



**The Institute of Chartered Accountants of India**

(Setup by an Act of Parliament)

**Ahmedabad Branch of WIRC of ICAI**

# **E-NEWSLETTER**



***1st May  
Gujarat Day***



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3. CA. Mukesh Khandwala

4. CA. Rooma Nagnath

5. CA. Jianah Tulsija







**Dear Members,  
Greetings and Best  
Wishes from your Chairperson!**

As we welcome the Month of May, where the summer sun boils down and the temperatures soar ***the activities at Ahmedabad Branch continue with a roar!***

April 2023 was an enriching month as we conducted a number of programs for professional development, launched **I AM A FIT CA program**, an all the round year program to cultivate the habit of fitness amongst our members and their families, Excellent National conference on capital market, One day Training program for those wishes to become Peer Reviewers and many more.

**Let's have a look at some of the recent activities conducted at Ahmedabad Branch since our last communication:**

An Excellent informative, engaging and Impactful 2 days conference with comprehensive sessions by influential leaders of the market was organized at Hyatt, Vastrapur. The sessions were so rewarding that the faculties and all the members were there for two full days to make it an exceptional conference. The sessions were designed very innovatively and were thought-provoking.

## **2. Valuation Study Group**

I am happy to share that with a dedicated valuation study group and with member's registration crossing more than 100, the first program was conducted with CA Rajiv Singh and

# **Chairperson's Message**

it was highly appreciated by members since it was an interactive sessions and members got more diverse perspectives. The core behind this group is to provide a forum for members to share their knowledge and experiences in valuation, to learn from one another, and to stay up-to-date on the latest trends and best practices.

## **3. IBC Study Group**

I am happy to share that we also have a dedicated IBC study group and with member's registration crossing more than 80, the first program was conducted with CA Dr Mamta Binani and Advocate Nipun Sanghvi where the latest judgments and amendments in IBC was covered. The object of this group is to create a forum for discussing recent developments, emerging trends, and best practices in the insolvency and bankruptcy field. The study group meetings can be structured around specific topics related to the IBC, such as the resolution process, liquidation, cross-border insolvency, or the role of insolvency professionals. The members can also invite subject matter experts to present on these topics and facilitate discussions and debates among the group members.

## **4. Meeting with Various Sub-Committees of Ahmedabad Branch**

Every year at Branch, The Chairperson interacts with all the sub-committees members under various sub-committees and shares the vision and action plan for the year 2023. I had interacted with DT, IDT, IT, Accounts & Audit Committee, Corporate & allied Laws, Sports & Cultural, Newsletter, WICASA & WYMEC. During the meeting, deliberations were held on Key focus areas and it was discussed to have more interactive sessions using different pedagogies- Panel Discussions, Fireside chat, workshops, Q & A etc where there is more engagement and collaborative learning. It is a matter of proud to state that all the committee have met and articulated planning of their committee's events for the whole year which promises the upcoming year shall be full of knowledge gaining and professional updates

## **5. Launching of FIT CA Event**

Health is wealth and to substantiate, Ahmedabad Branch is proud to announce I AM





FIT CA Program. Under this program, the whole year, members shall be benefitted from various health related activities.

### 6. Peer Review Training Program

We organized a Peer Review Training program which has been a resounding success. A great opportunity for members who wish to panel as a Reviewer

### 7. Newer Areas of Practice

A chartered accountant is someone who solves a problem you didn't know you had in a way you don't understand. With diversity of our role, it has been necessity to explore newer areas of practice. With a step ahead in this direction, Ahmedabad branch has organized programs on :-

- **Social Stock Exchange**

A Social Stock Exchange (SSE) is a platform that aims to connect social impact-driven organizations, such as non-profits and social enterprises, with investors seeking to support socially responsible investments. As a CA, it has certainly opened the untapped avenues for us! We can perform in the area like Due Diligence, Compliance and Advisory Services and to equip our members with this new role, Branch has conducted a Seminar on SSE wherein we discussed how impactful our role can be on such platforms

- **Sustainability Reporting**

Chartered accountants play a critical role in establishing and reporting on sustainability metrics. To educate our members more in this direction, we have come up with seminar on sustainability reporting.

### 8. Other Programs

- **Stress Management**

Stress is not what happens to us. It's our response to what happens, and response is something we can choose. With the increase in mental health issues around the world, to safeguard our members, Branch has organized on Stress Management where we discussed Self Management of Excessive tension theory and practically performed Cyclic Meditation by World Yoga Guru, Dr H.R Nagendraji, Chairman, Ayush, GOI.

- **Audit Trail**

The audit trail requirement from this fiscal is expected to significantly enhance the

authorities' ability to take a closer look at changes to the records that materially impact financial statements, while allowing businesses to make genuine corrections where needed. This is expected to be a shot in the arm for the Registrars of Companies, Income Tax officials and other authorities in investigations. In line with this, Branch has conducted seminar on Audit Trail explaining Guidance Notes ICAI & Amendments and most importantly execution and implication of such amendments practically.

### 9. FDP & Mentorship Program for Empanelled Counsellors / Prospective Counsellors

The Committee on Career Counselling at ICAI Delhi is formed with the prime objective to promote the Commerce Education in India with special focus on CA courses amongst Secondary, Senior/ Higher Secondary, Graduate/Post Graduate students as well as other stakeholders. The vision of the Committee is to reach every nook and corner of the cities, towns, and villages wherever schools & colleges are spread so that proper information and career guidance to each student from class IX to Graduation is imparted. Ahmedabad Branch of WIRC of ICAI along with Anand Branch, Gandhidham Branch & Vadodara Branch along with the Committee on Career Counselling (CCC) organized "Faculty Development Programme (FDP) / Half Day Mentorship Programme" for Empanelled Counsellors and also for those interested members who are willing to Become Career Counsellors

### 10. One Day Valuation Seminar with Valuation Standard Board, ICAI

A very unique one day seminar was organized where we had a panel discussion with startup founders and valuers to discuss issues in valuation along with discussion and case studies on Valuation of Intangibles and M & A and also understanding various regulation requirements for valuation under Income Tax, FEMA, and Companies act.

### I would also like to share the upcoming programs of Ahmedabad Branch

- RRC in Varanasi from 18<sup>th</sup> to 21<sup>st</sup> May, 2023.
- All Gujarat ICAI Branches RRC at Sasan Gir from 9<sup>th</sup> to 11<sup>th</sup> June, 2023.
- Excel Series
- IBC Sessions







- National Conference on MSME
- Issues in GST
- Women & Young Members Virtual Refresher Series with 13 Branches of India.

By the Time you receive this Newsletter, we would be celebrating Gujarat Day & Maharashtra Day. These two states have continuously contributed to the greater good of our nation and we are proud to be part of them. Let us take a leaf from history and do our own personal bit to contribute to our Nation. In the

words of Mahatma Gandhi, **"consciously or unconsciously, every one of us does render some service or other. If we cultivate the habit of doing this service deliberately, our desire for service will steadily grow stronger, and will make, not only our own happiness, but that of the world at large."**

**Regards**

**CA Dr Anjali choksi**

Chairperson

Ahmedabad Branch of WIRC of ICAI.

## Editorial



Dear Members,

After receiving a wonderful response to the April edition of our Newsletter, it gives me immense pleasure to share the April edition on the theme of **"Gujarat Foundation Day"**

By the time you receive this Newsletter we would have celebrated Gujarat Sthapana Divas. Every Person living in Gujarat has given contribution for taking Gujarat forward – whether the poorest human being, literate or illiterate, urban or rural, male or female, youth or elder. This is the moment to express humble gratitude towards all those who have made their contribution to make Gujarat – India's growth engine. Gujarat has continuously contributed to the greater good of our Nation and we are proud to be a part of the state which is also referred to as the **"Jewel of Western India"**

The month May was named for Maia, the Greek goddess of fertility, who oversaw the growth of plants. We observe World no Tobacco day & National Anti Terrorism Day in May. These encourage us for abstinence from our bad habits and raise our voice against bad acts.

As the temperature heats up, we professionals are ready for the next grueling season of compliances. It is a very difficult phase for our profession. It seems that all wrong doing in the country has a Chartered Accountant involved in it. But as we all know, that this is not the case. In these tough times, it becomes our responsibility to ensure that the image of the profession is not maligned in any manner. This is an additional burden which the circumstances have put on us along with the routine burden of compliances and professional challenges. But it is my earnest request to bear with the burden. The coming generation of Chartered Accountants will blame us if we do not ensure the profession's image to be intact. I am sure that you all appreciate the gravity of the situation and will adhere to the highest level of professional and personal ethics to achieve what is expected from all of us.

I would like to take this opportunity to sincerely thank all the contributors for sending the updates and sparing their precious time for the cause of the profession. In order to make newsletter more resourceful, we need your support by way of contribution of updates, useful suggestions. I would request you to send your contributions on the topic befitting the profession and member's interest at large. The Editorial Team will publish the best contribution at its own discretion. I extend my sincere gratitude to the Editorial Team and Newsletter Sub-Committee Members for their hard work to publish this Newsletter in time.

Happy Reading!

**CA. Neerav Agarwal**

Chairperson, Newsletter Committee





# ICAI Updates



**Contributed by:  
CA. Purushottam  
Khandelwal**

**The Institute of Chartered Accountants of India**  
(Incorporated as an Act of Parliament)

**Inauguration of USA (Arizona) Chapter**

Friday, 31st March 2023 at 3:30 PM (EDT) | 12:30 PM (PDT)  
Saturday, 1st April 2023 at 1 AM (IST)

CA. Aniket Suresh Talati President The Institute of Chartered Accountants of India	Honble Shri Randhir Ariswal Consul General of India New York	Ms. Helen Partridge Director of Accountancy Education at International Federation of Accountants (IFAC)	CA. Ranjeet Kumar Agarwal Vice President The Institute of Chartered Accountants of India
CA. Gagan Gujral Past Chairman ICAI USA (New York) Chapter	CA. Pallav Acharya Chairman ICAI USA (Arizona) Chapter	CA. Vish Anurachalam Founder Chairman ICAI USA (San Francisco) Chapter	CA. Sanjay Weiss Former Executive Committee TIE Women & Charter Member, TIE New York

ICAI New York: CA Sukal Moose, Chairman & CA Atty Ranjit, Treasurer  
ICAI Arizona: CA Swaminathan Subramanian & CA Sanjay Shrivastava and other special guests will speak on the occasion



ICAI Delighted to present Global Professional Accountants Convention on the Theme "Connecting the Globe, Creating Value" From 24th to 26th November 2023 at Mahatma Mandir Convention Centre, Gandhinagar, Gujarat  
Watch this space for more details!



CA. Aniket S. Talati, President-ICAI & CA. Ranjeet K. Agarwal, Vice President-ICAI along with ICAI Central Council Members met Mr. Andreas Barckow - Chair & Ms. Linda Mezon-Hutter - Vice Chair, International Accounting Standards Board, @IFRSFoundation at London on 25th April 2023



CA. Aniket S. Talati, President-ICAI & Ms. Julia Penny, President-ICAEW signing the Renewal of MoU between ICAI & ICAEW in presence of CA. Ranjeet K. Agarwal, Vice President-ICAI & ICAI Central Council Members. The MoU would provide greater benefits to members of both Institutes





# The ICAI at Platinum Jubilee



**Contributed by:**  
**CA. Pooja Thakkar**

Accountancy well known as business language has its nuances proliferate from its origins as what we can perceive of it in current times. From the dawn of human history, there is evidence to indicate that mankind has resorted to keeping records of events, and every civilization - whether ancient or modern which had a commercial background and an organizational setup of government or administration.

