by both Houses of the parliament. Parliament has to pass the Finance Bill within 75 days of its introduction.	
If any question arises whether a Bill is a Money Bill or not, the decision of the Speaker of the House of the People thereon shall be final. [Art. 110(3)].	
Once Bill is passed as above, it is presented before the President of India for his assent. The President can also recommend amendments. The houses have the power to pass the bill again with or without accepting the Presidents recommendation. However, in such case, the President cannot withhold his assent; he has to give the assent to such Bill. Once assent is received, the Bill is said to be enacted and is thereafter called as 'Act'.	

- Powers with the President to pass Ordinance: Article 123

In last one year, we have come across two Taxation Ordinance, namely the Taxation Laws (Amendment) Ordinance, 2019 and The Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance, 2020.

Circumstances in which Ordinance can be passed:

Ordinances are laws that are promulgated by the President on the recommendation of the Union Cabinet. Conditions for passing Ordinance:

a) Parliament must not be in session.

b) President is satisfied that circumstances exist which render it necessary for him to take immediate action.

c) An Ordinance shall have the same force and effect as an Act of Parliament.

d) Ordinances cease to operate either if Parliament does not approve of them within six weeks of reassembly, or if disapproving resolutions are passed by both Houses.

e) President has the power to withdraw the Ordinance at anytime.

(iii) **The Roots - Preamble and Part III of the Constitution.**

Unless the roots are nurtured properly, the tree won't stand on its own. Similar is the situation with any Law enacted in India, unless the Law is within the ambit and in accordance with the Preamble and Chapter III of the Constitution, it won't survive.

a) **Preamble of the Constitution:**

If we question ourselves that why should we abide by the Income-tax Act, 1961, the answer to it would be that it is enacted by the Parliament which derives its power to make such Law from the Constitution of India. The next question could be, why should we abide by the Constitution of India? What compels us to abide by the Constitution?

The answer to this lies in the **'Preamble'** of the Constitution, which reads as:

*"**WE, THE PEOPLE OF INDIA**, **having solemnly resolved** to constitute India into a SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC and to secure to all its citizens:*

JUSTICE, social, economic and political;

LIBERTY of thought, expression, belief, faith and worship;

EQUALITY of status and of opportunity;

and to promote among them all

FRATERNITY assuring the dignity of the individual and the unity and integrity of the Nation;

*IN OUR CONSTITUENT ASSEMBLY this twenty-sixth day of November, 1949, do **HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION."***

"Unless the roots are nurtured properly, the tree won't stand on its own. Similar is the situation with any Law enacted in India, unless the Law is within the ambit and in accordance with the Preamble and Chapter III of the Constitution, it won't survive.

By the virtue of this Preamble, all the people of India have solemnly resolved to adopt, enact and give to themselves, the Constitution of India and hence all the people of India are required to adhere to this pledge. Various attributes of this preamble build the basic and fundamental structures of the constitution.

It is obligatory for any Law, Judicial, Legislative, Administrative or Executive authorities to adhere, practice and promote these basic structures.

The Supreme Court in case of Kesavananda Bharti vs. State of Kerala [(1973) 4 SCC 225] had laid down *'basic structure doctrine'*, according to which the Parliament can amend the preamble in accordance with Article 368, however, it cannot alter the basic structure of the Constitution.

The importance and utility of the preamble has been pointed out in several decisions of

the Supreme Court. Though, by itself, it is not enforceable in a Court of Law (as held in A.K Gopalan Vs. State of Madras (1950,SCR 88(198)), the Preamble to a written Constitution states the objects which the constitution seeks to establish and promote and also aids the legal interpretation of the Constitution where the language is found to be ambiguous as held in RE Berubare Union (AIR 1960 SC 845 (846).

b) **Chapter III: Fundamental Rights**

Any Law which is prejudicial to 'Fundamental Rights' could be held 'unconstitutional.' Certain vital provisions of the constitution which needs to be observed while drafting a statute:

Article 13: Laws inconsistent with or in derogation of the fundamental rights.

Article 13 provides that any law which hampers/contravenes the fundamental rights conferred by the constitution shall be, to the extent of such contravention, regarded void.

Article 14: Equality before law.

According to this article, a person cannot be denied of equality before the law or the equal protection of the laws within the territory of India.

Doctrine of '*manifest arbitrariness*' is also applied by Supreme Courts while striking down statutory provisions which are violative of Article 14. When a Law provides something which is excessive and disproportionate, such legislation would be 'manifestly arbitrary'.

Recently, *Supreme Court in case of Shayara Bano and Ors. v. UOI, [AIR 2017 SC 4609]* held that a provision of a law can be held violative of Article 14 whenever legislation is "manifestly arbitrary" i.e. when it is not fair, not reasonable, discriminatory, not transparent, capricious, biased, with favouritism or nepotism and not in pursuit of promotion of healthy competition and equitable treatment.

Article 19(1)(g): Right to practice any profession or to carry on any occupation, trade or business.

Article 19(1)(g) provides Right to practice any profession or to carry on any occupation, trade or business to all citizens. However, this article does not confer the right on the citizen to do anything which is illegal in eyes of law.

Further, under Article 19(6), the legislative authorities are not prevented from making a law imposing reasonable restrictions in the interest of the general public. Thus every citizen has this fundamental right to carry on business/profession and hence a law/ a provision of law which prevents a citizen from exercising his fundamental right or causes hindrance to business/profession can be held unconstitutional. However, such right is not absolute and unfettered and can be subjected to reasonable restrictions in the interest of general public in terms of Article 19(6) as stated above.

Article 27: Taxes cannot be levied for promoting a particular religion.

As per this Article a person cannot be compelled to pay any taxes which are specifically levied to meet the expenses for the promotion or maintenance of any particular religion or religious denomination.

"Doctrine of 'manifest arbitrariness' is also applied by Supreme Courts while striking down statutory provisions which are violative of Article 14. When a Law provides something which is excessive and disproportionate, such legislation would be 'manifestly arbitrary'.

Endnote

It is undisputed fact that the Constitution of our country acts like invincible Bible for the people of India as well as for the legislature, judiciary, and executive authorities. It is therefore vital for the Chartered Accountants understand these basic provisions of the Constitution as the origin and even the sanity of any Law in India ultimately relates to the Constitution.

References:

1) *The Constitution of India*
2) *The Income-tax Act, 1961*
3) *https://www.taxmann.com/*

An Overview of ISO 31000: 2018 Risk Management and Role of Chartered Accountants

In the last decade, there has been a major surge in the interest towards Risk Management. This is due to the change in management's attitude towards Risk Management. Risk Management which earlier limited itself to the middle and lower-level management has now risen to the strategic level management with an emphasis on the Tone at the Top. This momentum has initiated the need for the change in the Standards and Frameworks related to Risk Management. Most of the standard-setting organisations have updated their standards with the changing needs. Read on to know more...

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ISO 31000: 2018 Risk Management, is a prominent standard that was updated in February 2018 and Enterprise Risk Management – Integrated Framework was released in September 2017. The article is intended to provide an understanding of ISO 31000: 2018 Risk management.

Introduction

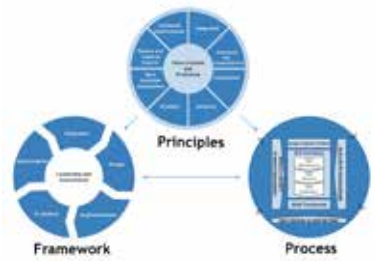
The International Organisation for Standardisation (ISO) is an international standard-setting body composed of representatives from various national standards organisations. This organisation promotes worldwide proprietary, industrial, and commercial standards. The technical management board of ISO is responsible for more than 250 technical committees and these technical committees develop the ISO standards considering the industry's needs.

In November 2009, ISO released the standard on Risk Management titled ISO 31000:2009 Risk Management. It provided the principles and generic guidelines on Risk Management. The objective of this standard was to replace the many differing standards, which stretch across industries, regions, and subjects. Hence this standard was not specific

to any particular industry or sector, but it could be used by any public, private or community enterprise, association, group, or individual. It could be applied to any type of risk and any nature of Risk. Further, it could be used during any life cycle of the organisation. Over a period, the ISO identified few drawbacks in the erstwhile standard. Which include,

- A very minimal integration with the corporate control systems, including strategic planning and management control
- The Non-integrated approach of Risk Management with other functions of the organisation
- No risk taxonomies
- Did not offer practical implementation tools for Risk Managers
- Owing to this limitation and the changing business environment, the ISO has issued 31000:2018 Risk Management, with following key improvement areas
- The importance and leadership of top management are highlighted. Managing risk is part of governance and leadership and is fundamental to how the organisation is managed at all levels.
- Integration of risk management with other functions, starting with the governance of the organisation.
- review of the principles of Risk Management.
- Greater emphasis is given on the iterative nature of Risk Management, i.e. documenting the new experiences, knowledge, and analysis which can lead to a revision of process elements, actions, and controls at each stage of the process.
- Streamlining of the content with a greater focus on sustaining an open systems model to fit multiple needs and contexts.

The ISO 31000:2018 Risk Management is divided into 3 major segments namely Principles, Framework, and the Process. (*Image: © 2018 ISO - All rights reserved*) The same is discussed in detail in the upcoming paragraph.



Principles

As mentioned in the standard, the Principles are the foundation for managing risk. These principles should be considered with the utmost importance when establishing the organisation's risk management framework and processes. All the principles of Risk Management are enumerated in the above image. These are the guiding factors that enable the organisation to achieve its objectives.

The core principle around which the Risk Management standard is established is "Value creation and Protection". All other principle is bounded together with this core principle. It can be evidenced in the above image in which the "value creation and protection" is kept at the center. According to the principle, Risk Management not only creates value to the internal stakeholders namely management and shareholders who want to see their stake appreciate but also to all external stakeholders including the customers purchasing its products and services.

Effective Risk Management requires all the 8 elements portrayed in the image above. Let us have a detailed understanding of the same.

a. Integrated

This principle mentions that Risk Management cannot work in silos. Risk Management is not just the responsibility of the Risk Management team. In contrary to the traditional Risk Management, this standard mention that Risk Management is an integral part of all organisational activities. All the functions in the organisation and all the levels of management should be part of Risk Management. Only when Risk management is done holistically, the objective of Risk Management is achieved.

b. Structured and Comprehensive

Risk Management should be a structured approach and not an ad-hoc activity. Further, it should be comprehensive enough to cover all the activities of the organisation. Creating and following a comprehensive, structured Risk Management approach leads to the most consistent and desirable Risk Management outcomes.

c. Customised

The Risk Management Framework should not take an approach of one size fits all. It should consider the nature, size, and objective of the organisation. The Risk Management approach should be customized to the organisation's needs including the external and internal context in which the organisation operates.

d. Inclusive

In Risk Management, all the stakeholders in the organisation should participate and get involved. The knowledge, views, and the perception of all the stakeholders should be collated. This facilitates the increased awareness of the risk and leads to informed Risk Management.

e. Dynamic

Risk Management is not a stagnant activity and it is not once prepared and used lifetime. Risk exposed to the organisation changes with time. New risk can emerge, and existing risk may diminish. Risk Management process should be adaptable to the changing environment. Risk Management needs to anticipate, detects, acknowledges, and responds to those changes and events in an appropriate and timely manner.

f. Best available information

Information is the core of all the decision making and Risk Management is no exception. Accurate and timely information is the success factor in Risk Management. The input for Risk Management can be historical information, current information, and future expectation. The best available information must be considered after taking into account the limitation of information namely cost-benefit analysis with regard to the accuracy and timeliness of the information.

g. Human and cultural factors

Human factors and culture play crucial roles in Risk Management. An organisation's culture will influence human behavior and attitude towards risk. At the end of the day, it is the humans who deal with the Risk. This Principle suggests the Risk Management should be driven by the Tone at the Top and the same should percolate down to all levels of management.

h. Continual improvement

Risk Management is not a one-time activity. It is a continuous process that needs to be followed during all stages of the life cycle of the organisation. Based on the experience and the knowledge gained during the continued process of Risk Management, an ongoing effort to improve the process must be initiated. These efforts will lead to "incremental" improvement over time.

Framework

The Framework needs to be designed to assist the organisation to integrate Risk Management with all the activities and functions of the organisation. Framework development encompasses integrating, designing, implementing, evaluating, and improving Risk Management across the organisation as articulated in the above image. The framework should be customized as per the needs and demands of the organisation.

a. Leadership and commitment

The critical success factor for any implementation is the commitment of the leadership and Risk Management is no exception. Top Management is required to demonstrate leadership and commitment toward Risk Management. They are responsible for implementing and following the Risk Management practices and integrating the same across all the functions in the organisation. They should create a positive tone at the top and show their commitment by implementing Risk Management policies, plan and course of actions, assigning necessary resources, assigning authority, and responsibility to Oversight bodies.

b. Integration

Risk Management needs to be integrated at all levels of the management and across all functions of the organisation. Risk Management practice should not be restricted to the oversight team but everyone in the organisation should be responsible for managing the Risk. Necessary care needs to be taken while integration and it needs to be done after understanding the organisation structure. It should also consider the objective, purpose, and goals of the organisation. It is a dynamic process and it needs to be customized based on the organisation's culture and needs.

c. Design

Designing the Framework is a significant activity in Risk Management. While designing the framework for Risk Management, the following activities must be performed.

- Understanding the organisation and its context
- The organisation must examine and understand its external and internal context while designing the Risk Management Framework. The external context includes the social, cultural, political, legal, regulatory, financial, technological, economic, and environmental factors, whether international, national, regional, or local, external stakeholders' relationships, perceptions, values, needs, and expectations. Internal context includes but not limited to vision, mission, and values, the organisation's culture; strategy, objectives and policies, standards, guidelines and models adopted by the organisation, contractual relationships, and commitments
- Articulating Risk Management commitment
- The oversight bodies and the Top Management must create the Risk Management Tone at the top and show their commitment towards the same. Commitment can be articulated by creating the necessary policies which indicate the objective and commitment towards Risk Management. Further, this tone at the top needs to percolate down to all the levels of management and stakeholders through appropriate communication.
- Assigning organisational roles, authorities, responsibilities, and accountabilities
- The commitment of the Top Management and the policies towards Risk Management would not be enough to achieve the objective of Risk Management. The management must assign the roles and responsibilities to the relevant personnel across the organisation and make them accountable for their responsibilities. Further, the same need to be communicated to all the levels of management.
- Allocating resources

  While designing the Framework, the management must ensure that adequate resources are deployed for the Risk Management process. It shows the commitment of the top management towards the Risk Management process. The resources required for Risk management includes people, skills, experience and competence, methods, and tools to be used for managing risk, professional development, and training needs.
- Establishing communication and consultation

The top management and the oversight bodies need to ensure that proper communication channels are established to ensure that timely, accurate, and relevant information is collected, collated, synthesized, and shared with the relevant stakeholder. Similarly, management must establish consulting channels for providing and receiving feedback that will contribute to and shape decisions.

d. Implementation

The framework suggests that the Risk Management process needs to be implemented after proper design. The implementation needs to be initiated only after having the appropriate plan regarding the time and resources. The successful implementation of the framework requires the

engagement, commitment, and awareness of stakeholders. The implementation needs to be monitored at each stage concerning the time and resources and necessary course correction needs to be initiated for the timely and proper implementation.

e. Evaluation

The Risk Management Framework needs to be evaluated periodically as against the objective for which the process was initiated, its effectiveness and efficiency. Necessary modification if any required needs to be done to ensure that the objective of the organisation is achieved.

f. Improvement

The management should constantly monitor the Risk Management Framework and make the necessary changes to adapt and address external and internal changes. The organisation should continually improve the suitability, adequacy, and effectiveness of the Risk Management Framework and the way the Risk Management process is integrated.

Process

According to this ISO, the Risk Management process involves the following activities namely Communicating and Consulting, defining Scope Context and Criteria, Risk Assessment, Risk Treatment, Monitoring, Reviewing, Recording, and Reporting. Even though this process is presented as sequential, in practice it is iterative.

a. Communication and Consultation

Communication and Consultation should take place across the organisation which includes the internal and external stakeholders. Further, it should also take place throughout all the stages of Risk Management. This will facilitate the stakeholder to understand the risk and make informed decisions. Communication and Consultation aim to bring different areas of expertise together at each stage of the Risk Management process and provide sufficient information to facilitate risk oversight and decision-making.

b. Scope, Context, and Criteria

- *Scope*

  The organisation needs to define the scope of Risk Management activities. Risk Management can be applied across all the levels and functions of management namely strategic, operational, project activity among others. To have a clear understanding as to what is covered and what is not, it is required to define the scope. This will also support in aligning the organisation's objective.