**Inception As Autonomous Body:** The chronicles of ICAI date to the year 1913 when it was for the first-time statutory audit was mandated by the Companies Act 1913 and the birth of Registered Accountants came to life by obtaining a certificate from the Governor General in Council. Let's take a moment to take a glance at the custodians of our Institute whose blood, sweat, and tears paved our path to global accreditation today. Shri Gopaldas P. Kapadia recognized as the father of the profession, was the first President of the ICAI from 1949 to 1952.

**The Coveted Name:** It was during the discussions on the Companies (Amendment) Bill introduced in the Legislative Assembly on 23<sup>rd</sup> March 1936 that an organized attempt to secure the designation of "Chartered Accountants" for the members of the profession in India emerged. Unlike most other commonwealth countries, the word chartered does not refer to a royal charter, since India is a republic. After much debate in the Indian Constituent Assembly, the controversial term, chartered was accepted. When the Chartered Accountants Act, 1949 came into force on 1 July 1949, the term Chartered Accountant superseded the title of Registered Accountant. This day is celebrated as Chartered Accountants Day every year.

**The Defining Moments:** The first meeting of the first Council of India was held at New Delhi on 15<sup>th</sup> August 1949 inaugurated by Mr. K.C. Neogy who was then the Minister for Commerce. The motto of the ICAI is *Ya Aeshu Suptaeshu Jagruti* (Sanskrit), which literally means "a person who is awake in those that sleep". It is a quotation from the Upanishads (Kathopanishad), given to the ICAI at the time of its formation in 1949 by Sri Aurobindo as a part of its emblem with a Garuda, the mythical eagle in the center.

## The Committed Path and Way Forward



1950-1975

- A Robust framework for Education and Training of CAs in 1950 consisting of three stages - CPT, IPCC and Final Course.
- Regulating Professional Conduct, Publishing Journals and Publications.
- Establishment of various Regional offices and Chapters.
- First Campus in 1961 in Amrita.
- Established Mumbai in 1953 now WIRC.
- Shifted Central Office to Delhi in 1975.



1976-2000

- An integration of accounting techniques and auditing procedures. On detailed consideration, the Council setup a "Professional Development Committee".
- The ICAI started offering various specialized courses in areas such as taxation, audit, and management accounting to cater to the needs of the industry. The ICAI also established the Accounting Standards Board in 1997, which was tasked with formulating accounting standards in India.



2001-2023

- Significant Growth in Membership base, collecting demands of Qualified CAs in India and Abroad.
- Signed several Memoranda of Understanding and Mutual Recognition Agreements with International Accounting bodies for linking global recognition and mobility of CAs.
- Embraced Technology to streamline its operations and services.
- Undertakes various social responsibility initiatives including Financial Literacy, capacity building and advisory services.





It is for us to take the baton of the Fiduciary Duties of keeping the Nation first since this Institute was designed to ensure the Financial Health of the Economy of our Great Nation. We vow to the stature of the stalwarts who built this Monumental Institute and Fraternity to inculcate the very best of both

professionally and personally and take it to the Everest Peak. I would be failing in my duty if I did not make a particular reference to the assistance given to me by President Shri Aniket Talati, Chairperson of Ahmedabad Branch CA Dr. IP Anjali Chokshi, Secretary Sir Shri Abhinav Malaviya, Treasurer Sir – Shri Rinkesh Shah whose faith in me and relentless support made this possible. To articulate the history of this Institute is the grandest and greatest privilege that a professional can have, and I am humbled to have it received.

# THANK YOU FOR YOUR HARD WORK



**HAPPY WORLD LABOUR DAY | 1<sup>ST</sup> MAY**







# Are exports on payment of IGST allowed if inputs are procured under advance authorization or related schemes?



**Contributed by:**  
**CA. Raksha Agarwal**

to as "ITC") paid on the export of goods for the suppliers u/s 54 of the CGST Act vis-a-viz the notifications issued by CBIC and the amendments made by the government in Rule 96(10) of CGST Rules.

## **Synopsis:**

**It being with** Notification No. 79/2017 dt. 13.10.2017 which grants exemption to the exporter from the payment of IGST on the import of goods (Raw Materials) into India against a valid Advance Authorisation license. *This notification was amendment of the parent Notification No. 18/2015 – Customs dt. 01.04.2015.*

**Then vide** Notification No. 3/2018- Central Tax dated 23.01.2018 it was provided that persons claiming refund of IGST paid on exports should not have received the supplies on which the supplier has availed the benefit of Notification. No. 79/2017 – Customs dated 13.10.2017.

**At last,** the government amended Rule 96(10) of the CGST Rules and restricted the exporter from claiming the refund of the IGST paid on exports if the exporter avails the benefits of IGST exemption on imports made under the scheme of Advance Authorisation.

## **Detail analysis:**

On the basis of amendment to rule 96(10), the GST department has started issuing show cause notices to the exporter who has availed the benefit of Notification No. 79/2017- Customs dated 13.10.2017, way back in September 2022 which has become more aggressive these days for recovery of IGST refund which was granted to the above exporters on the basis of export of goods on the payment of IGST.

## **Legal Provision and the Amendments**

Rule 96(10) of CGST Rules, the machinery rule which restricts the exporter from exporting the

goods on payment IGST in the event where the inputs has been procured under the Advance Authorisation scheme, has been amended number of times.

- I) Initially, the CBIC issued **Notification No. 3/2018- Central Tax dated 23.01.2018** wherein it was provided that persons claiming refund of IGST paid on exports should not have received the supplies on which the supplier has availed the benefit of Notification. No. 79/2017 – Customs dated 13.10.2017.

[Amendment was made in Rule 96(10), and had a retrospective **effect from 23.10.2017]**

On the plain reading of this text, we construe that the restriction on claiming refund shall apply only if the supplier (who is located outside India) has availed the benefit.

- II) The CBIC also, on **30.05.2018 vide Circular 45/19/2019- GST wherein para 7**, again clarified that exporter shall not export the goods with payment of IGST who has received the goods from suppliers who has availed the benefit of certain specified notifications under which they have supplied goods without payment of tax or at a reduced rate of tax. This restriction is to ensure that the exporter does not utilize the input tax credit availed on other domestic supplies received for making the payment of integrated tax on the export of goods. However, the said restriction is not applicable to an exporter who has procured goods from suppliers who have not availed the benefits of the specified notifications for making their outward supplies.

Further, the said restriction is also not applicable to an exporter who has procured goods from suppliers who have, in turn, received goods from registered persons availing the benefits of these notifications since the exporter did not directly procure these goods without payment of tax or at a reduced rate of tax.

Thus, the restriction under sub-rule





(10) of rule 96 of the CGST Rules is only applicable to those exporters who are directly receiving goods from those suppliers who are availing the benefit under notification No. 79/2017-Customs dated the 13th October, 2017 among others.

Further, there might be a scenario where a manufacturer might have imported capital goods by availing the benefit of Notification No. 78/2017-Customs dated 13.10.2017 or 79/2017-Customs dated 13.10.2017. Thereafter, goods manufactured from such capital goods may be supplied to an exporter. It is hereby clarified that this restriction does not apply to such inward supplies of an exporter.

In light of Notification No. 03/2018 and Circular 45/19/2019, in the case of imports under Advance Authorization, the benefit of IGST exemption has been availed by the importer and not the supplier (who is located outside India). Therefore, there is no restriction on the Indian exporter to claim refund of IGST paid on export goods where the inputs are procured under the Advance Authorisation scheme

- III) Later, CBIC vide **Notification No. 39/2018- Central Tax dated 04.09.2018** modified the language of Rule 96(10), and this modification was **made effective retrospectively from 23.10.2017**.

The modified Rule 96(10) stood so as to mean that the person claiming refund of IGST paid on exports should not have availed the benefit of Notification No. 79/2017 Customs dated 13.10.2017 i.e. the exporter should have not purchased the inputs under the Advance authorization scheme and the oddity stood corrected.

In light of above, with effect from 23.10.2017, the exporters cannot export the goods with payment of taxes if they have availed the benefit of the advance authorization scheme wherein they have procured raw

materials duty-free.

In this intervening time from 23.10.2017 to 04.09.2018, many exporters who have procured the goods duty-free under the Advance authorization scheme has exported the goods with payment of taxes and has also received the refunds on account of the same. Since there was favourable provisions prevailing at that time. However after the retrospective effect of above notification huge number of exporters are facing the show cause notice from the GST department.

- IV) On 09.10.2018, the CBIC for the third time amended the language of Rule 96(10) vide Notification No. 53/2018, and that too retrospectively from 23.10.2017. The amendment stood as below.

**The persons claiming refund of integrated tax paid on exports of goods or services should not have received supplies on which the supplier has availed the benefit of the Government of India, Ministry of Finance,** notification No. 48/2017-Central Tax, dated the 18th October 2017, or notification No. 40/2017-Central Tax (Rate) dated the 23rd October 2017, or notification No. 41/2017-Integrated Tax (Rate), dated the 23rd October 2017, or notification No. 78/2017-Customs, dated the 13th October 2017, or notification No. 79/2017-Customs, dated the 13th October 2017.

Therefore, this amendment was again construed as the restriction on claiming the refund shall apply only if the supplier (who is located outside India) has availed of the benefit of Notification No. 79/2017- Customs dated 13.10.2017.

- V) However, on the same day, the CBIC issued a **Notification 54/2017** and finally provided it as below.

*In the said rules, in rule 96, for sub-rule (10), the following sub-rule shall be substituted, namely:*

—







**"(10) The persons claiming refund of integrated tax paid on exports of goods or services should not have-**

**(a).....; or**

**(b)availed the benefit under notification No. 78/2017-Customs, dated the 13th October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1272(E), dated the 13th October, 2017 or notification No. 79/2017-Customs, dated the 13th October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1299 (E), dated the 13th October, 2017 except so far it relates to receipt of capital goods by such person against Export Promotion Capital Goods Scheme."**

This was made effective from the date on which this notification was published in Official Gazette i.e. from 09.10.2018

The above amendment made the provision amply clear that **w.e.f 09.10.2018**, the exporters cannot export the goods with payment of taxes if at all they have availed the benefit of the Advance authorization scheme wherein they have procured the duty-free raw materials.

VI) Further, CBIC vide **Circular No. 125/44/2019- GST dated 18.11.2018** made the clarification on this behalf. The CBIC clarified three aspects.

a. The net effect of these changes is that any exporter who himself/herself imported any inputs/capital goods in terms of notification Nos. 78/2017-Customs and 79/2017-Customs both dated 13.10.2017, before the issuance of notification No. 54/2018 – Central Tax dated 09.10.2018, shall be eligible to claim refund of the Integrated tax paid on exports.

b. Exporters who have imported inputs in terms of notification Nos. 78/2017-Customs dated 13.10.2017, after the issuance of notification No. 54/2018 – Central Tax dated 09.10.2018, would not be eligible to claim refund of Integrated tax paid on exports.

c. Exporters who are receiving capital goods under the EPCG scheme, either through import in terms of notification No. 79/2017-Customs dated 13.10.2017 or through domestic procurement in terms of notification No. 48/2017-Central Tax, dated 18.10.2017, shall continue to be eligible to claim refund of Integrated tax paid on exports and would not be hit by the restrictions provided in sub-rule (10) of rule 96 of the CGST Rules.

Therefore, it is now crystalline that restrictions provided under Rule 96(10) of making the exports with payment of IGST when the inputs have been procured in terms of Notification 79/2017-Customs apply only on and after 09.10.2018.