- *External and Internal Context*

  The external and internal context of the Risk Management process should be established by understanding both the external and internal environment in which the organisation operates. Further, this should also reflect the specific environment of the activity for which the Risk Management process is applied.

- *Defining Risk Criteria*

  The organisation should specify and document the amount and type of risk that it may or may not want to contemplate for Risk Management considering the objective of the organisation and its stakeholders. It should also be aligned with the Risk Management Framework and the scope of the Risk Management process. The Risk Criteria need to be defined after considering the positive and negative consequences of the inclusions and exclusions. The Risk Criteria need to be fixed along with the scope of the Risk Management process; however, it needs to be dynamic. In other words, it needs to be reviewed and monitored periodically and amended on a need basis.

c. Risk Assessment

The Risk Assessment process consists of the following process namely Risk Identification, Risk Analysis, and Risk Evaluation.

- *Risk Identification*

  The organisation identifies new, emerging, and changing risks which will have a negative impact on the achievement of its strategy and

business objectives. Risk Identification should occur at all levels of management and across all functions. Relevant, appropriate, and up-to-date information is important for identifying risks. The following factors need to be considered during Risk Identification namely tangible and intangible sources of risk, causes and events, threats and opportunities, vulnerabilities and capabilities, changes in the external and internal context.

- *Risk Analysis*

  The risks identified needs to be analyzed to understand the severity of each risk. The purpose of the Risk Analysis is to comprehend the nature of risk, its characteristics, risk sources, consequences, likelihood, events, scenarios, controls, and their effectiveness. The event can have multiple causes and consequences and can affect multiple objectives and at multiple levels of the organisation. Hence the Risk Analysis needs to be undertaken at a varying degree at all levels of the organisation. Further, depending on the complexities and circumstances, the quantitative techniques, qualitative techniques, or a combination of both can be used to assess/analyze the risk. Risk Analysis will be the basis for Risk Evaluation and Risk Treatment.

- *Risk Evaluation*

  Risk Evaluation refers to comparing the results of the Risk Analysis and determining the actions to be initiated considering the Risk Criteria defined in the scope. In other words, the purpose of the Risk Evaluation is to support the decision related to Risk Treatment. The outcome of Risk Evaluation should be recorded, communicated, and then validated at appropriate levels of Management.

d. Risk Treatment

Risk Treatment should be deployed for all identified risks. Risk Treatment refers to the process of addressing the risk i.e. the process of the selection and implementation of the Risk Treatment options. Hence the Risk Treatment has the two subprocesses namely selection of Risk Treatment options and preparing and implementing Risk Treatment plans.

- Selection of Risk Treatment Options

While selecting Risk Treatment options, the organisation has to perform the cost-benefit analysis. The organisation has to consider potential socio-economic benefits derived from the implementation of the Risk Treatment option and assess the same against all the direct and indirect costs that would be incurred during and after the implementation.

There are various options for Risk Treatment which can be considered based on the Risk Analysis.

- Avoiding the risk
- Removing the risk source
- Changing the likelihood
- Changing the consequences
- Sharing or Transfer the risk (like Insurance)
- Retaining the risk by informed decision

The selection of Risk Treatment options should be made in accordance with the organisation's objectives, risk criteria, and available resources.

- Preparing and Implementing Risk Treatment Plans

Post selection of the Risk Treatment option, the next stage is to draft the plan which specifies how the chosen treatment options would be implemented. This plan should clearly identify the order in which Risk Treatment should be implemented. The Treatment plans should be communicated to the appropriate stakeholder and it should be integrated into the management plans and processes of the organisation. It should also contain when actions are expected to be undertaken and completed.

e. Monitoring and Review

Risk Treatment options, even if carefully designed and implemented might not produce the expected outcomes and could produce unintended consequences. Hence, we need to have a monitoring and review process to assure and improve the quality and

effectiveness of process design, implementation, and outcomes. Ongoing Monitoring and review should be an integral part to give assurance that the different forms of treatment become and remain effective. Monitoring and Review include planning, gathering and analyzing information, recording results, and providing feedback.

f. Recording and Reporting

The Risk Management process and its outcomes should be documented and reported through appropriate mechanisms. Recording and Reporting aim to communicate Risk Management activities and outcomes across the organisation to all stakeholders and to support decision making.

The need for reports / information is different for a different level of management. Reporting is an integral part of the organisation's governance and should enhance the quality of dialogue with stakeholders and support top management and oversight bodies in meeting their responsibilities. Each report user will require different levels of detail of risk and performance information to fulfill their responsibilities in the organisation. Reporting supports personnel at all levels to understand the relationships between risk and performance and to improve decision-making. The Factor like frequency, timeliness, and cost associated with the same should be considered while determining the appropriate reporting structure.

Role Of Chartered Accountant and ICAI

Chartered Accountants are trusted advisors and provide services to businesses either as a consultant or as a practicing partner. Chartered Accountants work as managers, steering businesses in the right strategic direction, solving problems, and implementing change. Historically, Chartered Accountants has provided professional services related to Auditing, Taxation, Accounting, and Financial analysis. In recent decades, the Chartered Accountants have quickly developed strong commercial and decision-making skills and are supporting the organisations in the new area namely advisory services. One of the prominent among them is the advisory and consulting services on Risk Management. Chartered Accountants are risk experts who are outward-looking and providers of valuable insights to manage risk.

Unlike in other developed countries, in India, there was no legislation which promoting Risk Management practice, until the introduction of Companies Act, 2013. The first attempt to introduce Risk Management was done by SEBI. Based on the recommendation of the Committee chaired by Shri Kumar Mangalam Birla and The Murthy Committee's Recommendations on Risk Management, SEBI introduced Clause 49 of Listing Agreement. Clause 49 of the Listing Agreement was implemented with force from 31st December 2005. It was articulated for the enhancement of corporate governance in Indian listed companies. The key provisions which were relevant to Risk Management are:

- Responsibility of Independent Directors to periodically review risk and compliance reports arranged by the company along with those steps initiated by the company to improve its performance in those areas.
- Disclosure of Risk Management procedures and, specifically, of certain risks of fraud including those related to third-party transactions and contingent liabilities.
- Reports concerning legal compliance and Risk Management are subject to mandatory review by the Audit Committee.
- Management shall put in place procedures to inform corporate directors about risk assessment and minimisation initiatives. These procedures need to be periodically monitored to guarantee that management controls and reviews risk through a predefined framework.
- Management shall deliver to the Board of Directors a quarterly report certified by the compliance officer of the company. The report shall articulate the risks faced by the business; measures initiated to

mitigate the risks. The Board of Directors shall review this and attest the said document

With the introduction of Companies Act, 2013, Risk Management gained its momentum in the companies having business in India. The prominent sections which changed the game are

Section 134 (3) There shall be attached to *(Financial)* statements laid before a company in general meeting, a report by its Board of Directors, which shall include—

(*n*) a statement indicating development and implementation of a risk management policy for the company including identification therein of elements of risk, if any, which in the opinion of the Board may threaten the existence of the company.

Section 177 (4) Every Audit Committee shall act in accordance with the terms of reference specified in writing by the Board which shall, *inter alia,* include, —

(*vii*) evaluation of internal financial controls and risk management systems.

Companies Act, 2013 has made it mandatory for the companies to develop and implement Risk Management Policies and Systems. Further, the same must be evaluated periodically by the Audit Committee. The Act is silent on the standard or the framework which can be used, and it is left to the discretion of the company's management.

This has given a tremendous opportunity for the Chartered Accountants both in practice as well as in employment. Depending on the organisation's needs, Chartered Accountants can involve in the implementation of Risk Management and during the Life cycle of Risk Management. In case the organisation outsources this Risk Management activity, the Chartered Accountants can portray their expertise in performing the end to end activities of Risk Management. In case the Company intends to have an inhouse Risk Management team, the Chartered Accountants can be the part of the management in setting up the Risk Management function by identifying the suitable framework and tailoring them to the need of the organisation. They can also support the management in all the processes of Risk Management activities namely Communicating and Consulting, defining Scope Context and Criteria, Risk Assessment, Risk Treatment, Monitoring, Reviewing, Recording, and Reporting.

Our visionary institute ICAI had already envisaged the changing industry needs. This can be evidenced by the fact that the Institute changes in the curriculum long back to include Risk Management as one of the subjects. This would equip the Chartered Accountants with the required knowledge and enable them to enhance their contribution to Risk Management.

Conclusion

Business requires taking risks and seizing opportunities to achieve success. The organisation should not solely rely on mitigating the risk, but it should promote and facilitate effective risk and opportunity management to facilitate value creation and preservation over time. This involves being focused on the benefits of intelligent risk-taking in addition to the need to mitigate and control risk. There are various standard and framework which supports organisations in Risk Management. Organisations must choose the best framework which suits their objective and tailor them to their needs.

Further, Risk Management is a statutory requirement as per the Companies Act, hence giving an avenue for the Chartered Accountants for providing risk expertise which is outward-looking and providing value addition to the organisations. ■■■

COVID-19 and Sustainability through Strategic Management

The world has witnessed unprecedented crisis emerging out of pandemic created by COVID-19. All the countries in the world have been badly affected by the virus and have gone on lockdown and shutting down of business. The economic damage caused worldwide is unparalleled. Countries are grappling with the situation and gradually opening up economies balancing factors related to health, well being and economic needs. It is very difficult to estimate what the economic damage will be as the crisis continues as the spread of virus is not contained. Every individual, business, entrepreneur, country has been taken by surprise and all are bewildered due to absence of any disaster management or back up plan for this sort of crisis. The article takes a look at the damage caused by the pandemic to the businesses around the world and specifically to the Indian economy and see what the businesses should do to overcome the impact. Read on…

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Macro- Economic Impact

The seriousness of the Coronovirus was felt by the countries across the world by latter part of first quarter this year. So many days has passed since then. In all these days, total number of confirmed cases has only risen. So many lives have been affected by this pandemic. Though the crisis is causing enormous socio-economic challenges to the governments and the public at large are also facing many challenges such as loss of income, immobility, health risk and so on. However, with the number of recovered cases exceeding Covid19 cases, people across the world are still hopeful of leading better lives ahead in the new normal.

According to International Labour Organization (ILO) briefs, the pandemic is having a devastating effect on workers and employers in all sectors. It says, "We must increase investment in safe and decent working conditions for frontline workers and ensure that the pandemic does not leave long-lasting scars on economies, people and jobs." The ILO brief shows how the governments have responded to the crisis and are focusing on four immediate goals:

1. Protecting workers in the workplaces;
2. Supporting enterprises, jobs and incomes;
3. Stimulating the economy and employment; and
3. Relying on Social Dialogue.

During mid - May, the Prime Minister of India announced an economic package of ₹ 20 lakh crores under *AtmaNirbhar Bharat Abhiyan* (Self-Reliant India Mission). It consisted of a certain reforms, infrastructure development, support to the stressed businesses and a certain amount of direct cash support. The package provides collateral free loans to encourage reopening of businesses and to safeguard jobs. The Government is providing collateral free Credit guarantee of ₹ 3.00 lakh crores. The MSMEs who already have a loan of ₹ 25 crores or those with a sales turnover of ₹ 100 crores are eligible get further loans before 31st October, 2020 repayable in 4- year period with a moratorium of 12 months. The Government expects that this measure will help 45 lakh MSMEs to survive in this crucial period.

The government also announced changes to its FDI policy to curb opportunistic takeover of Indian companies by the countries which share a land border with India. At the same time, Government is focusing on attracting foreign companies under its " Make in India" scheme.

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Micro Level Impact

Microeconomics is defined as the study of individuals, households and firms' behavior in decision making and allocation of resources. In this topic, the discussion will be centering on the subject with reference to individual firms and the ways and means to counter the effect of pandemic on them.

For the discussion, the firms can be divided into two categories, viz.,

1. Micro, Small and Medium Enterprises (MSMEs);
2. Large Corporates.

The Government of India Report on MSMEs 2017-18 notes that there are more than 6 crores of MSMEs forming part of informal sector dealing with non-agricultural activities and provide employment to nearly 11 crores of the workforce. Their contribution to Indian GDP is almost 30%. The pandemic has shattered this sector of the economy badly. So, this very important sector needs urgent attention in order to avoid their closure and rendering millions out of employment. The construction sector is one of the major non-agriculture sectors which employs almost 40% of the informal workforce. They are all mostly migrant labourers who have lost jobs and income due to lack of construction activity. They are outside the social protection schemes. These people and micro enterprises need direct financial support to survive and live.

Similarly, there is a sizeable portion of self –employed individuals among the workforce comprising those who are small vendors, artisans, writers, performing artistes, carpenters, goldsmiths, drivers, cooks, lawyers & other professionals, event managers etc., who are without any source of income due to lockdown. For eg., in the entertainment sector, movie and tv serials & shows have been stopped to curtail the spread of pandemic and as such the technicians, workers, etc., in this sector have lost income. These people also need direct financial support.

Large corporate sector is no exception in this economic crisis. The demand for their products has drastically plummeted as there is no disposable income with people who are struggling to survive. Factories & Mills are, therefore, either shut fully or operating at a very low capacity leading to retrenchment of labour or

reduction of wages. Airlines and Road transport (passenger service), tourism and hospitality sector are the worst affected in this critical period. Now most of the hotels are getting converted to isolation wards to earn revenue.

Rescue of Micro, Small Enterprises & Self Employed

The distribution of the MSMEs in different sectors as per the National Survey of 2017-18 stood at:

Manufacturing	31.00%
Trade	36.00%
Other Services	33.00%

Most of the Micro and Small scale sector enterprises are unregistered proprietary enterprises. Considering the importance of this sector to the National GDP, the Government has already announced several packages including affordable credit (without collateral) to revive them. However, it has been found that there is an absence of any reliable database in respect of this sector making it difficult for the Government to reach the relief measures which this sector needs urgently to resume operations and sustain through the critical period. The state governments must encourage all MSMEs to register under Udyog Aadhar Scheme so as to create a reliable database. The message of various relief measures and the procedures to be followed to avail the same should be made to reach the people through advertisements in TV channels, Newspapers (both English & Vernacular), etc., so that they become aware of the Government initiatives to resuscitate these enterprises and approach the banking sector rather than high cost private money lenders. In addition to the measures already announced, the Government (s) must consider grant of wage support for a fixed period and a subsidy for the income lost or fixed costs like electricity, water, rent and municipal taxes incurred during lock down period to encourage them to reopen. Many countries have come up with wage support subsidies. Germany, New Zealand, Singapore and Belgium have offered such benefits to micro and small businesses.

In the present economic scenario, the Government has a bigger role to play to meet the challenge and it should induct private sector with incentives to join hands in the recovery path. Recently, the Central Government revised the definition of MSME to grant benefits to more number of units in this sector. The revised norms are:

Table-1 (Source- msme.gov.in)

But, being small, they would not have their own expertise to present their case with business forecast, projected cash flow, ability to repay the loans etc. They are also affected from lack of knowledge of internal controls, inventory management and production planning, financial leverage, the requirements and procedures for claiming the benefits in the package offered by the Government and go forward on the road to recovery and sustain their operations.

Medium and Large Corporates

Medium size enterprises are mostly either partnerships or private limited companies whose capital investment is between Rs 5 crores and ₹ 10 crores and turnover does not exceed ₹ 50 crores. However, these limits have been upwardly revised as per Table 1. Generally, such companies employ not more than 250 workers in industrial sector. Such enterprises are affected by the sharp decline in demand mainly due to consumer mood arising from the fear of catching corona virus and the need to live

Existing and Revised Definition of MSMEs

	Existing MSME Classification		
	Criteria : Investment in Plant & Machinery or Equipment		
Classification	Micro	Small	Medium
Mfg. Enterprises	Investment<Rs. 25 lac	Investment<Rs. 5 cr.	Investment <Rs. 10 cr.
Services Enterprise	Investment<Rs. 10 lac	Investment< Rs. 2 cr.	Investment<Rs. 5 cr.
	Revised MSME Classification		
	Composite Criteria : Investment And Annual Turnover		
Classification	Micro	Small	Medium
Manufacturing & Services	Investment< Rs. 1 cr. and Turnover < Rs.5 cr.	Investment< Rs. 10 cr. and Turnover < Rs.50 cr.	Investment< Rs. 20 cr. and Turnover < Rs.100 cr.