#### **Issue of double benefit**

The CBIC vide Circular 45/19/2019- GST, clarified that this restriction is imposed so as to prevent an exporter from utilizing the ITC availed on other domestic supplies for making the payment of IGST on the export of goods. However, the Government is ignoring the fact that every kind of incentive or rebate or refund, etc that is linked to exports is provided with the sole motto of earning foreign exchange and improving the country's trade and balance of payments. If the Government, upheld the restriction as above, this will create hindrances in achieving its own objectives.

Further, the question of double benefits can come only if the exporter has availed the refund which is higher than what he is otherwise entitled to. However, in any given situation, the taxpayer cannot claim the refund over and above the balance of ITC available in his electronic credit ledger under both the routes i.e. under LUT/bond or with payment of tax.







### Insertion of restriction valid or not?

The Finance Bill, 2021 proposed a prospective amendment u/s 16(3) of the IGST Act, 2017 which shall grant the power to the Government to specify the class of persons who may make exports on payment of IGST or class of goods or services which may be exported on payment of IGST. The said proposal, therefore, reveals that no power exists in the current law to mandate any class of persons who shall not export on payment of IGST or class of goods or services which shall not be exported on payment of IGST.

### Judiciary view

Hon'ble Gujarat High Court in the case of ***Cosmo Films Ltd. v. UOI (SCA No. 15833 of 2018)***

### Facts of the case and relevant provisions in brief

The petitioner was a public limited company engaged in the business of manufacturing and sale of flexible packaging films. The petitioner was the holder of Advance Authorization Licenses. The petitioner obtained AA Licenses and imported goods without payment of import duty in terms of Notification No. 79/2017-Customs, dated 13th October, 2017.

The petitioner was entitled to import raw materials without payment of IGST under AA Licenses and pay IGST on exports and claim a Rebate (Refund) of the IGST so paid on exports. The petitioner has received benefits of rebate of IGST at the relevant point in time. Thereafter, sub-rule (10) of Rule 96 of the CGST Rules was amended by Notification dated 4th September 2018 with retrospective effect from 23rd October, 2017, providing that rebate on exports cannot be availed by the petitioner, if the inputs procured by the petitioner have enjoyed AA benefits or Deemed Export Benefits under the said notification.

Therefore, the petitioner was unable to utilize the benefit of duty-free imports under AA Licenses and take the benefit of rebate on exports, because of the amendments made in Rule 96(10) of CGST Rules. The petitioner has therefore preferred this petition challenging the aforesaid notifications and amendments made in sub-rule (10) of Rule 96 of the CGST Rules, by Notification No. 54/2018 denying the option to claim rebate to the petitioner for importing goods under AA Licenses being ultra vires the provisions of the CGST Act and the CGST Rules made there under and Article 14 of the Constitution of India.

### Pronouncement of the court.

- Hon'ble Gujarat High held that Rule 96(10) as substituted w.e.f. 09.10.2018 shall apply retrospectively from 23.10.2017.

The decision on the said aspect is against the express language of the

For this reason, the said decision has also been admitted for review.

- Hon'ble Gujarat High Court further permitted the exporters who have violated the provisions of Rule 96(10) to regularize the refunds by paying back IGST along with interest.
- Further Hon'ble Court also held that the said exporter can avail the ITC of the IGST so paid. However, the interest shall be a cost.

### Applicability of Interest under Customs Act and GST Act on payment of IGST for regularizing the refund

#### Brief of legal provision

The IGST on imports is collected u/s 3(7) of the Customs Tariff Act, 1975, and Section 28AA of the Customs Act, 1962 provides for the imposition of interest on the delayed payment of "duty".

The meaning assigned to the relevant terms in the enactment is as below:

**"duty"** means a duty of customs leviable under the said Act. [2(15) of the Customs Act, 1962] IGST collected u/s 3(7) of the Customs Tariff Act, 1975 is a duty of customs leviable under the Customs Act, 1962.

#### Judicial Pronouncement

Reference is made to the decision in the case of ***Jet Airways (India) Ltd. v. CC (Customs Appeal No. 54064 of 2018)*** wherein the Hon'ble Tribunal has held that IGST collected u/s 3(7) of the Customs Tariff Act, 1975 cannot be considered to be "duty" u/s 2(15) of the Customs Act, 1962. Therefore, in my humble opinion, the interest on the delayed payment of IGST cannot be imposed u/s 28AA of the Customs Act, 1962.

However, belated payment of IGST on imports may attract interest u/s 50(1) of the CGST Act, 2017



# GST Updates

## Important AAR /AAAR/HC JUDGMENTS/ SC JUDGMENTS



**Contributed by: CA. Monish Shah** would be liable to 18 per cent GST (AAR-07/ARA/2023)

Profisolutions Pvt Ltd, which has its registered office in Karnataka and a branch office in Chennai, had approach the Authority for Advance Ruling (AAR) seeking a ruling on whether the services provided to head office will attract GST.

The branch office of the applicant is providing support services like engineering, design and accounting to its head office at Bangalore in Karnataka. The applicant contends that employees are appointed and working for the company as a whole and not employed for head office or branch office specifically.

Under Goods and Services Tax (GST), businesses need to obtain registration in every state in which they have a physical presence.

The AAR observed that under GST law supply of services between two registrations of the same person in same state or in different states attract tax. **"Services, including services of common employees of a person, provided by branch office to head office and vice versa, each having separate GST registration, will attract GST liability,"**

### 2. 18% GST Applicable on services supplied by sub-contractor to Sub-Contractor (GUJ/GAAAR/43/2021)

The appellant is engaged in providing works contract services directly to sub-contractor

who execute the contract with main contractor for original contract work with the irrigation department. M/s. JSIW Infrastructure Pvt Ltd received the original contract from the irrigation department for the construction of pumping station and supplying and laying MS Pipeline with all a field work etc. and maintenance of the commissioned project for 10 years. M/s JSIW Infrastructure executed the same contract with M/s. Radhe Construction Further M/s. Radhe Construction executed the same contract with the appellant.

After reviewing the arguments the bench of Samir Vakil and Vivek Ranjan concluded that the appellant is subject to tax discharge at a rate of 18% under Entry No.3 (ii) of Notification No.11/2017-CT(R) of June 28, 2017, as subsequently revised by entry No.3 (xii) of the aforementioned Notification.

### 3. Combination of solar inverter and battery is not Solar Power Generating System but qualifies as Mixed Supply , attracts 18% GST (HR/ARL/17/2021-22)

AAR held that the combination of solar panel, inverter, solar battery and charge controller may qualify as "Solar Power Generation System. If said items are supply in the assemble form, it will covered under Solar Power Generation System and will be treated as composite supply. Accordingly rate prescribed in GST vide Notification No.01/2017 Central tax (Rate) dated 27.01.2017 will be 12% for Solar Power Generation System is applicable. However, if the said items are supplied individually and their value is also shown in the invoices individually, then the said supply will be treated as mixed supply.

As the combination of solar inverter & battery do not make Solar Power Generation System thus the said supply will be treated as mixed supply and rate of GST will be 18%. The rate of GST does not alter whether the supply has been made by the manufacture or trader.

### Notification:

- **No.02/2023 - Central Tax:**  
GSTR 4 if not filed within due date, Late fee restricted to Rs. 500/- if filed between 01-04-





2023 to 30-06-2023 for the quarters from July, 2017 to March 2019 or FY 2019-20 to FY 2021-22.

• **No.03/2023 - Central Tax:**

Special procedure for revocation of cancellation of registration, cancelled on or before the 31-12-2022

- To be applied within 30-06-2023

- Revocation to be filed only after filing all returns along with payment of tax, up to the effective date of cancellation of registration

- No further extension of time period for filing application

• **No.04/2023 - Central Tax:**

CGST (Amendment) Rules, 2023 - Effective from 26-12-2022 [Rules prescribed under No.26/2022-Central Tax gets amended]

Sub-rule (4A) - Explains Authentication of Aadhaar during registration, whereas Biometric-based Aadhaar authentication and taking photograph of the applicant amended as a proviso to the said rule. Earlier was not inserted as proviso to the rule.

• **No.05/2023 - Central Tax:**

Sub-rule (4B) amended giving effect to Sub-rule (4A) Proviso "for and words, -provisions of, the words -proviso to, shall be substituted"

Thereby making the Proviso to Sub-rule (4A) applicable only to Gujarat (As explained in No.27/2022-Central Tax)

• **No.06/2023 - Central Tax:**

Special procedure for Assessment of Non-

Filers of returns

Assessment shall be withdrawn if

- Returns furnished on or before 30-06-2023

- Along with payment of Interest u/s 50 and Late Fees u/s 47

• **No.07/2023 - Central Tax:**

GSTR 9 if not filed within due date, Late fees restricted to Rs. 20,000/- if GSTR-9 is filed between 01-04-2023 to 30-06-2023 for the FY 2017-18, 2018-19, 2019-20, 2020-21 or 2021-22.

Late Fees Revision from FY 22-23 onwards

Aggregate Annual Upto Rs. 5Cr

Above Rs. 5Cr and upto Rs. 20Cr

Above Rs. 20Cr

Are heps

Rs. 50 per day Subject to maximum of 0.04% of T/O

Rs. 100 per day Subject to maximum of 0.04% of T/O

Rs. 200 per day Subject to maximum of 0.50% of T/O

• **No.08/2023 - Central Tax:**

GSTR 10 if not filed within due date, Late fees restricted to Rs. 1,000/- if GSTR-10 is filed between 01-04-2023 to 30-06-2023

• **No.09/2023 - Central Tax:**

Extension of Time Limit for issuance of Order u/s 73(9)

FY 17-18 - Upto 31-12-2023

FY 18-19 - Upto 31-03-2024

FY 19-20 - Upto 30-06-2024

## Miles



**Contributed by:  
CA. Pooja Thakkar**

Be who you are,  
My Dear Friends

A lot has gone into making you,  
Don't let manacles of the fake  
identities fret you!

The Mask you put on to please others  
Will become your identity before you  
knew

Don't let yourselves down  
By turning your back to the Fear of  
Unknown

Only to find the treasure of your  
Origins were awaiting to reveal the  
Ultimate  
Truth Alone

You are meant to be True to Your  
Creator

You are meant to be YOU  
In many ways you will be dragged to  
the pit  
Choosing to be ignorant will only

make you unfit,

Why succumb your prowess to  
gullible

Why you seek validations from  
culpable

Only way to BE YOU is to be  
Courageous

It's fortitude of only Ambitious  
Nothing will ever be valuable, if you  
prefer to act dubious

Why can't you grow beyond being  
amphibious

What others think of you is none of  
your business

Be mindful of your thoughts and be  
your own witness

Why don't you care to be JUST YOU!  
For that's a heck of a task to be True  
to YOU!

My only question is Do you know  
WHO ARE YOU?







## Scopes of NBFC Startups in India



**Contributed by:**  
**CA. Swati Panchal**

Non-Banking Financial Companies (NBFCs) in India have been playing a crucial role in providing financial services to underserved segments of the population. With the emergence of digital technologies and the startup ecosystem, there are several opportunities for NBFC startups to develop and

expand their operations.

**Digital Lending:** With the rise of fintech startups, digital lending has emerged as a popular alternative to traditional lending. NBFC startups can leverage this opportunity by using technology to underwrite loans and offer personalized lending solutions to customers.

**Microfinance:** Microfinance is an area where NBFCs have been making a significant impact in India. NBFC startups can focus on this segment by offering small-ticket loans to low-income households, thereby providing access to credit to those who do not have collateral.

**Affordable Housing:** With the government's push towards affordable housing, there is a growing demand for housing finance. NBFC startups can tap into this opportunity by offering innovative solutions for home loans, such as shared equity or rent-to-own schemes.

**Rural Finance:** Rural areas in India are underserved when it comes to financial services. NBFC startups can bridge this gap by offering financial products that cater to the needs of farmers, small businesses, and households in rural areas.