OLD

NEW

frugally in this crisis. Further, as these enterprises rely on migrant low cost labour, they are facing shortage of labour as most of the such labourers have migrated to their native places.

There is no need to mention about large corporate sector which are governed by various laws and come under close scrutiny of the regulatory authorities. They are in industrial sector such as cement, steel, textiles, automobiles etc., and in the service sectors of the economy such as banks, insurance, travel, tourism, hospitality, IT & ITeS, entertainment and so on. Let us consider a few examples.

Automobile sector demand is highly sensitive to employment and income levels and both have been badly hit. This sector is facing the biggest challenge due to slow down in the economy, change of consumer mood in favour of health care and controlling expenses, high fuel prices, low capacity utilisation etc.

Similarly, Textile Industry which was in dire state even before COVID-19 is further terribly affected as its demand has dropped by nearly 50%. This is because of work from home and online coaching by schools and colleges. The fashion apparel and costly suits have given way to simple clothing. According to Confederation of Indian Textile Industry, it expects 25% of the textile mills and garment units may witness permanent closure.

"Automobile sector demand is highly sensitive to employment and income levels and both have been badly hit. This sector is facing the biggest challenge due to slow down in the economy, change of consumer mood in favour of health care and controlling expenses, high fuel prices, low capacity utilisation etc.

Strategic Management under Crisis Situation

As seen above, COVID- 19 has not spared even the corporate sector in spite of its size and strength. There cannot be a single solution which can be generally applied to all these companies as each sector is unique in itself. Individual unit has to carry out a self-analysis and come up with a solution to survive and sustain its operations at this critical moment and plan ahead for the future. It means that a flexible strategic planning is essential covering both immediate needs to stabilize and medium to long term plan to sustain growth. It is, therefore, important that such units do a SWOT analysis and identify their core competencies. The pandemic has brought out total change in the life style and perception and preferences of the people. These changes in the external environment impact each sector differently. For eg., the pharmaceutical industry may see a great opportunity to introduce the new health care tools and medicines for the prevention and cure of the pandemic and thereby improve its performance substantially. On the other hand, the automobile sector will find it difficult to sustain its operations under the changed scenario.

The government has taken several initiatives such as making available more credit by reducing CRR and LCR for banks, reducing REPO rate and relaxations in regulatory measures. However, much needs to be done by increasing the capital investment in infrastructure development to provide tonic to spur the growth in the national economy which will assist the companies in different sectors to come out of the crisis.

The corporate sector may have to rely on data science, machine learning and artificial intelligence to study the new trends relating to its sector and be able select an appropriate strategy to operate successfully in the dynamic world. Such a study will be a learning process in order to adapt to the changing environment.

The implementation of the strategic plan must specify the methodology:

1. To realign the R & D efforts in the direction of alternative uses of

> The government has taken several initiatives such as making available more credit by reducing CRR and LCR for banks, reducing REPO rate and relaxations in regulatory measures.

its resources leading to the selection of the best alternative having the ability to attain the corporate objective.

2. To ensure optimal utilization of its various resources of men (both genders), machinery, money and material in accordance with the revised business plan.
3. To develop a marketing strategy to achieve the goal as per the strategic plan.
4. To reduce wastages and control of costs to gain competitive advantage in pricing, without compromising quality.
5. To integrate risk management policy with the strategic plan.
6. To avail the reliefs and packages offered by the Government to accelerate the revival of the business.
7. To work out a Financial Plan showing how the earlier debts as well as the debt availed under the new announcements will be settled.
8. To train the labour force to upgrade their skills in the changed scenario as part of career development plan.
9. To include a Project Feasibility to take advantage of the opportunity afforded by the MNCs trying to relocate their operations in India.
10. To strengthen the effectiveness of the Performance Monitoring System.

The implementation of such a plan will enable the companies to deal with the question of "Going Concern" and provisions under IFRS-9 (or its equivalent Ind AS), bankruptcy code etc.

Banking sector faces tough challenge in view of potential spurt in NPAs due to economic downturn. RBI has to announce new rules regarding classification of non-performing assets differentiating between NPAs arising out of COVID-19 effects and earlier NPAs. The Banks also need to work out a new strategy to strengthen their operations including consolidation.

Joint Effort by State, Private Sector & People- An Example

At this point, it is appropriate to remember the words of John. F. Kennedy during his famous inaugural address, " Ask not what your country can do for you- ask what you can do to your country".

So, it is not the responsibility of Government alone to set right the economy, but everyone has to put in their efforts one way or the other to ensure that the nation bounces back to realize its dream. One has to either rethink or think "out-of-box". For example, let us consider the case of Dharavi in Mumbai. Though there have been several attempts to redevelop Dharavi slum for more than a quarter of century, there is no progress due to several reasons. The major point of contention is that the various proposals did not favour the residents and their livelihood. India has launched ambitious plans like *Make in India*, *Swachh Bharat, AtmaNirbhar Bharat,*

Sub Ke Saath Sub Ka Vikas, etc. The success depends on the harmonious action. In this particular instance, a new strategic partnership of the State Government, BMC, indigenous large construction companies, Housing Finance Corporations and the local resident and community associations as part of inclusive approach is needed as against approaches adopted earlier. The new strategy must be a human-centric approach aiming at fair distribution of the land for various purposes as under to inculcate confidence in the minds of the residents and provide assurance to secure their cooperation.

Assurance of Accommodation

1. The size of area to be reserved for building high- rise low- cost accommodation for the inhabitants.

Protecting Livelihood

2. The portion of the land for providing sheds for already existing micro and small scale enterprises so that they do not lose the advantage of proximity to its market (Bandra- Kurla Complex) and

Co-Existence

3. The land for building commercial complex, theme parks and so on to generate income for the organisation.

So the newly established organisation/ company must initiate dialogue with the residents under congenial atmosphere of cooperation to arrive at an amicable solution. When people know that their interests are being protected, protests will disappear. This will not only be a boost to the ailing construction sector and its dependent industries and service units in this crucial time but it will also aid in creation of jobs (direct and indirect) as against the current situation of lack of jobs.

Further, even the World Bank will be too willing to provide funds for such a mega socio-economic development project. As the people demonstrate their determination to defeat the disastrous economic impact of the pandemic through successful launch of this project, it will lure the foreign investors to choose India as a favourable destination for investment. This will put the economic recovery on fast track.

Once done, the sight which was an eye sore so long will transform into an eye pleasing sight and change the skyline of Mumbai. COVID-19 has shown that social distancing is absolutely impossible in slum areas and hence, change of attitude and thinking from all stakeholders are of paramount importance. This is the most appropriate time to embark on a project of this sort. It is now or never, because right now there is every possibility of getting peoples' concurrence than ever after.

"The new strategy must be a human-centric approach aiming at fair distribution of the land for various purposes as under to inculcate confidence in the minds of the residents and provide assurance to secure their cooperation.

"COVID-19 has shown that social distancing is absolutely impossible in slum areas and hence, change of attitude and thinking from all stakeholders are of paramount importance.

Conclusion

Micro changes can collectively lead to macro transformation. A well laid out strategic plan implemented with zeal will enable the companies and organizations to successfully meet the challenges posed by the pandemic. A joint effort by the Government, corporates and people will make India Vision -2020 of our former President Dr. A. P. J. Abdul Kalam possible. ■■■

Bringing Transparency, Efficiency and Accountability to the World's Financial Markets

Educational Materials on Ind AS

The Educational Material on Ind AS 38, Intangible Assets, was issued. Ind AS 38 prescribes the accounting treatment for intangible assets that are not dealt with specifically in another Ind AS. It sets out the criteria for recognising and measuring intangible assets and requires disclosures about them. The standard provides guidance on treatment of costs incurred to generate intangible assets as well as those acquired separately or as part of business combinations or acquired by way of government grant. The Standards also deals with other aspects related to intangible assets, such as, amortisation, impairment, etc. The Educational Material on Ind AS 38, Intangible Assets addresses certain relevant aspects envisaged in the Standard by way of brief summary of the Standard and Frequently Asked Questions (FAQs) which are being/expected to be encountered while implementing the Standard. Relevant link to download the Educational Material: https://www.icai.org/resource/60293asb49121.pdf

Online Certificate Course on Ind AS launched through Digital Learning Hub Platform of ICAI

In view of the unprecedented emergency situation due to outbreak of COVID-19 pandemic across the country, Online Certificate Course on Ind AS through Digital Learning Hub Platform of ICAI has been launched from April 26, 2020. Overwhelming response has been received from the members, ICAI, for the said course and all the 12 batches of the said course have been concluded wherein around 1200 members have been successfully trained. The exams for completed batches need to be held in next 2-3 months after the on-line testing platform being developed is ready. Another 12 batches with the increased batch size of 200 are planned to be conducted in coming months.

Developments at IFRS Foundation & IASB

IFRS Foundation Publishes Revised Due Process Handbook

The Trustees of the IFRS Foundation have published the revised Due Process Handbook, which sets out the procedural requirements of the International Accounting Standards Board (IASB) and the IFRS Interpretations Committee and related matters. The main changes are:

- clarifying the authority of agenda decisions published by the Interpretations Committee and their role in supporting consistent application of IFRS Standards, and enhancing the related due process by formally involving the IASB in their finalisation; and
- reflecting recent developments in the IASB's effect analysis process—assessing the likely effects of a new or amended IFRS Standard—that emphasise the role of such analyses in standard-setting and make it clear that such analyses take place at all stages of standard-setting.

In addition, the amendments enhance and streamline the consultation requirements for adding major projects to the IASB's work plan; update and enhance the minimum amount of review required for educational material produced by the IFRS Foundation; and clarify the DPOC's role in overseeing the IFRS Taxonomy due process.

What is the due process and why does it matter?

The IFRS Foundation was established to develop a set of high-quality, understandable, enforceable and globally accepted accounting standards—IFRS Standards—and to promote and facilitate their adoption. These Standards bring transparency, efficiency and accountability to the world's financial markets. To ensure that the Standards are of the highest possible quality, there is inclusive and transparent due process which enable stakeholders all over the world to scrutinise and contribute to ensure that the best thinking globally leads to the development of the accounting requirements. In this regard, an Article by Alan Beller, who chairs the IFRS Foundation Trustees' has been published to explain what the due process is and how it is overseen.

Contributed by Accounting Standards Board of ICAI. Comments can be sent to asb@icai.in. Refer https://www.icai.org/post.html?post_id=14058 for Ind AS –IFRS Standards Convergence Status, https://www.icai.org/post.html?post_id=15770 for Ind AS Implementation Guidance and https://www.icai.org/post.html?post_id=16438 for COVID-19 Accounting Guidance of ICAI

The Article can be assessed at https://www.ifrs.org/news-and-events/2020/08/what-is-the-due-process-and-why-does-it-matter/

Review of the IFRS for SMEs Standard—what does alignment mean?

The IASB has published a Request for Information as part of the second comprehensive review of the IFRS for SMEs Standard. The objective of the Request for Information is to seek views on whether and how aligning the IFRS for SMEs Standard with the full IFRS Standards could better serve users of financial statements prepared applying the IFRS for SMEs Standard without causing undue cost and effort for SMEs. In this regard, an Article by Darrel Scott, member of the Board, has been published which provides additional context for discussions on alignment with full IFRS Standards and shares his views.

Four new members appointed to the IFRS Interpretations Committee

The IFRS Interpretations Committee (Committee) works with the IASB in supporting the consistent application of IFRS Standards. In particular, the Committee responds to application questions from stakeholders by publishing agenda decisions to explain how IFRS Standards apply to particular fact patterns. If required to do so, the Committee also develops interpretations (called IFRIC Interpretations) or proposes that the IASB amends the IFRS Standards. The Trustees of the IFRS Foundation, who are responsible for the oversight and governance of the IASB have appointed Renata Bandeira, Sophie Massol, Jon Nelson and Donné Sephton to the IFRS Interpretations Committee from 1 July 2020 and the appointments are for a three-year period.

IASB issues IFRS Taxonomy Update for Covid-19-Related Rent Concessions

The IASB has issued an update to the IFRS Taxonomy 2020 for Covid-19-Related Rent Concessions, which amended IFRS 16 Leases. The IFRS Taxonomy Update includes IFRS Taxonomy elements to reflect the new disclosure requirements introduced by the amendment, issued by the IASB in May 2020.

July 2020 ITCG meeting summary available

The IFRS Taxonomy Consultative Group (ITCG) at its meeting held on 28 July 2020 discussed:

- IFRS Taxonomy content—tagging comparative information reported in accordance with a superseded IFRS Standard; and
- technical updates to the IFRS Taxonomy.

The summary of these discussions can be assessed at https://cdn.ifrs.org/-/media/feature/meetings/2020/july/itcg/july-itcg-meeting-notes.pdf?la=en

Sebi Floats Consultation Paper on Format for Business Responsibility and Sustainability Reporting

Regulator Sebi on recently released for public consultation a new format for business responsibility and sustainability reporting, covering environmental, social and governance perspectives, which shall be applicable to the top 1,000 listed entities by market capitalisation. The disclosures recommended in the business responsibility and sustainability report are intended to enable companies to engage more meaningfully with their stakeholders, and encourage them to go beyond regulatory financial compliance and report on their social and environmental impacts, Sebi noted in its consultation paper. Sebi further said listed entities may adopt the new format on a voluntary basis for the financial year 2020-21. For entities that choose not to adopt the new format, the existing format will apply. However, from the financial year 2021-22, the new format would be mandatory. In a 77-page consultation paper, Sebi has given a detailed format of the proposed BRSR. The regulator has listed nine principles in this section, including integrity, sustainability, human rights and environmental concerns.

(Source: *https://economictimes.indiatimes.com*)

Nearly 16,500 Companies Registered in July: Corporate Affairs Ministry

Registration of new companies in India increased to a record breaking high of seven years in July, highlighting the renewed interest of entrepreneurs to set up new business ventures. A total of 16,487 companies, including 970 one person companies (OPCs), were registered under the Companies Act, 2013 during July at an authorised capital of Rs 2293.46 crore, data from the corporate affairs ministry revealed. Maharashtra had a maximum number of company registrations (2,687), followed by Uttar Pradesh (1,806) and Delhi (1,757). 'Business services' topped the economic activity-wise classification (4,845) of the newly-registered companies. This is the highest since January 2013 -- the maximum available historical data -- when 5,508 companies were registered, Mint reported. As on July 31, there are 12,32,767 active companies, including 1,80,551 companies, which were incorporated within the preceding 18 months.

(Source: *https://www.moneycontrol.com*)

RBI Issues Draft Rules for Payment Sector Regulations

A Self-Regulatory Organisations (SRO) shall be set-up as a not-for-profit company under the Companies Act, RBI said, adding that it will also have to be professionally managed with clear bye-laws. The Reserve Bank of India (RBI) recently issued draft guidelines for establishing SROs, which will be responsible for framing and enforcing rules for payment systems operators. SROs, a non-governmental organisations, sets and enforces rules and standards relating to the conduct of entities in the industry. These will collaborate with all stakeholders in framing rules and regulations, and their self-regulatory processes will be administered through impartial mechanisms, Reserve Bank of India (RBI) said.The organisation shall serve as a two-way communication channel between its members and RBI. Apart from establishing minimum benchmarks, standards and helping instil professional and healthy market behaviour among its members, RBI said.

One of the important tasks of the organisation will be to establish a uniform grievance redressal and dispute management framework for its members. An SRO shall be set-up as a not-for-profit company under the Companies Act, RBI said, adding that it will also have to be professionally managed with clear bye-laws.

(Source: *https://www.hindustantimes.com*)

GST alert! New Functionality to Know ITC Eligibility in Annual Return Enabled

GST Network recently said it has enabled a functionality to help GST payers know their input tax credit (ITC) eligibility in their Annual Return, making it more convenient to file GSTR-9. So far, the GST system used to compute eligible ITC based on suppliers' sales return GSTR-1, but the break-up at the invoice level was not provided. Taxpayers used to raise a query on the computation of ITC. In a statement, Goods and Services Tax Network (GSTN), which handles the technology backbone of GST, said that to bring the entire computation to taxpayers by way of showing each invoice filed by the suppliers and showing eligibility against each, this functionality has been developed. For this functionality, a new tab 'Download Table-8A details' has been introduced on the GSTR-9 dashboard of the GST portal from Financial Year 2018-19 onwards, it added.

(Source: *https://www.financialexpress.com/*)

IASB issues IFRS Taxonomy Update for Covid-19-Related Rent Concessions

The International Accounting Standards Board (Board) recently issued an update to the IFRS Taxonomy 2020 for *Covid-19-Related Rent Concessions*, which amended IFRS 16 *Leases*. The IFRS Taxonomy Update includes IFRS Taxonomy elements to reflect the new disclosure requirements introduced by the amendment, issued by the Board in May 2020. For the IFRS Taxonomy Update and the IFRS Taxonomy files in XBRL, please go to published documents tab of the project page; for the IFRS Taxonomy Illustrated and Versioning Information, please go to supporting material tab.

(Source: https://www.ifrs.org/)

IFAC Releases Latest Installment of Exploring the IESBA Code

The International Federation of Accountants (IFAC) recently released the latest in its *Exploring the IESBA Code* educational series: Installment 8: *Responding to Non-compliance with Laws and Regulations (NOCLAR) [for PAIBs]*. The publication is part of a 12-month short series to help promote awareness of the provisions in the *International Code of Ethics for Professional Accountants (including International Independence Standards)* (the Code). Each installment focuses on a specific aspect of the Code using real-world situations in a manner that is relatable and practical. Previous installments highlighted the Code's five fundamental principles of ethics and conceptual framework, as well as more topic-specific requirements, such as independence and conflicts of interest. The *Exploring the IESBA Code* is published by IFAC and does not form part of the Code. It is non-authoritative and is not a substitute for reading the Code.

(Source: https://www.ifac.org/)

FASB Launches Post-Implementation Review Web Portal

The Financial Accounting Standards Board (FASB) announced the launch of its new Post-Implementation Review (PIR) web portal. The portal is available at www.FASB.org/PIR. The PIR process is an important quality control mechanism built into FASB's standard-setting process that begins after a standard is issued. During the process, the FASB solicits and considers diverse stakeholder input and other research to evaluate whether a standard is achieving its objective to provide financial statement users with relevant information in ways that justify the cost of providing it. This will allow the FASB to identify and address any areas for improvement arising from either adoption or implementation. The PIR web portal links visitors to current projects and provides an overview of the actions taken to date as well as the plan for future activities. This overview will evolve as the FASB learns more while it conducts its reviews and completes its activities. Depending on the outcome of the evaluation, the FASB may decide to take action to address one or more of the following:

- Areas of the standard that are not understandable
- Unintended consequences that were not foreseen during development of the standard, and/or
- Unexpected costs (one time or ongoing) based on the actual results observed as compared with the expectations documented in the Board's basis for conclusions.

As with all standard-setting activities, actions resulting from a PIR are subject to the Board's normal due process. The PIR portal and a FASB in Focus overview of the process are available at www.fasb.org.

(Source: https://www.fasb.org)

Review of the IFRS for SMEs Standard—what does alignment mean?

The International Accounting Standards Board (Board) published a Request for Information as part of the second comprehensive review of the *IFRS for SMEs* Standard. The objective of the Request for Information is to seek views on whether and how aligning the *IFRS for SMEs* Standard with the full IFRS Standards could better serve users of financial statements prepared applying the *IFRS for SMEs* Standard without causing undue cost and effort for SMEs.

Stakeholders can provide comments on the Request for Information in three different ways. The deadline for comments is 27 October 2020. *(Source: https://www.ifrs.org)*

IFAC Perspective on Proposed Rule Governing ESG Information in US Pension Plan Investment Decisions

A recently proposed rule in the United States addresses the appropriateness of ESG considerations as Financial Factors in Selecting Plan Investments (RIN 1210-AB95). The proposed rule highlights the increasing focus by asset owners and investors on the relevance of "non-financial" information—measures related to value creation, sustainability or environmental, social, and governance factors ("ESG factors"). IFAC continues to speak out on behalf of the global accounting profession on the topic of non-financial reporting and believes that corporate reporting should capture all relevant information about organisations. Investors and other stakeholders are demanding more and higher-quality information about company performance, risks, opportunities, and long-term prospects than the conventional financial reporting process makes available. While the importance of maximising the financial security of pension plan beneficiaries is clear, the rules governing asset allocation and investment decisions should not create ambiguity that could, for example, discourage fund managers from appropriately considering and disclosing ESG factors as a component of how they analyse company performance, nor in any way "chill prospects" for integrating the value of information that ESG factors can bring into portfolio or investment decisions related to ERISA plans.

IFAC believes that investors and markets benefit when relevant, reliable, and comparable ESG factors are included in corporate reporting. Further, reporting this information can incentivize companies to improve their focus and organisational decision-making on creating long-term value for investors, resulting in better long-term returns. This is explored in greater depth in IFAC's Point of View on Enhancing Corporate Reporting. As the global voice of the accounting profession, IFAC remains committed to advocating for a comprehensive approach to corporate reporting through its contributions to global consultations and engagements.

(Source: https://www.ifac.org)

FASB Improves Convertible Instruments And Contracts In An Entity's Own Equity

The Financial Accounting Standards Board (FASB) recently issued a new Accounting Standards Update (ASU) expected to improve financial reporting associated with accounting for convertible instruments and contracts in an entity's own equity. The ASU simplifies accounting for convertible instruments by removing major separation models required under current Generally Accepted Accounting Principles (GAAP). Consequently, more convertible debt instruments will be reported as a single liability instrument and more convertible preferred stock as a single equity instrument with no separate accounting for embedded conversion features. The ASU removes certain settlement conditions that are required for equity contracts to qualify for the derivative scope exception, which will permit more equity contracts to qualify for it. The ASU also simplifies the diluted earnings per share (EPS) calculation in certain areas. The ASU is effective for public business entities that meet the definition of a Securities and Exchange Commission (SEC) filer, excluding entities eligible to be smaller reporting companies as defined by the SEC, for fiscal years beginning after December 15, 2021, including interim periods within those fiscal years. For all other entities, the standard will be effective for fiscal years beginning after December 15, 2023, including interim periods within those fiscal years. Early adoption will be permitted. In its original July 2019 Exposure Draft, the FASB also proposed simplifying the accounting for equity contracts by reducing form-over-substance-based accounting conclusions that are driven by remote contingent events in the assessment of the derivatives scope exception. However, based on mixed feedback from stakeholders during the public comment period, the FASB decided not to include those proposed changes in the ASU. Consequently, the FASB plans to continue to explore improvements on this aspect of the guidance in a separate Phase 2 project. The ASU, a FASB in Focus overview, and a video about the standard are available at www.fasb.org.

(Source: https://www.ifac.org)

ACCOUNTANT'S BROWSER

"PROFESSIONAL NEWS & VIEWS PUBLISHED ELSEWHERE"

Index of some useful articles taken from Periodicals for the reference of Faculty/Students & Members of the Institute.

1. Accountancy

Trainee auditors' perception of ethical climate and workplace bullying in Chinese Audit firms by Anthony A. Liu. *Asian Journal of Accounting Research,* vol.5/1, 2020, pp.63-79.

Understanding the theoretical underpinnings of corporate fraud by Naman Desai. *Vikalpa,* Jan.-March 2020. Pp. 25-31.

2. Auditing

Trainee auditors' perception of ethical climate and workplace bullying in Chinese Audit firms by Anthony A. Liu. *Asian Journal of Accounting Research,* vol.5/1, 2020, pp.63-79.

Understanding the theoretical underpinnings of corporate fraud by Naman Desai. *Vikalpa,* Jan.-March 2020. Pp. 25-31.

3. Economics

Corona virus and the Insurance Industry: Rising to the occasion by R. Venugopal. *The Insurance Times,* May 2020, pp. 28-30.

Development finance, blended finance and insurance by Hongjoo Jung. *International Trade Politics and Development*, vol.4/1, 2020, pp.47-60.

Public sector banks deserve respect by Abhishek Singh. *Banking finance*, April 2020, pp.41-46

4. Management

Corporate governance and business innovation among listed Moroccan companies by Zoubida Samlal. *Journal of Economics finance & Administrative Science.* Vol.25-49, 2020, pp.61-72.

Model for assessing the quality of Marketing-Management education by Jaime Rivera and victor Alarcon. *Journal of Economics finance & Administrative Science.* Vol.25-49, 2020, pp.5-25.

Working capital challenges CA firms in covid times by Rajaran Ajagaonkar, *BCAJ*, July 2020.

5. Taxation and Finance

All about interest in GST – Past, present and Future outlook by Shubham Khaitan. *Goods & Services Tax Cases,* Vol. 78, 2020, pp.109-114.

Understanding the relaxation in availing of input tax credit due to covid- 19 outbreak by Mohammad Salim. *Goods & Services Tax Cases,* Vol. 78, 2020, pp. 71-75.

Full Texts of the above articles are available with the Central Council library, ICAI, which can be referred on all working days. For further inquiries please contact on 011-30110419 and 011-30110420 or by e-mail at library@icai.in.

Legal Decisions

Income Tax

LD/69/27, [Delhi High Court: W.P. (C) 3258/2020], Savita Kapila Vs. The Asst. Commissioner of Income Tax, 16/07/ 2020

Reopening notice and assessment proceedings arising therefrom on deceased assessee, quashed by the High Court. Notice under section 148 was unserved on the deceased assessee. AO shifted proceedings on the legal heir of the assessee and passed order in the name of the heir. As per High Court, there is no statutory obligation on the legal representative to intimate the death of the assessee to the Revenue. Requirement of issuing notice to a correct person and not to a dead person is not merely a procedural requirement but is a condition precedent to the impugned notice being valid in law. AO's assumption of jurisdiction on the legal representative barred by limitation as no notice under section 148 was issued to her during the period of limitation under section 149(1)(a). Section 292B also held to be inapplicable to legal representatives in this matter.

LD/69/28, [ITAT Mumbai: 3497/Mum/2018], Yes Bank Limited Vs. The Dy. Commissioner of Income Tax, 14/07/2020

Issue of shares to Qualified Institutional Buyers (QIB) constitutes 'offer made to public' for the purpose of Section 35D and thus a deduction of expenses incurred in connection with such issue ought to be allowed. As per the SEBI listing agreement [mandated in terms of Securities Contracts (Regulation) Rules, 1957,(SCRR)], Mutual Funds/Financial Institutions which are QIBs are classified under "public shareholding", also notes that Regulation 91B & Rule 19(2)/19A of SCRR which provide that when a company has a public shareholding lower than the requirements specified, then the company may issue IPP to QIBs and raise the public shareholding to the required levels. ITAT thus ruled in favour of assessee.

LD/69/29, [ITAT Kolkata: 739/Kol/2018], The Dy. Commissioner of Income Tax Vs. M/s A.P. Fashion P. Ltd., 10/07/2020

Allocation of director's remuneration made by assessee between its eligible and non-eligible units under section 80IA(7), held to be correct by the ITAT. Assessee had used turnover criteria whereas AO had used profit ratio criteria for such allocation. ITAT noted that Revenue did not dispute that it is not the profit but turnover criteria which is more suitable involving such a factual backdrop of eligible and non-eligible units since the former may or may not involve deduction in earlier years under the provisions of the Act whereas the turnover benchmark is always applicable even it involves losses as well. Additionally ITAT also deleted the disallowance made on account of sampling costs, PF/ESIC contributions, etc.

LD/69/30, [Madras High Court: Tax Case Appeal no 509 /2018], The Commissioner of Income Tax Vs. Tamil Nadu Industrial Development Corporation Ltd., 07/07/2020,

Madras High Court reverses ITAT order & rules in favour of Revenue, upholds invocation of Rule 8D(2)(iii) for indirect expenses in respect to exempt 'dividend' income arising to assessee co. from strategic investments during AY 2011-12, holds that "it cannot be stated to be the case where there is a failure to follow the procedure under section 14A(2).." of recording mandatory satisfaction by AO. High Court notes that the AO had pointed out that while computing Section 14A disallowance, assessee had "ignored sub rule iii of the said rule". Further, High Court observes that "It appears that this was pointed out to the assessee. However, the assessee...did not address the issue of computation of the third limb of Rule 8D", while filing its response to AO. High Court rules that "The finding recorded by the AO is sufficient and a clear indication of his compliance of the procedure under section 14A(2). The AO

Contributed by CA. Sahil Garud, GST & Indirect Taxes Committee (CA. Mandar Telang), Disciplinary Directorate and ICAI's Editorial Board Secretariat. For details please visit Editorial Page webpage at https://www.icai.org/post/editorial-board. Readers are invited to send their comments on the selection of cases and their utility at eboard@icai.in. For full judgement write to eboard@icai.in.

at the first instance has considered whether the claim of the assessee is correct and thereafter only has proceeded to determine the amount by adopting the procedure under Rule 8D". Lastly, High Court holds that the ITAT committed an error in not only allowing the appeal of the assessee, but also directed the AO to accept the figure mentioned by the assessee. Relies on Bombay High Court decision in Godrej & Boyce Manufacturing Co. Ltd., remits matter back to AO to compute Section 14A disallowance in accordance with law.

LD/69/31, [ITAT Delhi: ITA No.264/Del/2009], Kay Jay Auto Limited Vs. The Asst. Commissioner of Income Tax, 30/06/2020

Assesse an auto parts manufacturer had claimed depreciation of farmhouse for AY 05-06 by claiming that farmhouse was being used for business meetings with buyers, staff conferences etc., and thus used for business purposes. Revenue argued that use of farmhouse on few occasions for business purposes, would not convert the character of the same into office. Delhi ITAT allowed depreciation claim and held that an asset cannot be segregated and depreciation be disallowed once an asset becomes a part of the block of assets. As per ITAT, user test of an asset is to be satisfied at the time the purchased machinery becomes part of the block of assets for the first time. Depreciation on farmhouse was allowed in past years as well from 2001-02 and therefore the same cannot be disallowed in the subject year as per ITAT.

Transfer Pricing

LD/69/32, [ITAT Delhi: ITA No.7167/Del./2019], DE Diamond Electric India Pvt. Ltd. Vs. The Asst. Commissioner of Income Tax, 23/07/2020

AO had disallowed ₹ 3.66 Crores of royalty paid by assessee to its AE under section 40A(2)(b) noting that it was excessive royalty payment. AO had noted that agreement between parties was not registered, which was rejected by ITAT observing that unregistered agreement cannot be a ground for invoking provisions of Section 40A(2)(b). AO only compared royalty expenses of preceding AY and made no efforts in identifying FMV of such expenses during relevant period. ITAT rejected assessee's plea that similar royalty expenses were subjected to TP proceedings in AY 2013-14 and was accepted by Revenue and so no disallowance should be made in this subject AY for similar royalty expenses.

LD/69/33, [ITAT Mumbai: 1110/MUM/2017], Regus Business Centre Pvt. Ltd. Vs. The Income Tax Officer, 16/07/2020

Loans granted by assessee to its domestic associated enterprises were deemed to be international transactions and section 92B(2) was invoked by the Revenue for AY 2012-13. ITAT rejected such invocation of 92B(2) by observing that for subsection (2) to get attracted, the primary condition would be that at least one of the entities with which the assessee has entered into transaction should be non-resident. ITAT observed that the authorities below in the present case have erred in invoking deeming fiction solely on the premise that since shareholders of overseas holding company are holding shares of the assessee and AEs, 'in substance' the transaction between the assessee and the domestic group entities would fall within the ambit of "deemed international transaction. As per ITAT, except for common shareholding, no material had been relied on by Revenue to substantiate that the transaction between the entities was influenced by the overseas holding company.

GST

LD/69/34, [2020-TIOL-1274-HC-AHM-GST] Material Recycling Association of India Vs. UOI, 24/07/2020

Section 13(8)(b) r.w. Section 2(13) of the IGST Act, 2017 which provides for place of supply of services in case of intermediary services to be the location of the service provider and thereby resulting into the levy of CGST & SGST in cases where the recipient of services is located outside India, cannot be said to be ultra vires or unconstitutional in any manner.

LD/69/35, [2020-TIOL-1273-HC-AHM-GST], VKC Footsteps India Pvt Ltd. Vs. Union of India and 2 Other(s), 24/07/2020

Hon'ble Court read down formula prescribed in Rule 89(5) of the CGST Rules, to the extent, it restricted the refund of input tax credit only to "inputs" and not in respect of "input services" as contrary to section 54(3) of the CGST Act and directed the authorities to allow refund also in respect of input services.