**Trade Finance:** India's small and medium-sized enterprises (SMEs) face challenges when it comes to accessing finance for their trade activities. NBFC startups can provide trade finance solutions that are customized to the needs of SMEs, such as factoring, supply chain financing, and trade credit insurance.

NBFC startups have a wide range of opportunities to explore in India's financial services landscape. By leveraging technology, innovation, and a customer-centric approach, NBFC startups can disrupt the traditional financial services industry and cater to the evolving needs of the Indian market.

## MCA Compliance



**Contributed by:**  
**CA. Jay Dattani**

Sr. No.	Form Name	Due Date
1.	<b>Form -11</b> (LLP Annual Return )	30.05.2023
2.	<b>Form PAS-6</b> (To be filed by unlisted public company for reconciliation of share capital audit report on half yearly)	30.05.2023 (for half year ending on 31 <sup>st</sup> March 2023)





# RBI Updates



**Contributed by:**  
**CA. Mayur Modha**

In the month of April-2023, there are various Master directions, Master circulars, notifications issued by RBI, Summary and brief understanding of few of them are as under:

**Date of Issue:** 01-04-2023

**Master directions/ Master circulars/ notifications No.:** RBI/2023-24/04  
DOR.STR.REC.5/13.07.010/2023-24

**Applicability:** All Scheduled Commercial Banks (Excluding Payments Banks and RRBs)

**Brief understanding:** Master Circular - Guarantees and Co-acceptances- this circular consists of various Guidelines relating to conduct of guarantee business i.e.  
-Norms for unsecured advances & guarantees  
-Precautions for issuing guarantees  
-Precautions for averting frauds

**Date of Issue:** 01-04-2023

**Master directions/ Master circulars/ notifications No.:** RBI/2023-24/05  
DoR.STR.REC.4/09.27.000/2023-24

**Applicability:** All Commercial Banks (excluding RRBs)

**Brief understanding:** Master Circular - Guarantees, Co-Acceptances & Letters of Credit -UCBs-

This circular consists of various Guidelines and Safeguards for Guarantees, Co-Acceptances & Letters of Credit

**Date of Issue:** 01-04-2023

**Master directions/ Master circulars/ notifications No.:** RBI/2023-24/05  
DoR.STR.REC.4/09.27.000/2023-24

**Applicability:** All Commercial Banks (excluding RRBs)

**Brief understanding:** Master Circular - Guarantees, Co-Acceptances & Letters of Credit -UCBs-



This circular consists of various Guidelines and Safeguards for Guarantees, Co-Acceptances & Letters of Credit

**Date of Issue:** 01-04-2023

**Master directions/ Master circulars/ notifications No.:** RBI/2023-24/06

DOR.STR.REC.3/21.04.048/2023-24

**Applicability:** All Commercial Banks (excluding RRBs)

**Brief understanding:** Master Circular - Prudential norms on Income Recognition, Asset Classification and Provisioning pertaining to Advances-

This Master Circular consolidates instructions on the above matters issued up to March 31, 2023.

**Date of Issue:** 03.04.2023

**Master directions/ Master circulars/ notifications No.:** RBI/2023-24/08

DOR.CRE.REC.No.06/08.12.001/2023-24

**Applicability:** All Scheduled Commercial Banks (excluding RRBs)

**Brief understanding:** Master Circular - Housing Finance

This Master Circular consolidates instructions on the above matter issued up to March 31, 2023.

**Date of Issue:** 11.04.2023

**Master directions/ Master circulars/ notifications No.:** RBI/2023-24/15

DOR.CRE.REC.No.9/07.10.002/2023-24

**Applicability:** All Primary (Urban) Co-operative Banks

**Brief understanding:** Master Circular - Housing Finance for UCBs- This Master Circular consolidates and updates all the instructions / guidelines on the subject issued till date.







**Date of Issue:** 11.04.2023

**Master directions/ Master circulars/ notifications No.:** RBI/2023-24/14

DOR.SFG.REC.10/30.01.021/2023-24

**Applicability:** All Scheduled Commercial Banks including Small Finance Banks

(Excluding Regional Rural Banks, Local Area Banks and Payments Banks)

All Deposit taking Non-Banking Finance Companies (NBFCs) including Housing Finance Companies (HFCs)

**Brief understanding:** Framework for acceptance of Green Deposits-

The framework shall come into effect from June 1, 2023.

**Purpose/Rationale**

To encourage regulated entities (REs) to offer green deposits to customers, protect interest of the depositors, aid customers to achieve their sustainability agenda, address greenwashing concerns and help augment the flow of credit to green activities/projects.

**Date of Issue:** 20.04.2023

**Master directions/ Master circulars/ notifications No.:** RBI/2023-24/17

DOR.CAP.REC.11/09.18.201/2023-24

**Applicability:** All Primary (Urban) Co-operative Banks

**Brief understanding:** Master Circular - Prudential Norms on Capital Adequacy - Primary (Urban) Co-operative Banks (UCBs)-

This Master Circular consolidates and updates all the instructions / guidelines on the subject issued up to April 19, 2023 as listed in the Appendix.

**Date of Issue:** 24.04.2023

**Master directions/ Master circulars/ notifications No.:** RBI/2023-24/18

DOR.STR.REC.12/21.04.048/2023-24

**Applicability:** All Primary (Urban) Co-operative Banks,

**Brief understanding:** Provisioning for standard assets by primary (Urban) co-operative banks – revised norms under four-tiered regulatory framework-

it has been decided to harmonise the provisioning norms for standard assets applicable to all categories of UCBs, irrespective of their Tier in the revised framework. These guidelines shall come into effect from the date of this circular.



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# Ethical Standards



**Contributed by:  
CA. Parag Raval**

It has been noticed since long that Ethics and Auditing Standards in our professional life has always taken a back seat. It is so ironical that despite the fact we do read a lot of things like Income tax, GST, Company Law, etc. but when it comes to Ethics and Auditing Standards, we tend to treat it as if we know everything and there is no need to study, **and even no need to comply with it.**

History shows that whenever there is a conflict between Ethics and Economics, victory always go with Economics.

Very few Members are aware of Ethics and Auditing Standards. Even, hardly few of total members would be knowing how many Auditing Standards or Accounting Standards are in existence. Majority of the members do not know. Only CA Final student would be knowing about it. And that poor student must read it because he has to answer the questions in CA Examination. Otherwise, he also would not have studied it.

And similar is the treatment with Ethical Standards. Once he qualifies, he does not read Ethics. Books are parked in shelf. He enjoys the life and forget Standards on Ethics and Auditing all together.

Ethics is a behaviour. e.g., you go to an Architect. You expect certain services and behaviour from the Architect as a reward for fees you pay. This is a behaviour, and it is ethics too. Our client also expects certain type of services or treatment as a reward of payment of fees. Such expectation is something imbibed in all of us. It cannot be taught by others, or it cannot be known by reading. It should be in our Sanskar.

Many ethical things we tend to ignore on the plea that it is legally allowed.

What is legal may not necessarily be ethical. Political parties give ticket to Gundas and we

also talk that party has given ticket to a third class fellow. Despite the fact this is legal, it is not ethical at all.

Everything which is ethical is bound to be legal. Whatever is Ethical cannot be illegal. Ethical things cannot be against the law. Whatever is permissible may be legal but may not be ethical. For example, a person contest political election despite he is in jail. A person is also allowed go for voting even if he is in jail as a punishment. Similarly writing a book by a CA on 1. 'How to evade tax', 2. 'How to commit frauds', 3. 'How to convert black money into white', etc. may be legal but not at all ethical. Many ethical things we ignore on the plea that it is legally allowed. However, we must stand alongside ethics.

Whatever brings disrepute to ICAI is un-ethical. Even we cannot hold books of client or hold release of report until he pays the fee. If we do so, it's a kind of extortion.

Ethics means moral values. One can be transparent; but one needs to be accountable. The whole foundation of any profession, particularly CA profession, is its credibility. The sole purpose of Code of Ethics is to ensure and uphold this credibility.

There is a criticism against Council of the ICAI that 1. the complaints against CAs are not processed very seriously, 2. there is considerable delay in disposing of the complaints, 3. punishments awarded are too mild, and so on. Thus, the society expects the Code of Ethics to be implemented very strictly. Ethics are nothing but the laws or rules of acceptable behaviour.

The new Code of Ethics is a 12<sup>th</sup> edition of Code of Ethics. It was last revised in the year 2009.

The revised (twelfth) edition of Code of Ethics has been aligned with the various amendments and contemporary developments taken place since last revision.

This is for the first time that the Code of Ethics has been segregated into Volumes, namely - I, II and III. While Volumes I and II represent the revised counterparts respectively of Parts A and B of Code of Ethics, 2009, the Volume-III is the Case Laws







Referencer. Their links at [www.icaai.org](http://www.icaai.org) are given hereunder:-

**Code of Ethics Volume – I**

<https://resource.cdn.icaai.org/55133CodeofEthics-2019.pdf>

**Code of Ethics Volume – II**

<https://resource.cdn.icaai.org/60018code-of-ethics-2020vol2.pdf>

**Code of Ethics Volume – III**

<https://resource.cdn.icaai.org/59111esb48239.pdf>

The revised edition of Code of Ethics has been made applicable from 1st July, 2020.

You are encouraged to read the revised Code of Ethics, and get the requisite updates on professional ethics. In case of any query, you may write to [esb@icaai.in](mailto:esb@icaai.in).

The Institute of Chartered Accountants of India (ICAI) is a statutory body established under The Chartered Accountants Act, 1949 for the regulation of the profession of Chartered Accountants in India. The Council of ICAI is empowered to discharge the provisions of the Act, and regulate and maintain the standards of the profession. In pursuance of this, ICAI has established the Ethical Standards Board to function as standard setting body. The Ethical Standards Board develops and issues ethical standards and other pronouncements for chartered accountants. It works towards evolving a dynamic and contemporary Code of Ethics and ethical behaviour for members while retaining the long cherished ideals of 'excellence, independence, integrity' as also to protect the dignity and interests of the

members.

**Objective:**

The objective of Ethical Standards Board is to set up ethical standards for chartered accountants, converge with the International best practices on ethics, subject to local laws, thereby enhancing the quality and consistency of services provided by chartered accountants and strengthening the public confidence in the profession.

- To examine various issues concerning Code of Ethics governing the members of the Institute.
- To establish standards for Chartered Accountants for regulation and maintenance of status and standards of professional qualification of members of the Institute
- To examine and advise on any ethical matters referred to the committee.
- To review periodically and publish the revised Code of Ethics and their publications relating to ethics.
- To promote public awareness and confidence in the integrity, objectivity, competence and professionalism of members and to co-ordinate with other Committees.
- To examine and deal with the complaints of members against their unjustified removal as auditors of any entity as per procedure evolved and to take necessary steps to protect the interest of the members.
- The Ethical Standards Board will review the terms of reference at every two years.

**Ethical  
Standards**





# Information Technology

## HOW TO GAIN FROM WASTE MANAGEMENT FROM ROUTINE BUSINESS



**CA Role : To suggest way of reducing/ saving/ controlling cost and improving efficiency of business process , consequently increase in Profit.**

Dear Members,

**Contributed by:  
CA. Siddharth Bhatt**

Since long , there is active campaign going on about 'Make in India' that is to set up a manufacturing unit here for Indian businesses to progress in competitive environment , they have to manage the business in cost efficient manner . Compare to Trading and Service sector, manufacturing is a complex business as it involves multiple departments , like Human resource, Marketing , Production, Account , Purchase , Sales , Logistic , Maintenance , etc . in every business 5 M is used like Men, Money, Material, Machine, Method.