Service Tax

LD/69/36, State Bank of Bikaner Jaipur Vs. CCE&ST, [Final Order No.50737/2020, 05/08/2020]

The Indian Bank cannot be held as the recipient of services in respect of charges deducted by the foreign banks from the inward remittances made from abroad i.e. importers bank, on account of the exporter in India agreeing to bear the same and consequently, they are not liable to pay service tax under reverse charge mechanism.

LD/69/37, [2020-TIOL-1277-HC-MAD-ST], M/s Navin Housing and Properties Pvt. Ltd Vs. The Designated Committee Under Sabka Vishwas Legacy Disputes Resolution Scheme 2019, 27/07/2020

When two SCNs relate to the identical transactions and in respect of the same periods and demands, the dispute raised under one SCN can be settled by utilising a deposit made under a such other SCN.

LD/69/38, [Gujarat High Court: Civil Application 12626 of 2018], Linde Engineering India Private Limited Vs. The Union of India, 16/07/2020

Assessee rendered consulting engineering services' to Parent Company Linde AG. Revenue rejecting benefit of 'export of service' and raised a demand of 62 Crores on the assessee against such service. High Court held that Revenue did not have any jurisdiction to invoke provisions of Finance Act, 1994 r/w Service Tax Rules, 1994 to bring services rendered by assessee to its Parent Company within the purview of levy of service tax. High Court analysed Rule 6A of the Service Tax Rules, 1994, r/w Section 65B(44), and observed that the Revenue assumed the jurisdiction on mere misinterpretation of the aforesaid provisions, as by no stretch of imagination, it can be said that the rendering of services by the Assessee to its Parent Company located outside India was service rendered to its other establishment so as to deem it as a distinct person.

Excise

LD/69/39, [Gauhati High Court: WP(C) 2844/2020], SC Johnson products Private Limited Vs. The Union of India & Ors., 23/07/2020

Assessee had filed a writ petition stating that consideration was required to be given by the Revenue to exemption/refund applications of assessee since it is a pending 'refund application', which as per Supreme Court's order is required to be decided by authorities as per terms of subsequent notification/industrial policies, which were assailed before respective High Court. High court allowed the petition and also directed the Revenue to not to encash the bank guarantee given by assessee towards excise duty payable of 100%, without arriving at a decision on the said applications.

Customs

LD/69/40, [Madras High Court: W.P.No.21207 of 2018], Ruchi Soya Industries Limited Vs. The Union of India, 14/07/2020

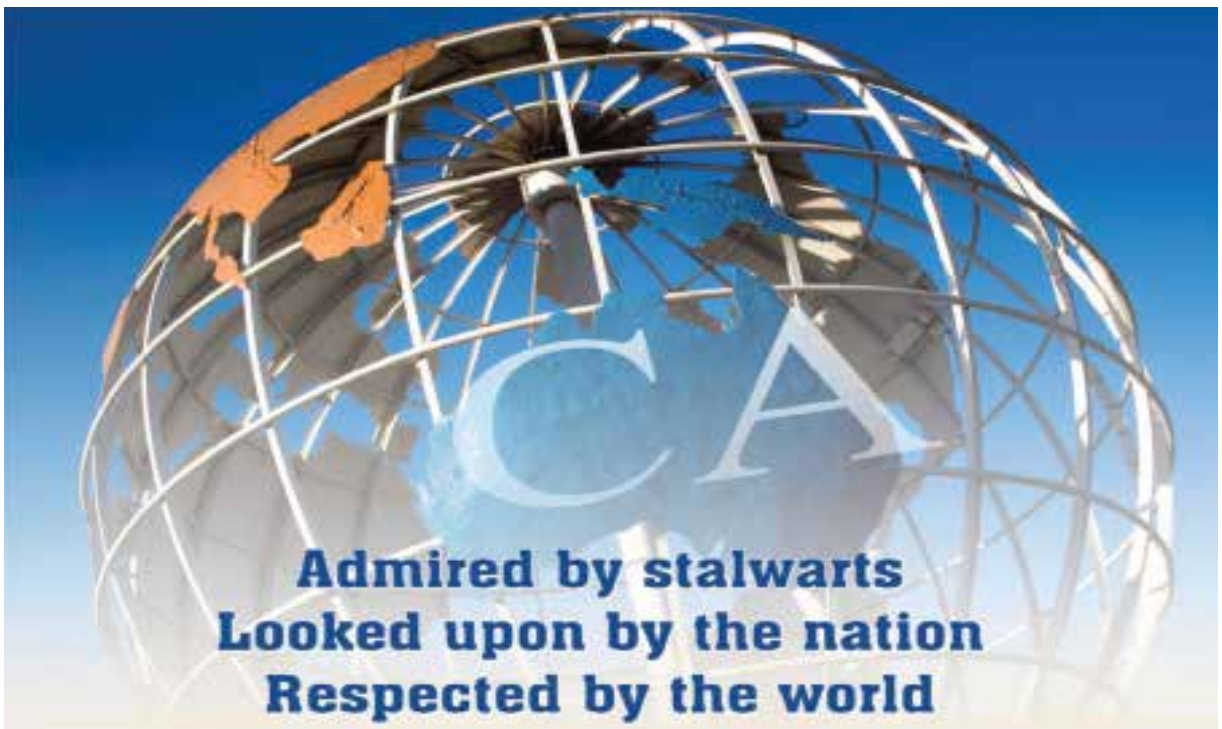
Assessee is an importer of Crude Vegetable Oils. Refund of enhanced amount of duty including the differential amount of IGST (paid under protest), allowed by Madras High Court. IGST was incorrectly realized by Customs Department relying upon Notification issued by Customs Department dated 01/03/2018. Assessee argued that said notification was updated on 02/03/2018 and came to be published in the Official Gazette on 06/03/2018, hence, same cannot have any application on transaction of the petitioner carried out prior to the said date. Madras High Court relied on Division Bench ratio in assessee's own case and noted absence of any Revenue's appeal before Supreme Court in this matter.

Disciplinary Case

Failure of Auditor to report the non-compliance* of disclosure requirements *of Schedule VI of* Companies Act, 1956 and *AS-18 by the Company. Held, Respondent-Auditor guilty of professional misconduct within the meaning of Clauses(5) (7) and (8) of the Part I of Second Schedule to the Chartered Accountants Act, 1949

Held:

In the instant case, the Committee noted that disclosures as required by AS-18 were not given by the Company. The Respondent being the statutory auditor of the Company did not point out the same in his audit report. The Respondent on the one side admitted the contravention of Section 227 of the Companies Act, 1956 before the Regional Director, Western Region, Ministry of Corporate Affairs, Mumbai but on the other hand had pleaded not guilty before the Committee by stating that he had given partial disclosure with respect to items under question. The Respondent appears to have adopted two different approaches before the MCA and before the Committee for the same set of allegations. The Respondent has made a meek attempt to defend his mistakes rather than accepting them on record. The Committee noted that the Respondent has failed to discharge his duties in a professional manner and committed mistakes which were quite apparent as per records. In view of the above, the Committee is of the view that the Respondent failed to report the non-compliance with the requirements of Schedule VI of AS-18 by the Company and accordingly held the Respondent guilty of professional misconduct falling within the meaning of Clauses (5), (7) & (8) of Part I of Second Schedule to the Chartered Accountants Act, 1949.



Circulars/Notifications

Given below are summarised important Circulars and Notifications issued by the CBDT, CBIC-GST, MCA, SEBI and FEMA since the publication of the last issue of the journal, for information and use of members. Readers are requested to use the citation/website or weblink to access the full text of desired circular/notification. Suggestions on this column can be submitted at eboard@icai.in

I. NOTIFICATIONS

1. Notification u/s 138 (1)(ii) under PM-KISAN Yojana – Notification No. 51/2020, dated 21-07-2020

In exercise of powers conferred u/s 138(1)(a), and in partial modification of CBDT's earlier Order dated 27.02.2019, CBDT has directed that PDGIT(Systems), New Delhi shall be the specified authority for furnishing information to specified authorities therein.

Refer:https://www.incometaxindia.gov.in/communications/notification/notification_no_51_2020.pdf

2. Notification u/s 138 in respect of Intelligence Bureau, Cabinet Secretariat, National Investigation Agency and Narcotics Control Bureau – Notification No. 52/2020, dated 21-07-2020

In exercise of powers conferred u/s 138(1)(a), CBDT has directed that PDGIT (Systems), New Delhi shall be the specified income-tax authority for furnishing and receiving of information to/from the specified agencies/bodies through NATGRID Platform.

Refer:https://www.incometaxindia.gov.in/communications / notification/notification_no_52_2020.pdf

3. Amendment of Rule 31AA and Form No. 27EQ to incorporate amendments of the Finance Act, 2020 – Notification No. 54/2020, dated 24-07-2020

Vide this notification, CBDT has amended Rule 31AA {Statement of collection of tax under proviso to section 206C(3)} of the Income-tax Rules, 1962 as well as related Form No. 27EQ {Quarterly statement of collection of tax at source u/s 206C} as well as other related rules 37BC, 37CA and 37-I.

This Notification shall come into force from 01.10.2020.

Refer:https://www.incometaxindia.gov.in/communications / notification/notification_54_2020.pdf

4. Substitution of Rule 12CB and Form No. 64C and 64D vide the Income-tax (18th Amendment) Rules, 2020 – Notification No. 55/2020, dated 28-07-2020

Vide this notification, CBDT has substituted Rule 12CB {Statement u/s 115UB(7)} of the Income-tax Rules, 1962 as well as related Form No. 64C {Statement of income distributed by an investment fund to be provided to the unit holder u/s 115UB} and Form No. 64D (Statement of income paid or credited by investment fund to be furnished u/s 115UB).

Refer:https://www.incometaxindia.gov.in/communications /notification/notification_55_2020.pdf

5. Extension of time for filing original as well as revised ITR Forms for AY 2019-20 to 30.09.2020 – Notification No. 56/2020, dated 29-07-2020

Vide this notification, CBDT has extended the time for filing of original as well as revised income-tax returns for the FY 2018-19 (AY 2019-20) to 30.09.2020.

Refer:https://www.incometaxindia.gov.in/communications /notification/notification_56_2020.pdf

6. Insertion of new rule 114AAB specifying classes of person to whom provisions of section 139A shall not apply – Notification No. 58/2020, dated 10-08-2020

Vide this notification, Rule 37BC has been amended to provide that the provisions of section 206AA shall not apply in respect of payments made to a person being a non-resident, not being a company, or a foreign company if the provisions of section 139A do not apply to such person on account of rule 114AAB.

Refer:https://www.incometaxindia.gov.in/communications /notification/notification_58_2020.pdf

7. E-assessment Scheme, 2019 modified - Notification No. 60/2020, dated 13-08-2020

E-assessment Scheme, 2019 notified vide Notification No. 61/2019, dated 12.09.2019 has been modified vide this notification. Nomenclature

(Matter on Direct and Indirect Taxes, is contributed by Direct Taxes Committee and GST & Indirect Taxes Committee of ICAI respectively. FEMA updates by CA. Manoj Shah, CA Hinesh Doshi and CA. Sudha G. Bhushan)

of 'E-assessment' has been changed to 'Faceless Assessment'. Now, scope of the Scheme has been extended to include assessment u/s 144.

Refer:https://www.incometaxindia.gov.in/communications/notification/notification_60_2020.pdf

8. Directions issued u/s 143(3B) modified - Notification No. 61/2020, dated 13-08-2020

Directions issued by the Central Government for the purposes of giving effect to the 'E-assessment Scheme, 2019' vide Notification No 62/2019 dated 12.09.2019 have been modified vide this notification.

Refer:https://www.incometaxindia.gov.in/communications/notification/notification_61_2020.pdf

9. Income-tax Authorities specified to facilitate the conduct of Faceless Assessment proceedings - Notification No. 64&65/2020, dated 13-08-2020

The CBDT has directed that the Income-tex Authorities of the National & Regional e-Assessment Centre as specified having its headquarters at the specified place, shall exercise the powers and functions of AO concurrently, to facilitate the conduct of Faceless Assessment proceedings in respect of territorial areas and classes of persons and classes of cases as mentioned in the notification No. 50/2014 dated 22.10.2014.

Refer:https://www.incometaxindia.gov.in/communications/notification/notification_64_2020.pdfandhttps://www.incometaxindia.gov.in/communications/notification/notification_65_2020.pdf

10. CBDT authorises various authorities of Regional e-Assessment Centre (Verification Unit) for specified functions - Notification No. 66/2020, dated 13-08-2020

Vide this Notification, CBDT has authorized various authorities (PCIT/ACIT/JCIT) of Regional e-Assessment Centre (Verification Unit) for functions as mentioned in this notification.

Refer:https://www.incometaxindia.gov.in/communications/notification/notification_66_2020.pdf

II. CIRCULARS

1. Clarification in relation to notification issued under clause (v) of proviso to section 194N prior to its amendment by the Finance Act, 2020 - Circular No. 14/2020, dated 20-07-2020

Vide this Circular, CBDT has clarified that the Noti-fication No. 68/2019 dated 18.09.2019, Notification No. 70/2019 dated 20.09.2019 & Notification No. 80/2019 dated 15.10.2019 providing exemptions shall be deemed to be issued under fourth proviso to Section 194N as amended by the Finance Act, 2020.

Refer:https://www.incometaxindia.gov.in/communications/circular/circular_14_2020.pdf

2. Notification of Sovereign Wealth Fund (SWF) under section 10(23FE) of the Income-tax Act, 1961 - Circular No. 15/2020, dated 22-07-2020

Vide this Circular, CBDT has specified that the SWF shall file application in the Form I as specified. The Form I shall be filed with the Member (Legislation), CBDT, during the FY 2020-21 and thereafter to the Member, CBDT having supervision and control over the work of Foreign Tax and Tax Research Division.

Refer: https://www.incometaxindia.gov.in/communications/circular/circular_15_2020.pdf

III. PRESS RELEASES/INSTRUCTIONS/OFFICE MEMORANDUM/ORDER

1. Order u/s 138(1)(a) for sharing of information between CBDT and FIU-IND for effective processing of Cash Transaction Reports – Order, dated 16-07-2020

In exercise of powers conferred u/s 138(1)(a), the CBDT has directed that in addition to the CBDT, the PDGIT (Systems), New Delhi shall also be the specified income-tax authority for furnishing/receiving information respecting assessees in relation to CTRs (Cash Transaction Reports) to Director, FIU-IND, who has been notified vide Notification No. 19/2013 dated 12.03.2013 as one of the authorities by the Central Government.

Refer:https://www.incometaxindia.gov.in/Lists/Latest%20News/Attachments/407/Order_under_section%20138_16_7_20.pdf

2. New Form 26AS is the Faceless hand-holding of the Taxpayers - Press Release, dated 18-07-2020

Vide this Press Release, it has been, *inter alia*, specified by the CBDT that earlier Form 26AS used to give information regarding tax deducted at source and tax collected at source relating to a PAN, besides certain additional information including details of other taxes paid, refunds and TDS defaults. But now, it will have SFTs to help the

taxpayers recall all their major financial transactions so that they have a ready reckoner to enable them while filing the ITR.

Refer:https://www.incometaxindia.gov.in/Lists/Press%20Releases/Attachments/844/Press-Release-New-Form-26AS-is-the-Faceless-hand-holding-of-the-Taxpayers-dated-18-07-2020.pdf

3. Memorandum of Understanding(MoU) between CBDT and Ministry of Micro, Small and Medium Enterprises, Government of India (MoMSME) signed – Press Release, dated 20-07-2020

The MoU will facilitate seamless sharing of certain ITR related information by the ITD to MoMSME. This data will enable MoMSME to check and classify enterprises in Micro, Small and Medium categories as per the criteria notified in the Notification No. S.O. 2119(E) dated 26.06.2020 of MoMSME.

Refer:https://www.incometaxindia.gov.in/Lists/Press%20Releases/Attachments/847/PressRelease_MoU_between_CBDT_and_MoMSME_20_7_20.pdf

4. Memorandum of Understanding(MoU) between CBDT and CBIC signed – Press Release, dated 21-07-2020

This MoU will facilitate the sharing of data and information between CBDT and CBIC on an automatic and regular basis. In addition to regular exchange of data, CBDT and CBIC will also exchange with each other, on request and spontaneous basis, any information available in their respective databases which may have utility for the other organization.

Refer:https://www.incometaxindia.gov.in/Lists/Press%20Releases/Attachments/848/PressRelease_MoU_between_CBDT_and_CBIC_21_7_20.pdf

5. CBDT releases Guidance on Mutual Agreement Procedure (MAP) – F.No. 500/09/2016-APA-I, dated 07-08-2020

The CBDT has issued this MAP guidance for the benefit of taxpayers, tax practitioners, tax authorities, and CAs of India and of treaty partners.

Refer:https://www.incometaxindia.gov.in/news/map_guidance_7_8_2020.pdf

GST

Revised Format/Schema for e-Invoice under GST

The Central Government vide Notification No. 60/2020- Central Tax dated 30th July, 2020 has substituted the **"FORM GST INV-01"** with **new "FORM GST INV – 1"** & vide Notification No. 61/2020- Central Tax dated 30th July, 2020 and made it applicable for registered persons having aggregate turnover above 500 crore rupees (with enhanced aggregate turnover) in a financial year w.e.f 1st Oct, 2020. Further **SEZ units have been excluded from the requirement of issuance of E-invoice.**

Earlier it was made applicable to the registered persons whose aggregate turnover in a financial year exceeds 100 crore rupees.

CUSTOM

2nd phase of All India roll-out of Faceless Assessment

The CBIC vide Circular No. 34/2020-Customs dated 30th July, 2020 has decided to begin the 2nd phase of All India roll-out of Faceless Assessment w.e.f. 03.08.2020 by including Delhi and Mumbai Customs Zones and extending the scope of Faceless Assessment at Chennai and Bangalore Customs Zones. Board has reviewed the 1st phase of Faceless Assessment at Bengaluru and Chennai and resolved few technical and administrative issues that arose. Board also noted that on expected lines the Faceless Assessment ushered in a smooth and faster clearance process with uniformity in assessment.

Further, the Central Government vide Notification No.63/2020-Customs (N.T.) dated 30.07.2020 has amended Notification No.92/2017-Customs (NT), dated 28.09.2017 to specify the jurisdiction of Commissioner (Appeals) to assessment orders passed by Faceless Assessment Groups.

Mandatory Testing and Certification of Telecommunications Equipment (MTCTE) - Reg.

CBIC vide Instruction No. 15/2020-Customs dated 24th July, 2020 referred to the Notification No. TEC/01/2017-TC dated 23.06.2020 issued by the DDG (TC), Ministry of Communications, Telecommunication Engineering Centre, Department of Telecommunication which provides that testing and certification for telecommunications equipment under phase-II of Mandatory Testing and Certification of Telecommunications Equipment (MTCTE) regime

as provisioned in India Telegraph (Amendment) Rules 2017, shall be mandatory w.e.f. 1st Oct 2020:

i. Transmission Terminal Equipment (SDH Equipment, Multiplexing Equipment).

ii. PON family of Broadband Equipment (PON ONT, PON ONU and PON OLT)

iii. Feedback Device5

Constitution of Technical Advisory Committee (TAC) by NFRA

The National Financial Reporting Authority (NFRA) has constituted a Technical Advisory Committee (TAC) to aid and advise the executive body of the NFRA on issues relating to drafts of Accounting Standards and Auditing Standards.

The TAC comprises of seven members, including the Chairman.

Refer: https://nfra.gov.in/sites/default/files/TAC.pdf

Amendment of item no.(vi) of Schedule VII of the Companies Act,2013

The Ministry of Corporate Affairs has issued a notification dated 23rd July, 2020 wherein it has amended Schedule VII item (vi) where after the words "war widows and their dependents", the words "Central Armed Police Forces (CAPF) and Central Para Military Forces (CPMF) veterans, and their dependents including widows;" shall be inserted.

Refer:http://www.mca.gov.in/Ministry/pdf/NotificationCompAct_10072020.pdf

Companies (Indian Accounting Standards) Amendment Rules, 2020

The Ministry of Corporate Affairs on 24th July, 2020, notified the Companies (Indian Accounting Standards) Amendment Rules, 2020. The Rules seek to amend the Companies (Indian Accounting Standards) Rules, 2015.

The Amendments have been made to the following Ind AS notified so far:

- Ind AS 1 related to Presentation of Financial Statements;
- Ind AS 103 related to Business Combinations;
- Ind AS 107 related to Financial Instruments i.e. Disclosures;
- Ind AS 109 related to Financial Instruments;
- Ind AS 116 related to Leases;
- Ind AS 8 related to Operating Segments;
- Ind AS 10 related to Events after the Reporting Period;
- Ind AS 34 related to Interim Financial Reporting and
- Ind AS 37 related to Provisions, Contingent Liabilities, and Contingent Assets

Refer:http://www.mca.gov.in/Ministry/pdf/Rule_24072020.pdf

Clarification on dispatch of notice under section 62(2) Companies Act, 2013 by listed companies for rights issues opening upto 31st December, 2020

The Ministry of Corporate Affairs vide its circular dated 3rd August, 2020 has clarified that in case of listed companies inability to dispatch the relevant notice to shareholders through registered post or speed post or courier would not be viewed as violation of section 62 (2) of the Act for right issue opening up to 31st December, 2020.

Refer:http://www.mca.gov.in/Ministry/pdf/GeneralCircularNo.25_03082020.pdf

Relaxations relating to procedural matters – Issues and Listing by the Securities and Exchange Board of India

The Securities and Exchange Board of India (SEBI) vide its circular dated May 06, 2020 granted relaxations in procedural matters relating to issues and listings under the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018. In the wake of global pandemic COVID-19, SEBI has issued these relaxations for all the openings happening till July 31, 2020. Further the validity of relaxations, as provided by Circular No. SEBI/HO/CFD/DIL2/CIR/P/2020/78 dated May 6, 2020 is further extended and shall be applicable for Rights Issues opening up to December 31, 2020.

Refer:https://www.sebi.gov.in/legal/circulars/jul-2020/relaxations-relating-to-procedural-matters-issues-and-listing_47135.html

SEBI Settlement Scheme, 2020 – One Time Settlement Scheme

The Securities Exchange Board of India has introduced a Settlement Scheme ("the Scheme") in terms of Regulation 26 of SEBI (Settlement Proceedings) Regulations 2018.

The purpose of the Scheme is to provide a one-time settlement opportunity to the entities that have executed trade reversals in the stock options segment of BSE during the period from April 1, 2014 to September 30, 2015 against whom any proceedings are pending.

Refer:https://www.sebi.gov.in/media/public-notices/jul-2020/public-notice-in-respect-of-sebi-settlement-scheme-2020_47150.html

Extension of time for submission of financial results for the quarter/half year/ financial year ended 30th June, 2020 by SEBI.

The Securities Exchange Board of India (SEBI), vide circular No. SEBI/HO/CFD/CMD1/CIR/P/2020/106 dated June 24, 2020, had extended the timeline for submission of financial results by listed entities for the quarter/half-year/financial year ended 31st March 2020 to 31st July, 2020 due to the impact of the CoVID-19 pandemic.

It has been decided to extend the timeline for submission of financial results under Regulation 33 of the LODR Regulations, for the quarter/half year/financial year ended 30th June 2020, to **15th September,2020.**

Refer:https://www.sebi.gov.in/legal/circulars/jul-2020/extension-of-time-for-submission-of-financial-results-for-the-quarter-half-year-financial-year-ended-30th-june-2020_47183.html

Relaxation in timelines for compliance with regulatory requirements by the Securities and Exchange Board of India

The Securities and Exchange Board of India (SEBI), vide circular No. SEBI/HO/MIRSD/DOP/CIR/P/2020/141 and SEBI/HO/MIRSD/DOP/CIR/P/2020/142 dated 29th July, 2020 had further extended timelines/period of exclusion for certain compliance requirements by the trading members/ clearing members/ depository participants and by the depository participants (DPs) / Registrars to an Issue & Share Transfer Agents (RTAs) to further **30th September, 2020**.

Refer:https://www.sebi.gov.in/legal/circulars/jul-2020/relaxation-in-timelines-for-compliance-with-regulatory-requirements_47185.html and https://www.sebi.gov.in/legal/circulars/jul-2020/relaxation-in-timelines-for-compliance-with-regulatory-requirements_47186.html

Clarification on applicability of regulation 40(1) of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 to open offers, buybacks and delisting of securities of listed entities

The Securities and Exchange Board of India (SEBI), vide Circular No. SEBI/HO/CFD/CMD1/CIR/P/2020/144 dated 31st July, 2020 has clarified that shareholders holding securities in physical form are allowed to tender shares in open offers, buy-backs through tender offer route and exit offers in case of voluntary or compulsory delisting. However, such tendering shall be as per the provisions of respective regulations.

Refer:https://www.sebi.gov.in/legal/circulars/jul-2020/clarification-on-applicability-of-regulation-40-1-of-sebi-listing-obligations-and-disclosure-requirements-regulations-2015-to-open-offers-buybacks-and-delisting-of-securities-of-listed-entities_47216.html

Use of digital signature certifications for authentication / certification of filings / submissions made to Stock Exchanges

The Securities and Exchange Board of India (SEBI), vide Circular No. SEBI/HO/CFD/CMD1/CIR/P/2020/145 dated 31st July, 2020 has further extended the permitted use of digital signature certifications for authentication / certification of filings / submissions made under the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 ('LODR Regulations'), to the Stock Exchanges, from 30th June, 2020 to 31st December, 2020.

Refer:https://www.sebi.gov.in/legal/circulars/jul-2020/use-of-digital-signature-certifications-for-authentication-certification-of-filings-submissions-made-to-stock-exchanges_47219.html

Amendments to Foreign Exchange Management (Non-Debt Instruments) Rules

Following amendments have been made to FEM (Non-Debt Instruments) Rules, 2019:

New Rule 2A inserted as under:

Reserve Bank to administer these rules –

(1) These rules shall be administered by Reserve Bank of India

(2) While administering these rules, the Reserve Bank may interpret and issue such directions, circulars, instructions, clarifications, as it may deem necessary, for effective implementation of the provisions of these rules.

Amendments to Rule 3 and 4:

In Rules 3 and 4 the words "in consultation with Central Government" are omitted.

The amended second Proviso to Rule 3 reads as under:

Save as otherwise provided in the Act or rules or regulations Provided further that the Reserve Bank may, on an application made to it and for sufficient reasons, permit a person resident outside India to make any investment in India subject to such conditions as may be considered necessary.

The amended second Proviso to Rule 4 reads as under:

Save as otherwise provided in the Act or rules or regulations

Provided that the Reserve Bank may, on an application made to it and for sufficient reasons, permit an Indian entity or an investment vehicle, or a venture capital fund or a firm or an association of persons or a proprietary concern to receive any investment in India from a person resident outside India or to record such investment subject to such conditions as may be considered necessary.

Amendment to Serial No. 9.3 and 9.5 of Table in Schedule I

(i) for serial number 9.3 and the entries relating thereto, the following serial number and entries shall be substituted, namely:

S. No.	Sector/Activity	Sectoral Cap	Entry Route
(1)	(2)	(3)	(4)
9.3	**Air Transport Services**		
	(1) (a) Scheduled Air Transport Service/ Domestic Scheduled Passenger Airline (b) Regional Air Transport Service	**100%**	Automatic up to 49% (Automatic up to 100% for NRIs) Government route beyond 49%
	(2)Non-Scheduled Air Transport Services	**100%**	Automatic
	(3)Helicopter services/seaplane services requiring Directorate General of Civil Aviation (DGCA) approval	**100%**	Automatic

Note: As per Schedule XI of the Aircraft Rules, 1937, Air Operator Certificate to operate Scheduled Air Transport Services (including Domestic Scheduled Passenger Airline or Regional Air Transport Service) is granted to such company or a body corporate, -

(a) which is registered and has its principal place of business within India;

(b) whose Chairman and at least two-thirds of its Directors are citizens of India; and

(c) whose substantial ownership and effective control is vested in Indian nationals." ;

(ii) for serial number 9.5 and the entries relating thereto, the following serial number and entries shall be substituted, namely:

(1)	(2)
9.5	**Other Conditions**
	(a) Air Transport Services shall include Domestic Scheduled Passenger Airlines, Non-Scheduled Air Transport Services, helicopter and seaplane services. (b) Foreign airlines are allowed to participate in the equity of companies operating Cargo airlines, helicopter and seaplane services, as per the limits and entry routes mentioned above. (c) Foreign airlines are allowed to invest in the capital of Indian companies, operating scheduled and non-scheduled air transport services, up to the limit of 49 per cent of their paid-up capital, subject to the following conditions, namely :- (i) it is made under the Government approval route, (ii) the 49 per cent limit will subsume FDI and FII/FPI investment, (iii) the investments so made would need to comply with the relevant regulations of the Securities and Exchange Board of India (SEBI), such as the Issue of Capital and Disclosure Requirements (ICDR) Regulations/Substantial Acquisition of Shares and Takeovers (SAST) Regulations, as well as other applicable rules and regulations, (iv) all foreign nationals likely to be associated with Indian scheduled and non-scheduled air transport services, as a result of such investment shall be cleared from security view point before deployment, and (v) all technical equipment that might be imported into India as a result of such investment shall require clearance from the relevant authority in the Ministry of Civil Aviation. (d) In addition to the above conditions, foreign investment in M/s Air India Limited shall be subject to the following conditions, namely :- (i) foreign investments in M/s Air India Limited, including that of foreign airlines shall not exceed 49 per cent either directly or indirectly except in case of those NRIs, who are Indian Nationals, where foreign investments is permitted up to 100 per cent under automatic route. (ii) substantial ownership and effective control of M/s Air India Limited shall continue to be vested in Indian Nationals as stipulated in Aircraft Rules, 1937. (e) FDI in Civil Aviation shall be subject to provisions of the Aircraft Rules, 1937, as amended from time to time. **Note:** (i) The FDI limits or entry routes mentioned at serial numbers 9.2 and 9.3 above, are applicable in the situation where there is no investment by foreign airline. (ii) Any investment by foreign airlines in companies operating in Air Transport Services, including in M/s Air India Limited, shall be subject to entries (b) and (c) above. (iii) The dispensation for those NRIs, who are Indian Nationals, regarding FDI up to 100 per cent will continue in respect of the investment regime specified at entries (c) (ii) and (d) above."

Mandating Accounting Standard for Local Bodies (ASLB) 2, 'Cash Flow Statements' and ASLB 5, 'Borrowing Costs' for Members of ICAI while Auditing the Financial Statements of Urban Local Bodies w.e.f. April 1, 2022

I. It is hereby notified that the Council of the ICAI, at its 393rd meeting held on June 30th June and July 1, 2020, decided that the following two Accounting Standards for Local Bodies (ASLBs) shall be recommendatory for the members of ICAI while auditing the Financial Statements of Urban Local Bodies (ULBs) till 31.3.2022:

   a. ASLB 2, '*Cash Flow Statements*', and

   b. ASLB 5, '*Borrowing Costs*'.

II. The above ASLBs shall be mandatory for the members of ICAI while auditing the Financial Statements of ULBs for the periods commencing on or after 1.4.2022.

III. At present, the National Municipal Accounts Manual (NMAM) is required to be followed by the ULBs in India as mandated by the Ministry of Housing & Urban Affairs (MOHUA), Government of India, to all States by modelling their respective State Municipal Accounts Manual on the same.

IV. It may be mentioned that the ASLBs 2 and 5 are conceptually similar to NMAM. Some additional guidance and disclosures have been provided in ASLBs 2 and 5 to apply the accounting principles.

V. It is clarified that the ASLBs 2 and 5 are being made mandatory for compliance for members while auditing general purpose financial statements of ULBs only keeping in view that large number of ULBs have already moved to accrual accounting system which has gradually improved the quality of their accounting system.

VI. In the event of non-compliance of ASLBs 2 and 5 in the preparation of Financial Statements of ULBs, the members of the ICAI, while conducting audit of such Financial Statements, have to mandatorily qualify their audit report in respect of the general purpose financial statements of ULBs prepared for the periods commencing on or after 1.4.2022.

INDIAN INSTITUTE OF INSOLVENCY PROFESSIONALS OF ICAI (IIIPI)
(A Company formed by ICAI under Section 8 of the Companies Act, 2013)

The Indian Institute of Insolvency Professionals of ICAI (IIIPI), is a subsidiary of the Institute of the Chartered Accountants of India and is registered as a Section 8 Company to enroll and regulate Insolvency Professionals as its members in accordance with the Insolvency and Bankruptcy Code 2016.

IIIPI, the largest Insolvency Professional Agency invites **ONLINE** application from competent professionals for the position **Deputy Director (Legal)** on contract basis.