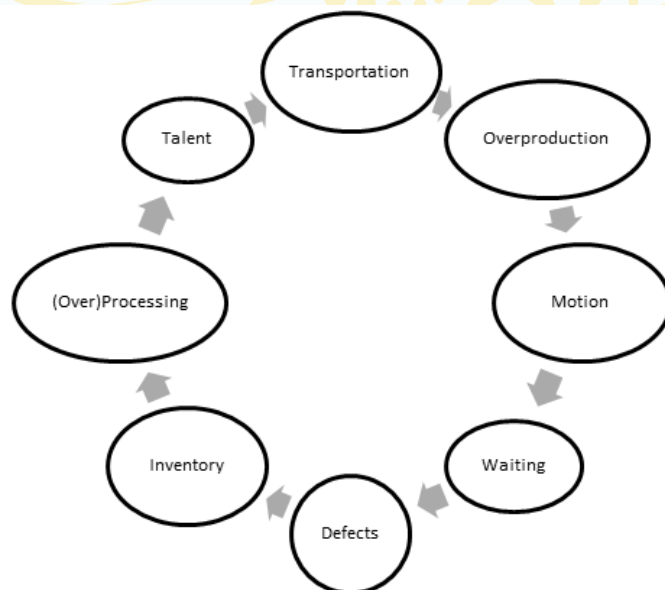
Waste can be defined as 'any activity which does not add value to product or service '. Now a days profit margins are shrinking, in traditional approach: " $\text{Cost} + \text{Profit} = \text{Price}$ ". but in present scenario can we decide the price (say for example - Telecom sector , FMCG sector) ? it is open market and consumer is the decision maker.

so modern approach is " $\text{Price} - \text{Cost} = \text{Profit}$ ", that is , we can only manage our controllable cost to earn more profit or to do value addition in product/service for better margin. Let me assured you that , if below steps are followed religiously , one can see minimum 5 % increase in efficiency in business activity yearly resulting in to saving in cost by efficient working strategy !!!

Process of Continuous Waste management can be defined in following five stages

To gain , first we need to understand Types of Waste which are the root of all avoidable activity for efficient business , these are the hidden cost.

The 8 wastes are at the root of all unprofitable activity which are avoidable and controllable within The organization.



Above mentioned risk factors(waste) are common in nature , but Japanese are the first to define 'Muda' (Waste) and documented their findings . it is like Apple Theory of Sir Isaac Newton who defined ' Universal Law of Gravitation' . Although Ancient India had Documented knowledge of Gravity and Waste Management long before!!

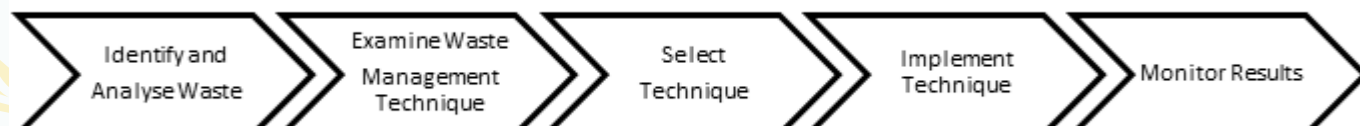
Now , let us understand Waste , it's cost impact on business and techniques to save cost.

### Risk No 1. Transportation

#### Definition:

Movement of things(material, paperwork, supplies) – redundant moving of things, or moving things farther than necessary.

**Example :** Material gets picked; then taken to the checker line; the checker moves it to the checker station to check; then moves it to be







staged at will call, transfer trailer, etc.

- Cash drawers are given to cashier; cashier puts it inside sales safe until the next day; then they pull it and use it; then it goes back to the sales safe for overnight storage, then it's counted and taken to accounting the next day
- Shared tools (like ladders) were being hunted for and moved many times throughout the day by many people. (This was corrected by buying a few extra ladders and strategically placing them at the end caps of the shelves.)

#### **Risk:**

Adds expense but no benefit; costs time and money; creates delays; adds risk of things being damaged, misplaced or lost.

I have linked transportation with motion, please refer motion chapter.

#### **Risk No 2. Motion**

##### **Definition:**

Movement of people - any motion that is not necessary to successfully complete a task, or that makes a task harder than it should be or is unsafe.

##### **Example:**

- Walking to find/use tools or equipment, like walking to another department to use the printer.
- Salesmen having to "check stock" for a customer order before they can place an order and fruitless trips.
- Bending or reaching to use tools or complete tasks; for example, the workbench was at a poor height for efficient work; it was raised higher to prevent employees bending/reaching unnecessarily.

#### **Risk:**

Costs time and places undue stress on employees and equipment; may even cause mistakes or injuries.

#### **Solution:**

These is the important concept while designing layout of the Internal Business Process. there is a unsequential link of store, production, dispatch, administration department, that is lack of standard operating procedure and 5S. basically, 5S is a method to reduce waste and optimizing productivity through maintaining workplace orderly and using visual cues to maintain consistency, it is a Japanese findings

which says 5 'S' are – 1. Sort-find waste and remove 2.Set in order 3.Shine-clean workplace 4.Standardise practice 5.Sustain-maintain it in routine like habbit. At present only 20% SME Sectors does scientific motion study and 5S. let me give you a example of motion study, say, there is a one dairy unit producing milk and it's related products. actual process from receipt to dispatch should be in chronological order, but suppose raw milk is stored at ground level silo, generator and other machineries are operating from basement, raw milk processed at ground level room 1, then stored at first floor, pouch packaging is done at ground floor room 2 and packaging material, milk powder, edible chemicals, engineering parts are stored at third floor !!! now, just imagine what should have been done? such kind of unscientific arrangement consumes unnecessary time. at present all packaging and spare parts are needs to be moved up at third floor then for utilizing again it has to come down and for these labours are used. if plant is operating at three shift – at least six times he needs to walk third floor and chances of mishandling arises, if store department is at ground floor, his 80 % time is saved from motion. another example is of Tanker in which raw milk is transported, for measuring weight of milk, weighing scale should be near to unloading area, if it is not within plant and for weight, tanker needs to go out, weigh scale machine is 1 km away from plant. imagine the situation – if daily 25 tanker comes for unloading, per km diesel cost them Rs 10 and consumes 15 minutes to travel having per minute manpower cost of Rs 1 for driver and Rs 2 for security who goes with driver to check weight, to and from makes Rs 20 per tanker, 30 minutes gets wasted in transportation, annually it comes to Rs 1,46,000 (20 tanker\*20 Rs for 2 km\*365 Days) diesel cost and Rs 6,57,000 (30 minute\*Rs3per minute\*20 truck per day\*365 days) as unused labour cost and if weigh scale is made in house it cost Rs 2 lacs. every year Rs 7 lacs can be saved by doing motion study and intangible benefits extra !!!!





# Amnesty Scheme 2023

## A Sigh for all Non-Filers or Not



**Contributed by:**  
**CA. Yash Shah**

### Introduction

A sigh for all the non-filers of annual return under GST up to FY 2021-22 providing a safe and legal way for taxpayers to declare their previously undeclared assets and income and pay taxes on them. Soon after India gained independence, tax

amnesty programmes were implemented. The first voluntary disclosure programmes were introduced in 1951, opening the door for the revelation of unaccounted funds without concern about legal repercussions (VDIS Tyagi Scheme). The taxpayers had doubts about the guarantees of immunity, and so this programme failed. It is debatable as to whether the amnesty scheme brought by the government will achieve its goals this time.

### Pros & Cons

#### **~ Increase Revenue Collection**

1. Increase revenue collection for the government.
2. Undeclared assets and income can be regularized through this program.
3. Broaden the tax base for the government.

#### **~ Encouraging Tax Compliance**

1. Encourage tax compliance among taxpayers.
2. No fear of legal consequences as it is a safe and legal way for taxpayers
3. Improve tax compliance in the country.

#### **~ Boost Economic Activity**

1. Declaring previously undeclared assets and income and pay taxes on them.
2. Inject more money into the economy.
3. Leading to increased consumption, investment, and job creation.

#### **~ Reduce Litigation**

1. Reduce litigation between taxpayers and the tax authorities.
2. Reduce the burden on the courts and the tax authorities, and also save time and resources.

#### **~ Unfair to honest taxpayers**

1. Unfair to honest taxpayers who have been paying their taxes regularly.
2. No legal consequences for those who

have been evading taxes.

#### **~ No Guarantee of long-term compliance**

1. No guarantee whether it will continue, it is just one time.

Separate infrastructure to process.

### GSTR-4 (Quarterly/Annual)

Notification 02/2023 CT dtd. 31.03.2023

#### **Person who can avail**

Composition taxable persons

Who did not file GSTR-4 for quarters July 2017 to March 2019 or for the financial years from FY 2019-20 to FY 2021-22 on or before due dates.

#### **Benefits**

Other than Nil return - Late fee fixed at max Rs. 500 (i.e., Rs.250 each for CGST and SGST Act) per return.

Nil return - No Late fee

#### **Validity**

To be filed between 1st April 2023-30th June 2023

### GST REG-21 (Application for revocation of cancellation of GST registration)

Notification No. 03/2023 CT dtd. 31.03.2023

#### **Person who can avail**

Any taxpayer whose GST registration is canceled by GST officer on or before 31st December 2022 for the reasons such as:

- (i) Failure to file returns for six months/two quarters continuously
- (ii) Failure to conduct business for a continuous period of six months from the date of registration.

And

Such taxpayers did not apply for revocation in REG-21 within 30 days from the date of service of the cancellation order by the GST officer.

**Note:** Irrespective of fact that appeal was filed and rejected on grounds of not meeting the time limit of revocation.

#### **Benefits**

Can file REG-21 in extended time period

**Condition:** File all pending returns with taxes, late fee and interest, as applicable up to date of cancellation of GST registration.

#### **Validity**

To be filed on or before 30th June 2023

The time limit increased from 30 days to 90 days (further extendable by 180 days).







### **GSTR-3B & GSTR-10 (Pending GST returns Section 62 CGST Act)**

Notification No. 06/2023 CT dtd. 31.03.2023

#### **Person who can avail**

Any taxpayer who defaults filing of any GST return (GSTR-3B/10) within 30 days from the service of the assessment order issued on or before the 28th of February 2023.

The time frame for filing a return to enable the deemed withdrawal of the best judgment assessment order is being extended from 30 to 60 days (extendable by another 60 days subject to certain conditions).

#### **Benefits**

Deemed withdrawal of best judgment assessment order under Section 62 of the CGST Act, even if an appeal is filed or decided.

**Condition:** File all such pending returns with taxes, late fee and interest, as applicable.

#### **Validity**

To be filed on or before 30th June 2023

### **GSTR-9 and 9C (Annual Return)**

Notification No. 07/2023 CT dtd. 31.03.2023

&

Rationalization of late fee (GSTR-9) FY 2022-23 onwards

#### **GSTR-9**

#### **Person who can avail**

Registered regular taxpayers mandated to file GSTR-9 from FY 2017-18 to FY 2021-22 but have not filed on or before the respective due dates.

#### **Benefits**

Can file GSTR-9 at concessional late fee  
Late fee Maximum Rs.20,000. (i.e.10,000 each under CGST and SGST Act).

#### **Validity**

To be filed on or before 30th June 2023

### **GSTR-9C**

#### **Person who can avail**

GST registered taxpayer to whose aggregate annual turnover is more than Rs 5 crore.

#### **Benefits**

No specific provision and is subject to a general penalty of Rs 25,000.

#### **Validity**

31st December of next FY, either with or after filing GSTR-9 which is subject to CBIC notifications for any due date extension.

### **Annual turnover**

1. Annual turnover is up to INR 5 crore.
2. Annual turnover is more than INR 5 crore and up to 20 crores.
3. No change in the late fees if the Annual turnover exceeds INR 20 crore.