Qualification and Experience: LLB/LLM/CA with extensive legal experience preferably specialisation in Corporate/ International/ Insolvency & Bankruptcy Law having at least 10-15 years of experience as a senior faculty or Head of the Law Department of any reputed industrial/ business/academic Institution. For more details, please visit https://www.iiipicai.in/images/PDF/Job-Advertisement---Deputy-Director-Legal.pdf

Eligible persons may submit online application to: **Managing Director, Indian Institute of Insolvency Professionals of ICAI, E-Mail: ip_recruitment@icai.in**

ICAI - Doctoral Scholarship Scheme 2020

Introduction

Doctoral scholarship will be awarded to registered Ph.D. Scholars from UGC recognised Indian Universities/ Deemed Universities/ Colleges, IIMs having University/ IIMs approved Ph.D. Programme to pursue and complete their Doctoral Research in Auditing, Taxation, Commerce, Management and Accounting Discipline.

The candidates must have confirmed Ph.D. Registration (Research Degree Committee (RDC) approved) at any of the institutions mentioned above on the last date of application. It includes the requirements of clearance of Research Entrance Test (RET).

Eligibility

- Membership of the ICAI with minimum 75% marks/ grade in 10th and 12th.
- NET/SLET and M Phil from a recognized university will carry weightage in the assessment of research proposal.
- The scholar should not be more than 40 years of age on the last date of application.
- Candidates who have already availed UGC Junior research fellowship (JRF)/Rajiv Gandhi National Fellowship (RGNF)/ Maulana Azad National Fellowship (MANF)/ICSSR/ICAR/CSIR/ICPR/ICMR/ ICHR or any such doctoral fellowship awardees are not eligible to apply.

How to apply

- Applications are invited through ICAI website, ICAI journal, mass email to members and should be received before 15th September 2020
- The application along with research proposal & abstract (3000 and 300 words respectively) and all the enclosures, must be sent to: Research Committee before the last date mentioned in the advertisement duly signed and stamped by the Ph.D. Registered institution.

Procedure for the award

- Applications are initially scrutinized by the Research Committee Secretariat
- Thereafter, subject group(s)/Expert Committee(s) will short-list the meritorious proposals from the eligible applications and thereafter by the Research Committee of ICAI.
- Such applicants may also be invited for a presentation before an Expert Committee at ICAI- HO or its COEs/ DCOs.
- The recommendations of the Expert Committee will then be placed before the Research Committee for its final approval.

Scholarship

- Rs 50,000 per month for maximum period of 36 months.
- Annualy 5 Scholars will be selected.

Contingency grant

- Yearly grant not exceeding Rs. 50000/- per year.

Scholarship Topics

The following topics are suggested:

1. Human Resource Accounting
2. Simplification of Human Resource Laws
3. Government Sector Accounting
4. Integrated Reporting
5. International Taxation Laws
6. Water Audit

The Research Committee will decide the suitability of the topics from time to time.

https://www.icai.org/new_post.html?post_id=16491

Scan for Open Link

For further details please write to:
Secretary, Research Committee
The Institute of Chartered Accountants of India
ICAI Bhawan, Post Box No. 7100, Indraprastha Marg, New Delhi - 110002
Tel.: 011-30110468; Email: doctoral.research@icai.in, website: www.icai.org

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

Last date for receipt of entries: 30th September 2020

Research Committee of the ICAI Presents

ICAI AWARDS FOR EXCELLENCE IN FINANCIAL REPORTING

Unique opportunity to participate in the Competition for the year 2019-20

OBJECTIVE OF ICAI AWARDS FOR EXCELLENCE IN FINANCIAL REPORTING'

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

PROCESS FOR DECIDING AWARDEES

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

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

PROCEDURE FOR PARTICIPATION

1. There is no fee for participation in the competition.
2. Annual report relating to the financial year ending on any day between April 1, 2019 and March 31, 2020 (both days inclusive) is eligible for participation in this competition.
3. Decisions of the Panel of Judges in all the matters relating to the Competition will be final.
4. An entity awarded 'Hall of Fame' may again participate in the competition after the cooling period of three years of receiving the award of 'Hall of Fame'.
5. Fill in the Entry Form and submit with requisite documents on or before September 30, 2020 to Secretary, Research Committee.

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

AWARD CATEGORIES

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

AWARD CATEGORIES OF THE COMPETITION 'ICAI AWARDS FOR EXCELLENCE IN FINANCIAL REPORTING' FOR THE YEAR 2019-20

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

For further information please write at **research@icai.in or visit our website www.icai.org**

Secretary, Research Committee,The Institute of Chartered Accountants of India,
ICAI Bhawan, Indraprastha Marg, New Delhi – 110 002

https://www.icai.org/new_post.html?post_id=16508

ICAI International Research Awards 2020

ORGANISED BY

RESEARCH COMMITTEE OF ICAI

LAST DATE FOR RECEIPT OF PAPERS
31st October, 2020
(5.00 PM Indian Standard Time)

INTRODUCTION

The Institute of Chartered Accountants of India (ICAI) is a statutory body established under the Chartered Accountants Act, 1949 for regulating the profession of Chartered Accountants in India. ICAI is the second largest accounting body in the whole world with a strong tradition of service to the public interest and to the Indian economy.

The Research Committee of the Institute of Chartered Accountants of India is one of the oldest technical committees set up in 1955 with a view to undertake research activities to improve the quality of services rendered by the profession.

OBJECTIVE

To acknowledge the vital contribution made in research activities in the area of Accounting, Auditing, Finance, Economics and Taxation with an objective enhance the research activities in Accounting, Finance and Taxation and allied areas and to identify the challenges confronting the global economy where accounting profession can play its due role in Public Interest by way of research and contributions which could pave path for innovative practices in mitigating the various emerging financial and non-financial risks and alternatively propagate good practices for promoting public interest.

COVERAGE OF THE AWARDS

The areas/scope of the awards would be to identify the topics of international and societal importance where accounting profession can leverage its due role. The award will be given in five broad categories:

- Accounting
- Finance
- Taxation
- Auditing
- Economics

The illustrative list of areas of such research activities is as under:

- Combating corruption
- Transparency in reporting
- Anti–money laundering
- Fraud detection
- Combating terrorism financing
- Global Financial stability
- Global sustainability growth
- Reducing tax evasion
- Corporate Social Responsibility
- Impact of Rotation of Auditors on audit quality in the Indian context
- Water Audit
- Human Resource Accounting
- Simplification of Human Resource Laws
- Government Sector Accounting
- Integrated Reporting
- International Taxation Laws

Being an illustrative list, the areas indicated are 'not exhaustive' but indicate areas which came in the realm of accountancy profession qualitatively and ultimately achieve tranquility, serenity and stability in the financial systems. The topics of national level or country specific are specifically excluded from these categories.

NOMINATION PROCESS AND GENERAL GUIDELINES

1. Only online nomination is allowed
2. Only individuals can submit the Research papers
3. Research Papers should be in the form of published research work
4. Research Paper should contain ISSN/ISB Nnumber
5. Researcher paper should not be self-nominated i.e. the same should be nominated by Nominating Agency
6. Nominating Agency can be in the form of Research Institution/Agency, Educational Institutions, Corporates, Individual.
7. Nomination will be accepted only between invite open date to close date.
8. To nominate the research paper for Award, the Nominating agency is required to submit a nomination letter for each nomination i.e. if nominating agency nominates more than one research paper, then for each paper, a separate nomination letter is required.
9. One Research Paper is to be nominated in one category only.
10. Nomination must contain consent of Author and contact details of Author and Nominating Entity.
11 The awardee may be asked to present their Research Paper for the benefit of larger audience.
12. Decisions of the Panel of Judges (Jury) in all the matters relating to the Competition will be final.
13. Selection of awardees in specified categories are made through software, review by subject matter experts and then by eminent Jury.

Note: The Research papers submitted for the competition will not be utilized for any other purpose.

Scan for weblink https://resource.cdn.icai.org/59392research48349awards.pdf

For further details please write to:
Secretary, Research Commitee
The Institue of Chartered Accountants of India
ICAI Bhawan, Indraprastha Marg, New Delhi – 110 002. India
☎ 011-30110468 ✉ ira@icai.in www.ira.icai.org

ICAI News

Classifieds

5822 Looking for CAs qualified as Insolvency/ Resolution Professional and aspiring to join our Firm, R K Doshi & Co LLP, as a Partner (email: info@rkdoshi.com).

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

5 DAYS TRAINING PROGRAMME ON 'USAGE OF STATISTICAL TEST IN BUSINESS DATA ANALYSIS - BEGINNERS MODULE'

Dates & Time	Session	Activity	Requisites
September 5, 2020 11am-2pm (3 hours)	I	Introduction to business research, Types of business research	PPT, Data file in Excel, SPSS
	II	Steps of business research process, Scaling	
	III	Hypothesis - Formulation, Types and Errors	
September 6, 2020 11am-2pm (3 hours)	IV	Introduction to SPSS, Data Types, Defining Variables	PPT, SPSS
	V	Practice Data entry, Data importing	
	VI	Data cleaning	
September 13, 2020 11am-2pm (3 hours)	VII	Different graphical representation	PPT, SPSS
	VIII	Statistical analysis – test	
	IX	Chi square test	
September 20, 2020 11am-2pm (3 hours)	X	ANOVA	PPT, SPSS
	XI	Factor analysis - Introduction	
	XII	Factor analysis	
September 27, 2020 11am-2pm (3 hours)	XIII	Statistical analysis – Correlation, Regression	Test
	XIV	Evaluation/Feedback	
	XV	Evaluation/Feedback	

Fees for the Training Programme Rs. 1500 (Inclusive all Taxes)
Registration on first-cum-first-serve basis. Maximum no. of seats: 50

In case of any query please contact at research@icai.in (M) 8299735462

Registration Link
https://learning.icai.org/committee/asb/statistical-test-in-business-data-analysis/

Career Ascent for experienced Chartered Accountants

(standing of one year and above)

September, 2020

To cater to the need of finance professionals, The Committee for Members in Industry & Business (CMI&B) of The Institute of Chartered Accountants of India (ICAI) takes another initiative that will provide an excellent opportunity for organisations to recruit experienced Chartered Accountants.

Date Schedule:

Centre	Date of Interview
Chennai	22nd September, 2020
Kolkata	23rd,September, 2020
Mumbai	24th September, 2020
New Delhi	25th September, 2020

Eligibility of Members for Career Ascent

A Chartered Accountant having Membership as on 31st August,2019 or prior to that

For further details, kindly visit: **https://cmib.icai.org/**

Chairman
Committee for Members in Industry & Business (CMI&B)
The Institute of Chartered Accountants of India

For any queries, you are requested to get in touch with the **CMI&B Secretariat, ICAI Bhawan, Indraprastha Marg, New Delhi -110002.**

Organisations may write at careerascent@icai.in
Members may write at experiencedcas@icai.in

Organised By:

Committee for Members in Industry & Business (CMI&B)
The Institute of Chartered Accountants of India
(Set up by an Act of Parliament)
'ICAI Bhawan', Post Box No. 7100, Indraprastha Marg, New Delhi - 110002
Website: www.icai.org

ICAI in Media : Glimpses of July -August 2020

Ind-AS 116 amendment useful for lessees with large number of leases: ICAI

PTI, First Published on Jul 27, 2020 05:45 pm

The corporate affairs ministry has amended various Indian Accounting Standards (Ind-AS) 1, 8, 103, 107, 109 and 116. Ind-AS is converged with the International Financial Reporting Standards (IFRS).

Chartered accountants' apex body ICAI on Monday said the amendment to the Ind-AS 116 would be useful for lessees having a large number of leases while accounting for COVID-19-related rent concessions.

The corporate affairs ministry has amended various Indian Accounting Standards (Ind-AS) 1, 8, 103, 107, 109 and 116. Ind-AS is converged with the International Financial Reporting Standards (IFRS).

Regarding amendments to Ind-AS 116, that pertains to leases, ICAI said they provide an option to lessees for relief as a practical expedient while accounting for COVID-19-related rent concessions such as rent waiver and temporary rent reductions.

One of the key rationale to provide a practical expedient is that the lessees could find it challenging to assess whether a potentially large volume of COVID-19-related rent concessions are lease modifications or not in the wake of the COVID-19 pandemic, ICAI said in a statement.

The amended Ind-AS 116 can also be applied by lessees that have not yet approved the financial statements for the annual reporting periods beginning on or after April 1, 2019, for issue as of the date of the notification, it added.

The notification was issued on Friday.

The Institute of Chartered Accountants of India (ICAI) President Atul Kumar Gupta said the practical expedient option for accounting for COVID-19-related rent modification should be useful for lessees having large number of leases.

According to ICAI, the definition of 'business' in Ind-AS 103 has been modified and that would help entities better determine whether an acquisition made is of a business or a group of assets. "Distinguishing between a business and a group of assets is important because an acquirer recognises goodwill only when acquiring a business," it said.

Regarding definition of 'material', amendments have been made to Ind-AS 1 and Ind-AS 8.

The definition of material helps a company determine whether information about an item, transaction or other event should be provided to users of financial statements. However, companies sometimes experienced difficulties using the previous definition of material when making materiality judgements in the preparation of financial statements.

"The amendments aim at addressing concerns about the previous definition of material and aligned the definition used across all Ind ASs," the statement said.

There are also changes in Ind-AS 109 that pertains to financial instruments and Ind-AS 107 that relates to disclosures about financial instruments.

"These amendments are in context of specific hedge accounting requirements in Ind-AS 109 to provide exceptions during this period of uncertainty," ICAI said.

Interbank Offered Rates (IBORs) play an important role in global financial markets. The Financial Stability Board's (FSB) recommendations to reform some major benchmarks led to uncertainty about the future of some existing interest rate benchmarks, which may affect companies' financial reporting.

FSB's recommendations were made following the global financial crisis.

"Due to uncertainties arising from the impact of the reform on the timing and amount of designated future cash flows, some hedge accounting requirements may be affected. Due to such uncertainties, companies could be required to discontinue hedge accounting.

"Companies may also not be able to designate new hedging relationships. Discontinuation of hedge accounting solely due to such uncertainties would not provide useful information to users of financial statements," ICAI said.

ICAI formulates necessary Ind-ASs or makes amendments to existing Ind-AS and recommends to the ministry for notification under Companies Act, 2013, the statement noted.

ICAI to provide Medical Financial Assistance of Rs. 1.5 L to Members & their dependents suffering from COVID-19

Mariya Paliwala, July 28, 2020

The The Institute of Chartered Accountants of India (ICAI) on Sunday announced to provide Medical Financial Assistance of Rs. 1.5 lakh to Members and their dependents suffering from COVID-19.

ICAI is sanctioning the COVID-19 grant of up to Rs 1.5 lacs

to those CA members who are Corona positive.

However, the financial assistance will be up to Rs.1.5 Lakhs and will be returnable to the Managing Committee of the Chartered Accountants Benevolent Fund (CABF) in full, if it is not utilized for the treatment of CORONA.

The Managing Committee of the Chartered Accountants Benevolent Fund (CABF), ICAI has considered the difficulties being faced by Members in the time of pandemic and has decided to grant Medical Financial Assistance to the Members and their dependents suffering from Coronavirus.

"This help is going to be available to the Members and their dependents who are in distress and need financial assistance for treatment of Corona disease. To avail, this help members/dependents may file requests in prescribed Application Form-cum Undertaking hosted on the website of the ICAI at the CABF Portal at the link https://cabf.icai.org/. The application is to be accompanied by the CORONA positive report and is available only for the cases of hospitalization," the announcement said.

THE HINDU BusinessLine

Audit quality not impacted by Covid-19: ICAI President

K.R. Srivats New Delhi | Updated on July 29, 2020 Published on July 29, 2020

'Incorrect to assume conflict of interest between auditor and management in most cases'

The Covid-19-induced lockdown has not in any manner affected audit quality in the country, ICAI President Atul Kumar Gupta has said.

None of the auditing or accounting standards had been relaxed because of Covid-19 and auditors have not been given any leeway from compliance with standards on auditing despite the challenges from the pandemic, Gupta told BusinessLine in an interview.

He highlighted that the CA Institute had issued a detailed auditing advisory on the topic 'Impact of novel corona virus (Covid-19) on audit of financial statements for the financial year ended March 31, 2020', which focuses on special considerations for auditors while conducting audits of financial year 2019-20.

The ICAI has also issued a series of auditing guidance covering specific auditing aspects – going concern, inventory verification, subsequent events and auditor's reporting – to provide guidance to auditors under the Covid-19 scenario, Gupta said. All these steps including webinars and regular webcasts with focus on special considerations for auditors under the current Covid-19 situation have helped to maintain audit quality during this pandemic, he added.