### **Late Fee**

1. Late fees shall be INR 50 per day, (Rs. 25 CGST + Rs. 25 SGST) maximum of 0.04% of turnover in the state/ UT.
2. Late fees shall be INR 100 per day, (Rs. 50 CGST + Rs. 50 SGST) maximum of 0.04% of turnover in the state/UT.
3. -

### **GSTR-10 (Final Return)**

Notification No. 08/2023 CT dtd. 31.03.2023

#### **Person who can avail**

Taxpayers whose GST registration is canceled within three months of the date of cancellation or date of order of cancellation, whichever is later.

Whose registration has been canceled under clause (b) or clause (c) of sub-section (2) of section 29 of the said Act on or before the 31st day of December, 2022, and who has failed to apply for revocation of cancellation of such registration within the time period specified in section 30 of the said Act.

#### **Benefits**

Can file GSTR-10.

At a concessional late fee of maximum Rs.1,000. (i.e., 500 each under CGST and SGST Act).

Late fee is waived off in excess of Rs.1,000 for delayed filing of GSTR-10.

#### **Validity**

To be filed on or before June 30, 2023.

### **Order u/s 73**

Notification No. 09/2023 - CT dated. 31.03.2023

Time limit for issuance of an order under section 73 has been extended as given below in the table. This extension has also led to the extension for the issuance of SCN automatically and has been issued under section 168A.

Financial	Earlier D Date	Revised D Date
2017-18	30.09.2022	31.12.2022
2018-19	30.12.2022	31.03.2023
2019-20	30.03.2023	30.06.2023





### **Conclusion**

The government reduced the late filing charge to extend the deadline for submitting GSTR-3B for the prior tax period. It has not, however, extended the deadline for submitting an ITC claim for the same time period. The amnesty programme prohibits the beneficiary from claiming such an ITC. There is no concession for late GSTR-1 filing under the plan. The scheme does not apply to the GSTR-1 return. The reach of the scheme should be increased by the

government regarding the ITC for previous periods if the deadline has passed. The receivers of such ITCs must generally be given the chance. Otherwise, it would create a legal gap and must be looked upon.

**Views expressed are strictly personal and cannot be considered as a legal opinion in case of any query. For feedback or queries email us [yash@hnaindia.com](mailto:yash@hnaindia.com).**

## **HAPPY GUJARAT DAY 2023**



જ્ય જ્ય ગરવી  
ગુજરાત  
સ્થાપના દિવસ







# Methods And Models of Human Resource Accounting



**Contributed by:**  
**CA. Khyati Shah**



## Cost Approach Method

It calculates the various cost that the company is expected to spend on its employees. It is a type of **monetary model** which deals with the monetary aspects. It is further divided into the following two categories:

### Acquisition Cost Method

Under this method, organizations capitalize on all costs which are related to their human resources such as welfare, training, etc. and amortize them in the P&L Account throughout their working period in the company, i.e., from appointment to retirement.

### Replacement Cost Method

Under this approach, the **cost of replacing** the employees is measured. The replacement costs include recruitment, selection, compensation, and training cost. The collected data helps in deciding whether the company should dismiss or replace the staff or not.

## Value Approach Method

It is also a type of **monetary model**. This method calculates the value of the employees on the basis of the future service that is expected from him/her till the retirement. It is further divided into the following three categories:

### Present Value Method

Under this method, the management calculates the present value of all future benefits to employees so that it can be determined whether the company can bear the cost. It also helps in knowing the gains that the business may get in the future from the cost incurred on the employees.

### Value to the Organization Method

This method determines the most valuable employee of the organization and measures whether the company is enjoying premium profits from the services given by that employee. This all is helpful in understanding the value of the selected employee.

### Expense Model Method

The expense model attaches the money to the behavioral outcomes produced by working in

the organization. The method focuses on the criteria of absenteeism, **turnover, and job performance**. Here, the management determines the cost for each criterion separately by using the traditional organizational tools.

## Models of Human Resource Accounting



### 1. Lev and Schwartz Model

- This method only considers the salary and wages of employees and no other benefits
- This method ignores the possibility of employees leaving or other possibilities

### 2. The Eric Flamholtz Model

- This model is similar to the Present value model but considers the fact of employees leaving earlier, Voluntary Retirement or Retrenchment or death of the employee, etc.

### 3. Morse Model

- This model determines all other monetary benefits that are enjoyed by the human resource of the company such as **retirement benefits, gratuity, leave encashment or paid leave, perks, bonuses, etc.**

### 4. Linkert Model

- This model is different from the other models. Here, the company **focuses on the non-monetary benefits** given to the employees instead of the monetary benefits. The organization considers the benefits such as **employees' job satisfaction, productivity, safety, health benefits, etc.** to figure out the present value and benefits to the organization.

### 5. Organ's Model

- This method calculates the individual contribution of the employees toward the business during a certain period.





# Transform with Tools - Accelerate with Automation



**Contributed by:**  
**CA. Charmi Doshi** *nutshell "Take care of what's Important. Automate the Rest"*

**What is Workflow Automation?**

In any business where it can be seen that repetitive tasks, manual tasks - workflow automation can be used. Workflow automation is the process of applying rule-based logic to the manual processes to complete a task automatically. Workflow automation can save time in completing tasks, reduce errors, and help employees to focus on more strategic, important work.

**Benefits of Workflow Automation**

1. Identifying areas for process improvements
2. Automated alerts for triggering tasks.
3. Improving efficiency and productivity.
4. Managing workflows and monitoring performance.
5. Setting up reminders.
6. Keeping teams in sync.
7. Gathering actionable insights.
8. Optimizing resource usage.

**Points to consider for Effective Workflow Automation**

Automation of manual processes can be simple and highly beneficial if SWOT Analysis is done for your organization. You should be able to identify which processes are holding you back when you transform your business processes from manual and inefficient to automated and efficient one. Use below five steps to automate workflow process.

## 1. **Select processes & Persons:**

Identify which process are inefficient or highly complicated, or too costly. Give priority to all such processes and identify the right person who have such skill to understand 360-degree view or

perspective of your business and its industry specific requirement for effective and efficient automated workflow process.

## 2. **Do your research:**

Check industry how it's operating for similar workflow process. Check tools and its implementation cost considering your budget for that process.

## 3. **Manage change and drive adoption:**

It is very much required that best automation solution that you selected and used by all the users who are connected with that workflow process to get highest advantage of it.

## 4. **Communicate with and train your employees:**

You need to take all employees in confidence who are affected by such workflow automation that new tool or system is in place to make their working life easy. Give training, provide document so that they can adopt it faster.

## 5. **Evaluate and refine:**

KPI (Key Performance Indicator) based Dashboards need to be prepared and continuously need to evaluate and refine them for required changes and get maximum benefit out of automated workflow process.

**Checklist for Best Workflow Automation Tools**

While selecting best workflow automation tool it is must that you first analyse your current processes, bottlenecks, strength, and weaknesses in your organization as well as Team's acceptance and readiness for adapting a change. After all these you can check following points

1. Interface should be user friendly and simple to operate.
2. Scalability and customization features are available.
3. Any modification and edition to the workflow should be easy.
4. Seamless integration with third party tools
5. Desktop and Cloud based both solutions available.
6. Dashboard for monitoring status of the automated workflow
7. Equipped with security and data protection.

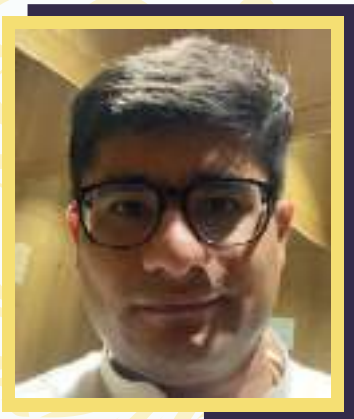
Thus, Workflow automation is the Master Key for growth of new edge business management.







# Motivational Story



**Contributed by:**  
**CA. Hiren Thakkar**

## BUSINESS MANTRAS FROM BOOK ALIBABA'S WORLD BY PORTER ERISMAN – FORMER VICE PRESIDENT OF ALIBABA

1. JACK MA is Founder of Alibaba - His friends called him Elfish and Impish, his father called him weakest and runt amongst his 3 children. At young age this kind of behaviour depresses but still Jack Ma had Founded Ali Baba. NEVER Create a doubt on your Capabilities. Always Back your Self.
2. "Believe in your dreams, find good people, and make sure the customer is happy. I see a lot of US companies sending professional managers to China. They are making their boss in the US happy but not the Chinese customer."  
-Jack Ma Speech - Nov 2006 San Francisco
3. Singles' Day promotion--a shopping holiday that Alibaba invented- -Alibaba's consumer shopping websites handled \$9.3 billion in transactions on just one day- more than the total US online sales on Black Friday and Cyber Monday combined.
4. Jack Ma had to quit a JV with Chinese Govt because of the lack different mindset.  
"My boss wanted to use the Internet to control small businesses, but **I wanted to use the Internet to empower small businesses. We had a totally different philosophy.**"
5. Jack Ma recruited Porter Erisman without seeing the resume. They just spoke for about 5 mins and Jack Offered him a job. Jack Ma is the Person who makes decisions quickly and with Instinct and Gut:
6. You may unlikely to be successful if you have focused plenty of time on developing a great marketing strategy but not enough time on winning the confidence and support of your local colleagues.  
And before you could focus on strategy, it was important to get to know your teammates
7. Jack Ma's first public Speech in Hongkong. How Down to earth he is. He is Founder of the company. Hats off  
And almost all my cofounders back in Hangzhou have no business experience. So I told my founders that they shouldn't expect to be the senior managers in the company. We need to find those experts who have real business experience to take the company to the next level. You see, I was trained as an English teacher. So I know nothing about running a company. And after four years I will resign as CEO and hand over the company to a new generation of managers.
8. Evaluation system for Alibaba Employees
- 50 percent of your points will be based on your performance in reaching goals. The other 50 percent of your points will be based on how well you adhered to Alibaba's core values.
9. Leaders Keep changing their Strategies with the change in time and Situations.  
Learning - No Tight Rules Once they depended on Zero Budget on Marketing and relied on word of Mouth and user experience and now Alibaba spending millions if Dollar on advertisement.
10. "To-day is tough. Tomorrow is tougher. The day after tomorrow is beautiful. But most people die tomorrow night and don't get the chance to see the sun rise the day after tomorrow."
11. "When you have 400 million people using the Internet in China," he lamented. "If we set a policy that 99 per. cent of the people like but only 1 percent of the people don't like, that still means there are four million people angry at us."
12. One can learn from competitors, but it's always more important to focus on your customers and build a product and service for them than it is to simply copy your competition. Copy your Competitors and You will Die
13. Jack Ma was so forward looking that he often forgot about the mistakes altogether. mistakes are by product of success, to be learned from but not dwelled upon.

### Sharing few Amazing One Liners from the Book

1. Love the Government but Don't marry it
  2. I Won't fault you for making a mistake, but I will fault you for doing nothing
  3. Assemble a team, not a collection of all Stars.
  4. Have the team work for the Goal, not for the Boss
  5. Entrepreneurs Do not complain about Problems They Solve Them
  6. In the Spring, Prepare for the Winter  
Buy an Umbrella, when it's not Raining
  7. Being First to Market is not as Important as being Best in the Market
  8. Customer First  
Employees Second  
Investors third
  9. It is better to be the head of a chicken than the Trail of Phoenix
  10. If you are a wolf chasing rabbits, focus on one rabbit. Change yourself to catch the rabbit -. bit, but don't change rabbits."
  11. We do not have a rich daddy or powerful uncle. We started from nothing.... A lot of young people don't have dreams anymore. And we want to tell them, you have to keep your dreams."
- "If you are a wolf chasing rabbits, focus on one rabbit. Change yourself to catch the rabbit -. bit, but don't change rabbits."





## Detailed Analysis of whether amendment made by Finance Act 2022 in Section 14A is Retrospective in nature or not along with judicial pronouncements



**Contributed by:**  
**CA. Mahima Panchal**

has been made to Section 14A, relevant Judiciary decisions rendered till date and other Judicial pronouncements, which makes it clear that such amendment to Section 14A is not retrospective in nature.

The Finance Act 2022 has brought significant amendment to Section 14A by introducing explanation to said section clarifying that disallowance u/s 14A can be made even when assessee has not earned any exempt income. In this article, analysis

Officer either to reassess under [section 147](#) or pass an order enhancing the assessment or reducing a refund already made or otherwise increasing the liability of the assessee under [section 154](#), for any assessment year beginning on or before the 1st day of April, 2001

**Explanation- For the removal of doubts, it is hereby clarified that notwithstanding anything to the contrary contained in this Act, the provisions of this section shall apply and shall be deemed to have always applied in a case where the income, not forming part of the total income under this Act, has not accrued or arisen or has not been received during the previous year relevant to an assessment year and the expenditure has been incurred during the said previous year in relation to such income not forming part of the total income.”.**

2. In the Memorandum explaining the provision of Finance Bill, it was stated as under:

**“Clarification in respect of disallowance under section 14A in absence of any exempt income during an assessment year**

Section 14A of the Act provides that no deduction shall be allowed in respect of expenditure incurred by the assessee in relation to income that does not form part of the total income as per the provisions of the Act (exempt income).

**2. Over the years, disputes have arisen in respect of the issue whether disallowance under section 14A of the Act can be made in cases where no exempt income has accrued, arisen or received by the assessee**

1. Section 14A of the Act as amended by Finance Act 2022, reads as under:

**14A. [85](#)[(1)]Notwithstanding anything to the contrary contained in this act, for the purpose of computing, the total income under this Chapter, no deduction shall be allowed in respect of expenditure incurred [86](#) by the assessee in relation to [86](#) income which does not form part of the total income [86](#) under this Act.]**

[85](#)[(2) The Assessing Officer shall determine the amount of expenditure incurred in relation to such income which does not form part of the total income under this Act in accordance with such method as may be prescribed [87](#), if the Assessing Officer, having regard to the accounts of the assessee, is not satisfied with the correctness of the claim of the assessee in respect of such expenditure in relation to income which does not form part of the total income under this Act.

(3) The provisions of sub-section (2) shall also apply in relation to a case where an assessee claims that no expenditure has been incurred by him in relation to income which does not form part of the total income under this Act:]

[88](#)[**Provided** that nothing contained in this section shall empower the Assessing







during the assessment year.

3. CBDT issued Circular No. 5/2014, dated 11.02.2014, clarifying that Rule 8D read with section 14A of the Act provides for disallowance of the expenditure even where tax payer in a particular year has not earned any exempt income. However, still some courts have taken a view that if there is no exempt income during a year, no disallowance under section 14A of the Act can be made for that year. Such an interpretation is not in line with the intention of the legislature. To illustrate, if during a previous year, an assessee incurs an expense of Rs. 1.00 lakh to earn non-exempt income of Rs.1.5 lakh and also incurs an expense of Rs.20,000/- to earn exempt income which may or may not have accrued/received during the year. By holding that provisions of section 14A of the Act does not apply in this year as the exempt income was not accrued/received during the year, it amounts to holding that Rs.20,000/- would be allowed as deduction against non-exempt income of Rs.1.5 lakh even though this expense was not incurred wholly and exclusively for the purpose of earning non-exempt income. Such an interpretation defeats the legislative intent of both section 14A as well as section 37 of the Act.

4. In order to make the intention of the legislation clear and to make it free from any misinterpretation, it is proposed to insert an Explanation to section 14A of the Act to clarify that notwithstanding anything

to the contrary contained in this Act, the provisions of this section shall apply and shall be deemed to have always applied in a case where exempt income has not accrued or arisen or has not been received during the previous year relevant to an assessment year and the expenditure has been incurred during the said previous year in relation to such exempt income.

5. **This amendment will take effect from 1<sup>st</sup> April, 2022.**

6. It also proposed to amend sub-section (1) of the said section, so as to include a non-obstante clause in respect of other provisions of the Income-tax Act and provide that no deduction shall be allowed in relation to exempt income, notwithstanding anything to the contrary contained in this Act.

7. **This amendment will take effect from 1<sup>st</sup> April, 2022 and will accordingly apply in relation to the assessment year 2022-23 and subsequent assessment years.**

**(Clause 9)**

In memorandum explaining the budget it is categorically stated that such amendment is applicable from A.Y. 2022-23 onwards hence there is no question of Applying such provisions retrospectively.

On analysis of Various prevailing **High Courts pronouncements and dismissal of SLP by Hon'ble Supreme court**, it can be inferred that disallowance u/s 14A should be restricted to exempt income and if no exempt income is earned, disallowance cannot be made. Such view is expressed by Hon'ble Supreme Court in following cases:

- Hon'ble Madras High Court in Chettinad Logistics (P.) Ltd.in [2017]





80 taxmann.com 221 (Madras) which is final as SLP was rejected in (2018) 95 taxamann.com 250(SC).

- Hon'ble Delhi High Court in Oil Industry Development Board in [2019] 103 taxmann.com 325 (Delhi) which is final as SLP was rejected in [2019] 103 taxmann.com 326 (SC).
- Hon'ble Gujarat High Court in Vision Finstock Ltd. which is final as SLP was rejected in SLP(C) No. 13152 of 2018.

On perusal of the above, it is **very well settled legal position by various SLP dismissed by Hon'ble Supreme Court** that disallowance u/s 14A of the Act cannot be made when assessee has not earned any exempt income. **This amendment brought by Finance Act, 2022 has changed such well settled legal position.**

**Decision of Hon'ble Supreme Court in the case of M.M. Aqua Technologies Ltd 129 taxmann.com 145 dated 11/08/2021 relevant for issue of retrospective application Vs Prospective Application & other decisions**

- 4.1 It is pertinent to mention that the Hon'ble Supreme Court in **Sedco Forex International Drill. Inc. v. CIT, (2005) 12 SCC 717** has held that a retrospective provision in a tax act which is **"for the removal of doubts"** cannot be presumed to be retrospective, even where such language is used, **if it alters or changes the law as it earlier stood. This proposition of law has been reiterated by the Supreme Court in M.M Aqua Technologies Ltd. V. CIT 2021 SCC Online SC 575.** Though the issue before the SC was in connection with Explanation 3C to section 43B - the rationale could still assist the assessee.

**"22. Second, a retrospective provision in a tax Act which is "for the removal of doubts" cannot be presumed to be retrospective, even where such language is used, if it alters or changes the law as it earlier stood. This was stated in Sedco Forex**

**International Drill. Inc. v. CIT [2005] 149 Taxman 352/279 ITR310 (SC)** as follows:

17. As was affirmed by this Court in *Goslino Mario* [(2000) 10 SCC 165] a cardinal principle of the tax law is that the law to be applied is that which is in force in the relevant assessment year unless otherwise provided expressly or by necessary implication. (See also *Reliance Jute and Industries Ltd. v. CIT* [(1980) 1 SCC 139]). An *Explanation* to a statutory provision may fulfil the purpose of clearing up an ambiguity in the main provision or an *Explanation* can add to and widen the scope of the main section [See *Sonia Bhatia v. State of U.P.*, (1981) 2 SCC 585, 598]. If it is in its nature clarificatory then the *Explanation* must be read into the main provision with effect from the time that the main provision came into force [See *Shyam Sunder v. Ram Kumar*, (2001) 8 SCC 24 (para 44); *Brij Mohan Das Laxman Das v. CIT*, (1997) 1 SCC 352, 354; *CIT v. Podar Cement (P) Ltd.*, (1997) 5 SCC 482, 506]. But if it changes the law it is not presumed to be retrospective, irrespective of the fact that the phrases used are "it is declared" or "for the removal of doubts".

18. There was and is no ambiguity in the main provision of section 9(1)(ii). It includes salaries in the total income of an assessee if the assessee has earned it in India. The word "earned" had been judicially defined in *S.G. Pgnatale* [(1980) 124 ITR 391 (Guj)] by the High Court of Gujarat, in our view, correctly, to mean as income "arising or accruing in India". The amendment to the section by way of an *Explanation* in 1983 effected a change in the scope of that judicial definition so as to include with effect from 1979, "income payable for service rendered in India".







19. When the *Explanation* seeks to give an artificial meaning to "earned in India" and brings about a change effectively in the existing law and in addition is stated to come into force with effect from a future date, there is no principle of interpretation which would justify reading the *Explanation* as operating retrospectively.

23. This being the case, *Explanation 3C* is clarificatory - it explains section 43B(d) as it originally stood and does not purport to add a new condition retrospectively, as has wrongly been held by the High Court."

As stated supra, a retrospective provision in a tax act which is "for the removal of doubts" cannot be presumed to be retrospective, even where such language is used, if it alters or changes the law as it earlier stood. In the present case, amendment made in Section 14A of the Act has changed earlier very well settled legal position by various SLP dismissed by Hon'ble Supreme Court that disallowance u/s 14A of the Act should be made even if assessee has not earned any exempt income as stated in Para 3 above. Thus, by following decision of the Hon'ble Supreme Court in M.M Aqua Technologies Ltd. V. CIT, it is crystal clear that amendment made in Section 14A is cannot be presumed to be retrospective.

4.2 It is relevant to refer to decision of Hon'ble Gujarat High court in the case of **Gordhanbhai Nagardas Patel Vs DCIT [2017] 82 taxmann.com 455** while dealing with amendment brought by Finance Act, 2013 to Section 132B of the Act observed as under:

"13. We may recall, the Explanation 2 to section 132B was introduced w.e.f. 01.06.2013. This explanation provides that

for removal of doubts, it is declared that the existing liability does not include advance tax payable in accordance with the provisions of Part C of Chapter XVII. Counsel for the Revenue, therefore, submitted that this explanation being clarificatory in nature, amendment should apply to pending cases as well. It is well settled principle that an amendment in the nature of a clarification could have retrospective operation. However, whether such amendment is clarificatory or declaratory as opposed to creating new rights and liabilities is always open to judicial interpretation. Mere words used by the legislature as a title to such an amendment would not be conclusive. In this context, we may notice that in the memorandum explaining the statute, following background for bringing about the amendment was given:—

'Application of seized assets under section 132B

The existing provisions contained in section 132B of the Income Tax Act, inter alia, provide that seized assets may be adjusted against any existing liability under the Income Tax Act, the Wealth-tax Act, the Expenditure tax Act, the Gift tax Act and the Interest tax Act and the amount of liability determined on completion of assessments pursuant to search, including penalty levied or interest payable and in respect of which such person is in default or deemed to be in default.

Various courts have taken a view that the term "existing





liability" includes advance tax liability of the assessee, which is not in consonance with the intention of the Legislature. The legislative intent behind this provision is to ensure the recovery of outstanding tax/interest/penalty and also to provide for recovery of taxes/interest/penalty, which may arise subsequent to the assessment pursuant to search.

Accordingly, it is proposed to amend the aforesaid section as to clarify that the existing liability does not include advance tax payable in accordance with the provisions of Part C of Chapter XVII of the Act.

This amendment will take effect from 1st June, 2013.'