Gupta said that ICAI has already impressed upon the Corporate Affairs Ministry (MCA) the need to develop Audit Quality Indicators. The newly set up Centre of Audit Quality (of ICAI) is likely to be tasked to come up with the indicators, Gupta said.

Conflict of Interest

On the recent MCA consultation paper to examine the existing provisions of law and make suitable amendments therein to enhance audit accountability and independence, Gupta said that ICAI is of the "strong view" that accountability of any profession is crucial. But in the consultation paper, it was assumed that conflict of interest exists between the auditor and the management in most cases which is not

backed by proper evidence, Gupta said. "It will be incorrect to paint the whole profession with the same brush," he said.

Audit Sector Reform

Gupta made it clear that the ICAI strongly believes that it is not required to have a blanket separation of audit and consultation functions on the lines adopted by the UK's Financial Reporting Council (FRC), which is the audit and accounting regulator.

For the Indian situation, Gupta said that ICAI has made detailed recommendation to the MCA-appointed committee on this front and three aspects are under consideration: not allowing auditors to offer nonaudit services; making joint audits mandatory for companies with certain threshold; and appointing auditors through an independent agency.

"These are proposals on the table. You will see concrete decisions on this in the next few months. What the UK has decided is they will go in for bifurcation of auditing and consulting functions to improve audit quality," Gupta said.

The FRC had recently announced operational separation of audit practices (from the rest of the firm) to improve the quality and effectiveness of corporate reporting and audit in the UK, following the Kingman and Brydon reviews. This will now require the Big Four accounting firms to put their UK auditing and consulting practices in separate business units by 2024; but they may keep them within the same parent companies.

The Institute of Chartered Accountants of India

Precautionary Measures Taken To Prevent Covid-19

Protect Yourself And Those Around You

Wash your hands regularly with soap and water

Make use of alcohol-based hand rub

Avoid touching your face

Maintain Social distance of at least '6 feet' between you and others

See a doctor if you feel unwell

While visiting a doctor wear a mask/cloth to cover your mouth and nose

Stop shaking hands

Take special care of the elderly

Don't share personal items

Clean and disinfect surfaces on regular basis

Wash fresh groceries and maintain a good hygiene

Stay home and avoid unnecessary travel

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ABOUT ICAI

The Institute of Chartered Accountants of India (ICAI) was established by an Act of Parliament in 1949 and since inception has proven its mark as an elite institution devoted to uphold the values of transparency, accountability and integrity. It has indeed come a long way, be it in terms of numbers, skills & utilities, recognition from society, or its role in nation building.

PROFESSIONAL COMPETENCE

- More than 10 Lakh Members & Students
- 164 Branches & 34 Overseas Chapters
- Promoter of Values, Virtues & Vision of Excellence
- Robust Regulator & Developer of Trusted Professionals
- Sharing Knowledge to Shape Policies
- Trusted Partner with Government Initiatives
- An Educator Par Excellence - Keeping Pace with New Era of E-learning
- Placing Indian CAs at Global Pedestal by entering into Mutual Recognition Agreements (MRAs) with Global Accounting Bodies

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA
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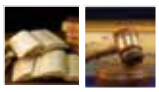

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Faceless Assessment – A Paradigm Shift in Income Tax Assessments within India

Faceless Assessment Scheme, 2019 is a huge step towards fortifying trust among taxpayers and ensure complete transparency in Government operations. It eliminates the need for the assessee to visit or meet any income tax officials for any assessment related proceedings. Furthermore, the use of advanced technology, abolition of jurisdictional assessment, multiple level reviews and introduction of the NeAC for centralised communication will better the quality of assessments and lower the number of disputes and litigations. While faceless appeals will come into effect from 25th September, 2020, assessment as per the provisions of this Scheme has already begun. Read on to know more...

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Inaugurating the *Rajaswa Gyan Sangam*, the annual conference of the Chief Commissioners of Income-tax, Service-tax, Custom and Excise on 01st September 2017, Shri Narendra Modi, Prime Minister of India, presented to introduce for the first time, a system of faceless assessment for direct taxation to further his vision of a truly 'Digital India' as well as increase transparency for the taxpayers and accountability from the government and its officers. Moreover, this was also aimed at eliminating undesirable practices carried out by the Income Tax officials. With some assessment disputes and litigations as old as 15 years pending with the Income Tax Department, this scheme can prove to be vital reform the country's tax system needs. The Honourable Prime Minister further solidified the faceless assessment by officially launching it when he addressed the nation on 13th August 2020, which will replace the existing e-Assessment Scheme, 2019. This new scheme is launched with the idea of "Transparent Taxation - Honouring the Honest", i.e. the platform will lay down this assessment mechanism to honour the

honest taxpayers by forging trust and greater transparency and efficiency in the functioning of the Income Tax Department.

What is Faceless Assessment?

Faceless Assessment, in generic terms, means assessing taxpayers in a way where they do not have to visit the Income Tax Department and do not come face-to-face with any Income Tax officials.

It aims to eliminate human interface in the direct taxation functioning of the country and introduce widespread adoption and usage of data analytics and artificial intelligence (AI).

However, the most striking feature of the faceless assessment scheme is the introduction of team-based assessment with dynamic jurisdiction which replaces the conventional territorial or jurisdictional based assessment.

Legal Framework

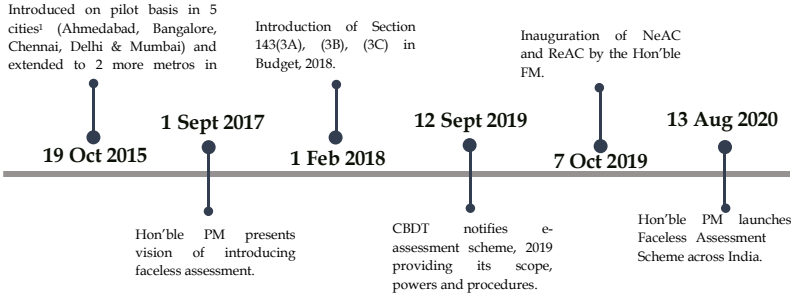
Having briefly comprehended what faceless assessment is, it is significant to know and understand the underlying laws regulating it.

> Faceless Assessment, in generic terms, means assessing taxpayers in a way where they do not have to visit the Income Tax Department and do not come face-to-face with any Income Tax officials.

This innovative legislation was introduced in the Finance Act, 2018 as Sections 143(3A), 143(3B) and 143(3C) under the Income-tax Act, 1961:

- **Section 143(3A)** provides that the Central Government may make a scheme for the purpose of making assessment [under section 143(3)] so as to impart greater efficiency, transparency and accountability by eliminating the interface between the Assessing Officer and the assessee in the course of proceedings to the extent technologically feasible; optimising utilisation of the resources through economies of scale and functional specialization and introducing a team-based assessment with dynamic jurisdiction. (Assessment under section144 has also been included by the Finance Act, 2020)
- **Section 143(3B)** provides that the Central Government may for giving effect to the Scheme, direct that any provisions of the Income-tax Act relating to the assessment of total income shall not apply or shall apply with such exceptions, modifications and adaption as may be specified in the notification before 31.03.2020. (This date has been further amended/extended to 31.03.2022 by the Finance Act, 2020)
- **Section 143(3C)** provides that any notification issued under section 143(3A) and 143(3B) shall be laid before each house of the Parliament as soon as the notification is issued.
  - In exercise of the powers conferred by sub-section (3A) of section 143 of the Income-tax Act, 1961, the Central Government amended the E-assessment Scheme, 2019 [S.O 3264 (E) dated 12.09.2019] to call it the Faceless Assessment Scheme, 2019 (hereinafter referred to as 'the Scheme') published vide notification of the Ministry of Finance (Department of Revenue), Central Board of Direct Taxes (CBDT), vide number S.O 2745 (E) dated 13th August 2020.

Time-line of major events in the implementation



Important Elements of the Faceless Assessment Eco-system

National e-Assessment Centre (NeAC)

The NeAC is the back-bone of the faceless assessment mechanism and it has widespread functions which are aimed at ensuring accuracy, efficiency and seamless working at back-end of the Income Tax department. The NeAC is located at Delhi and headed by the Principal Chief Commissioner of Income Tax (Pr. CCIT).

Primary functions of the NeAC

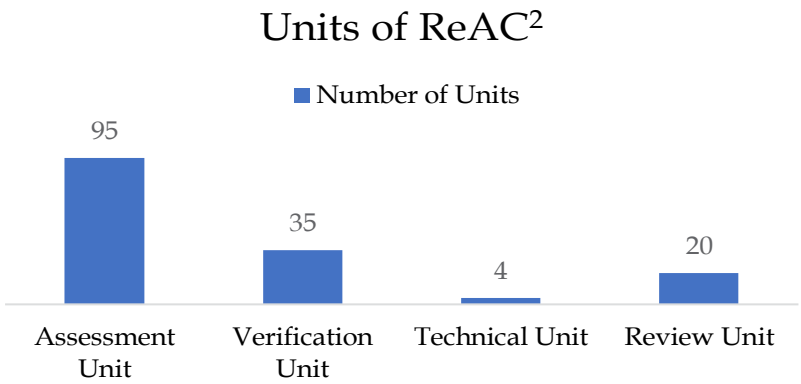
- Specify various formats, processes and procedures in relation to various aspects of the faceless assessment after approval by the CBDT.
- Assign cases to the Assessment units (AU) by making use of data analytics and AI.
- Facilitate communication among various units of the ReAC.
- Ensure furnishing of notices/ communication to all assesses in a timely and electronic manner.
- Select draft assessment orders(DAO) and allocate them to the review unit via automated allocation system.
- Assist in finalisation and electronic dispatch of assessment orders.

Regional e-Assessment Centres (ReAC)

The ReAC is established to assist the NeAC in smooth functioning of the assessment procedures.

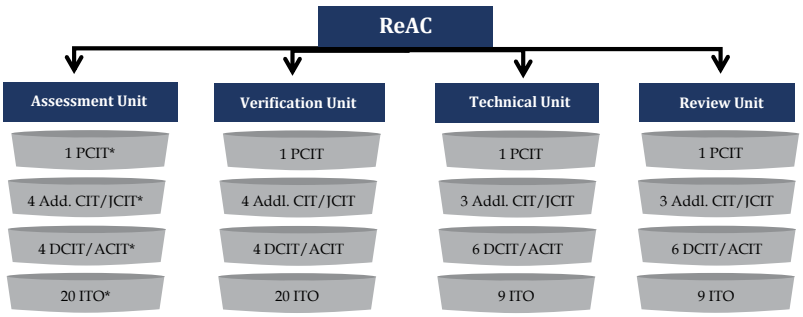
It will function with the support of 4 independent units, whose functions are described as follows:

1. **Assessment Unit (AU)** – Accept cases assigned to it by the NeAC, identify issues therein, seek information for resolving the issues and analyse materials to frame draft assessment orders.
2. **Verification Unit (VU)** – It has widespread functions for conducting enquiries:
   - Conduct e-verification under section 133C;
   - Examination of books of account, examination of witnesses and recording of statement via electronic modes;
3. **Technical Unit (TU)** – Acts as the knowledge repository of the faceless eco-system by affording advice on legal, accounting, forensic, information technology, valuation, transfer pricing, Data Analytics and so on.
4. **Review Unit (RU)** – Primarily involved in review of draft assessment orders and verify details pertaining to material evidence brought on record, questions of facts and law, application of judicial decisions, arithmetic correctness and the like.



Constitution of ReACs

The ReAC will be headed by the Chief Commissioner of Income Tax (CCIT), with further delegation of each unit to other ranks of the Income Tax authorities, which are diagrammatically explained below[3].



Location of ReACs

There will be 30 ReACs set-up across 20 cities[4] throughout the country, with 8 already in existence by virtue of the e-Assessment Scheme, 2019 located at Delhi, Mumbai, Chennai, Kolkata, Ahmedabad, Pune, Bangalore and Hyderabad[5].

Overview of Assessment Procedures

Apart from a structural change as deliberated above, there is also a fundamental change in the way assessments will be carried out in the course of this Scheme. For instance, an assessee who resides in Mumbai, his/ her Income Tax return may be assigned by the NeAC to any AU of say, Gujarat and the draft assessment order (DAO) may be reviewed by an officer in say, West Bengal. However, the assessment order will not mention these details. It will only make mention of the NeAC.

All assessment orders shall be passed by the NeAC only and all communication among the units of the ReACs shall be facilitated through the NeAC exclusively by electronic mode by affixing a Digital Signature Certificate (DSC).

Let us now understand the procedure of assessment under this Scheme.

- Based on the income tax returns filed, the NeAC allocates cases electronically to the AUs using data analytics, AI and risk parameters pre-defined in the system.
- Based on the facts available, AU may make a request to the NeAC for
- obtaining further information, documents or evidence from the assessee or any other person;
- Conducting enquiry by VU; or
- Seeking technical assistance from the TU.
- Where such request has been made by the AU, the NeAC shall issue appropriate notice or requisition to the assessee or any other person for obtaining requisite information.
- The assessee or any other person, shall file his response (through his registered income tax e-filing account) to the above notice within the stipulated time.
- The assessee may seek a personal hearing to make oral submissions in case of proposed modification of income in the DAO (Draft assessment order) which shall be conducted exclusively through video conferencing or video telephony as per procedure laid down by the CBDT.
- In case assistance of VU or TU had been taken, the NeAC shall send the verification/ technical report received from the VU or TU, to the concerned AU.
- In all cases, the AU, after taking into account relevant material available on the record and replies or further information received, shall prepare a DAO either accepting the return or modifying the income or sum payable.
- The DAO shall be examined by the NeAC in accordance with the Risk Management Strategy (RMS) laid down by the CBDT. The NeAC may assign the case to any RU of any ReAC through an automated allocation system.

a) If no assignment is made to the RU and

   i. **No modification in DAO is made to the income or sum payable** - Final order based on the DAO shall be served to the assessee along with demand notice specifying the sum payable or refundable, as the case maybe and penalty proceedings, if any; or

   ii. **Modification in DAO to income or sum payable is proposed** – AU shall communicate modifications to the NeAC; then a show cause notice (SCN) shall be issued along with the DAO and NeAC shall provide an opportunity to the assessee to show cause as to why the assessment should not be completed as per the DAO.

b) If assignment has been made to any RU and:

i) **RU concurs with the DAO** – RU shall communicate concurrence to NeAC. Final order based on the DAO shall be served to the assessee along with demand notice specifying the sum payable or refundable, as the case maybe and penalty proceedings, if any; or

ii) **RU proposes modifications in the DAO** – AU shall communicate modifications to the NeAC. Thereafter, NeAC shall allocate the case to a fresh AU through automated allocation system. This new AU shall draft the final DAO after considering the proposed modifications and send it back to the NeAC. The NeAC shall then follow the procedure described in (i) or (ii) of sub-clause (a) above.

- In case no reply is received from the assessee, the NeAC shall finalise the assessment based on the DAO and serve the final assessment order along with demand notice specifying the sum payable or refundable, as the case maybe and penalty proceedings, if any.
- The NeAC shall, after completion of assessment, transfer all the electronic records of the case including penalty proceedings to the Assessing Officer having jurisdiction over the said case for such action as may be required under the Act.

Scope of the Scheme

The scheme covers the following cases and aspects under its ambit:

1) All existing cases where the notice under section 143(2) was issued by the NeAC under the erstwhile e-Assessment Scheme, 2019.

2) All other cases where:

a) Returns of income are filed and selected for scrutiny under the extant guidelines by issuing notices under section 143(2);

b) Notices under section 142(1) have been issued for filing the returns and no return thereon has been furnished;

c) The assessee has not furnished return of income under section 148 and a notice under section 142(1) calling for information has been issued.

"The NeAC shall, after completion of assessment, transfer all the electronic records of the case including penalty proceedings to the Assessing Officer having jurisdiction over the said case for such action as may be required under the Act.

Conclusion

India has taken a giant leap in moving towards a digital nation by launching this Scheme. Compliances will be easier, assessments will be faster and disputes will be lower. In the last few years, tax scrutiny cases have reduced from 0.71% earlier to now 0.25%[6]. This is a reflection of the trust that the government is placing on the taxpayers. Time only will tell the effectiveness and efficiency of the Scheme but as honest taxpayers, it is definitely something to look forward to. ■■■