**14. Amendment occasioned due to various courts taking a view that the term 'existing liability' includes advance tax liability of the assessee also. The legislature was of the opinion that such interpretation was not in consonance with the intention of the legislature. Thus, the amendment was necessary because of the judicial interpretation. Amending the statute to overcome adverse decision is a well-known legislative device often employed by the legislature in tax statutes. By such explanation introduced specifically with prospective effect therefore, would not override or overrule the past decisions at least for the past period before the amendment was brought into effect."**

It is clearly mentioned in memorandum that amendment is prospective in nature. It is stated that amendment with such prospective effect therefore, would not override or overrule the past decisions at least for the past period before the amendment was brought into effect. Thus, all past decision and dismissal of SLP mentioned in para 3 would be applied to period before amendment. Thus, no disallowance should be made if assessee has not earned exempt income for the period before amendment.

**4.3. Further, reliance is placed on decision of Hon'ble Supreme Court in the case of Govinddas 103 ITR 123 wherein it is held as under:**

"....Now, it is a well settled rule of interpretation hallowed by time and sanctified by judicial decisions that, unless the terms of a statute expressly so provide or necessarily require it, retrospective operation should not be given to a statute so as to take away or impair an existing right or create a new obligation or impose a new liability. If the enactment is expressed in language which is fairly capable of either interpretation, it ought to be construed as prospective only."

As stated supra, it is a well settled rule of interpretation that unless terms of statute expressly provide, retrospective operation should not be given to statute. **Further it is emphasized that Clause 5 & 7 of memorandum has explicitly provided for prospective application.** On perusal of this, it is crystal clear that amendment brought in Section 14A is prospective in nature.

**5. Decision of Hon'ble Delhi High Court in case ERA Infrastructure (INDIA) LTD clarified that Amendment Brought in by the Finance Act 2022 in Sec.14A is applicable Prospectively w.e.f AY 2022-23**

**5.1** It is stated that relying on the aforesaid judgments of Hon'ble Supreme Court mentioned supra, **Hon'ble Delhi High Court** in its recent order in **PCIT vs. M/s. ERA Infrastructure (INDIA) LTD** vide ITA No. 204/2022 order dated 20/07/2022 held that **Amendment brought in by the Finance Act 2022 in Sec.14A is applicable Prospectively w.e.f AY 2022-23**, which is reproduced as under:

"4. Learned counsel for the petitioner also submits that in view of the amendment made by the Finance Act, 2022 to Section 14A of the Act by inserting a non obstante clause and an explanation after the proviso, a change in law has been brought about and







consequently, the judgments relied upon by the authorities below including PCIT vs. IL & FS Energy Development Company Ltd (supra) are no longer good law.

.....

.....

**5. However a perusal of the Memorandum of the Finance Bill, 2022 reveals that it explicitly stipulates that the amendment made to Section 14A will take effect from 1st April, 2022 and will apply in relation to the assessment year 2022-23 and subsequent assessment years.** The relevant extract of Clauses 4, 5, 6 & 7 of the Memorandum of Finance Bill, 2022 are reproduced hereinbelow:

.....

.....

6. Furthermore, the Supreme Court in Sedco Forex International Drill. Inc. v. CIT, (2005) 12 SCC 717 has held that a **retrospective provision in a tax act which is "for the removal of doubts" cannot be presumed to be retrospective, even where such language is used, if it alters or changes the law as it earlier stood.** The relevant extract of the said judgment is reproduced herein below:

".....

.....

.....

15. Given this legislative history of Section 9(1)(ii), we can only assume that it was deliberately introduced with effect from 1-4-2000 and therefore intended to apply prospectively [See CIT v. Patel Bros. & Co. Ltd., (1995) 4 SCC 485, 494 (para 18) : (1995) 215

ITR 165] . It was also understood as such by CBDT which issued Circular No. 779 dated 14-9-1999 containing Explanatory Notes on the provisions of the Finance Act, 1999 insofar as it related to direct taxes. It said in paras 5.2 and 5.3.

"5.2 The Act has expanded the existing Explanation which states that salary paid for services rendered in India shall be regarded as income earned in India, so as to specifically provide that any salary payable for the rest period or leave period which is both preceded and succeeded by service in India and forms part of the service contract of employment will also be regarded as income earned in India.

**5.3 This amendment will take effect from 1-4-2000, and will accordingly, apply in relation to Assessment Year 2000-2001 and subsequent years."**

16. The departmental understanding of the effect of the 1999 Amendment even if it were assumed not to bind the respondents under Section 119 of





the Act, nevertheless affords a reasonable construction of it, and there is no reason why we should not adopt it.

17. As was affirmed by this Court in *Goslino Mario* [(2000) 10 SCC 165 : (2000) 241 ITR 312] a cardinal principle of the tax law is that the law to be applied is that which is in force in the relevant assessment year unless otherwise provided expressly or by necessary implication. (See also *Reliance Jute and Industries Ltd. v. CIT* [(1980) 1 SCC 139 : 1980 SCC (Tax) 67] .) Explanation to a statutory provision may fulfil the purpose of clearing up an ambiguity in the main provision or an Explanation can add to and widen the scope of the main section [See *Sonia Bhatia v. State of U.P.*, (1981) 2 SCC 585, 598 : AIR 1981 SC 1274, 1282 para 24] . **If it is in its nature clarificatory then the Explanation must be read into the main provision with effect from the time that the main provision came into force [See *Shyam Sunder v. Ram Kumar*, (2001) 8 SCC 24 (para 44); *Brij Mohan Das Laxman Das v. CIT*, (1997) 1 SCC 352, 354; *CIT v. Podar Cement (P) Ltd.*, (1997) 5 SCC 482, 506]. But if it changes the law it is not presumed to be retrospective, irrespective of the fact that the phrases**

**used are "it is declared" or "for the removal of doubts"."**

7. The aforesaid proposition of law has been reiterated by the Supreme Court in ***M.M. Aqua Technologies Ltd. V. Commissioner of Income Tax***, Delhi-III, 2021 SCC OnLine SC 575. The relevant portion of the said judgment is reproduced hereinbelow:-

.....  
.....  
.....

8. Consequently, this Court is of the view that the **amendment of Section 14A, which is "for removal of doubts" cannot be presumed to be retrospective even where such language is used, if it alters or changes the law as it earlier stood.**

9. Though the judgment of this Court has been challenged and is pending adjudication before the Supreme Court, yet there is no stay of the said judgment till date. Consequently, in view of the judgments passed by the Supreme Court in *Kunhayammed and Others vs. State of Kerala and Another*, (2000) 6 SCC 359 and *Shree Chamundi Mopeds Ltd. Vs. Church of South India Trust Association CSI Cinod Secretariat, Madras* (1992) 3 SCC 1, the present appeal is dismissed being covered by the judgment passed by the learned predecessor Division Bench in *PCIT vs. IL & FS Energy Development Company Ltd* (supra) and *Cheminvest Limited vs. Commissioner of Income Tax-VI*, (2015) 378 ITR 33.







10. Accordingly, the appeal and application are dismissed. However, it is clarified that the order passed in the present appeal shall abide by the final decision of the Supreme Court in the SLP filed in the case of PCIT vs. IL & FS Energy Development Company Ltd (supra)."

On the careful reading of the aforementioned judicial pronouncement, it is crystal clear that amendment brought in Section 14A of the Act by Finance Act, 2022 has changed legal position and thus it cannot be termed as retrospective even though word "for removal of doubts" is used.

### SYNOPSIS OF ARGUMENTS FOR PROSPECTIVE APPLICATION

- (i) The Clause 5 & 7 of memorandum explaining Budget has clearly stated that amendment to Section 14A is

applicable from A.Y. 2022-23. It is a well settled rule of interpretation that unless terms of statute expressly provide, retrospective operation should not be given to statute as held by Hon'ble Gujarat High court in the case of Gordhanbhai Nagardas Patel Vs DCIT [2017] 82 taxmann.com 455. On perusal of this, it is crystal clear that amendment brought in Section 14A is prospective in nature.

(ii)

Hon'ble Supreme Court in **Sedco Forex International Drill. Inc. v. CIT, (2005) 12 SCC 717** has held that a retrospective provision in a tax act which is "for the removal of doubts" cannot be presumed to be retrospective, even where such language is used, if it alters or changes the law as it earlier stood. This proposition of law has been reiterated by the Supreme Court in **M.M Aqua Technologies Ltd. V. CIT**. In the present case, amendment made in Section 14A has changed earlier well settled legal position, it cannot be presumed to be retrospective in nature as held by Hon'ble Delhi High Court in its recent order in **M/s. ERA Infrastructure (INDIA) LTD.**



# Forensic Accounting Tools And Techniques



**Contributed by:**  
**CA. Samir Chaudhary**

## INTRODUCTION

Forensic accounting is a specialized field of accounting that utilizes various techniques and tools to investigate financial crimes and disputes. Forensic accountants use their knowledge of accounting, finance, and investigation to analyze financial records and

transactions, identify any irregularities or anomalies, and provide evidence in legal proceedings.



## FORENSIC ACCOUNTING TOOLS AND TECHNIQUES

In this article, we will explore some of the most commonly used forensic accounting tools and techniques.

### • Computer Forensics

Computer forensics involves the collection, preservation, and analysis of digital evidence from electronic devices, such as computers, smartphones, and tablets. Forensic accountants use specialized software and tools to extract and analyze data from these devices, including deleted files, internet history, and email communications. This information can be used to reconstruct financial transactions, track money flows, and identify any fraudulent activity.

### • Data Mining

Data mining involves the use of advanced algorithms and statistical techniques to analyze large sets of data and identify patterns or anomalies. Forensic accountants use data mining to identify suspicious transactions or

behaviors, such as unusually high expenses, abnormal cash flows, or transactions that fall outside the normal range of activity. Data mining can also be used to detect trends over time, such as changes in spending patterns or the emergence of new suppliers or vendors.

### • Interview Techniques

Forensic accountants often conduct interviews with individuals who are involved in financial disputes or investigations. These interviews are designed to gather information about the financial transactions, identify potential sources of fraud, and assess the credibility of the individuals involved. Interview techniques include open-ended questioning, active listening, and nonverbal communication skills.

### • Financial Statement Analysis

Forensic accountants analyze financial statements to identify any irregularities or anomalies. They compare financial statements from different periods, analyze changes in the financial ratios, and review footnotes to identify any potential issues. Financial statement analysis can also be used to identify any unusual or undisclosed related-party transactions, such as loans to executives or payments to family members.

### • Background Checks

Forensic accountants conduct background checks on individuals and entities involved in financial disputes or investigations. These checks include reviewing public records, such as criminal records, bankruptcy filings, and civil lawsuits, and conducting interviews with past employers or business partners. Background checks can help identify any potential red flags or areas of concern.

### • Source Document Analysis

Source document analysis involves reviewing the original documents that support financial transactions, such as invoices, receipts, and contracts. Forensic accountants use this information to identify any discrepancies or inconsistencies in the financial records. For example, they may compare the amount on an invoice to the amount paid, or review contracts to ensure that the terms are consistent with industry standards.

### • Audit Trail Analysis





Audit trail analysis involves reviewing the transaction history and system logs to identify any suspicious activity. Forensic accountants use specialized software and tools to analyze the audit trail and identify any unusual patterns or behaviors. For example, they may look for unusual login times or unusual changes in transaction amounts.

#### • Surveillance

Surveillance involves observing individuals or entities to gather evidence about their financial activities. Forensic accountants use surveillance to identify any unusual behaviors, such as unexplained cash deposits or withdrawals, and

to gather evidence about the movement of assets. Surveillance can also be used to gather evidence about the use of company resources, such as company vehicles or equipment.

#### • Financial Modeling

Financial modeling involves creating a financial model to simulate the financial transactions and identify any irregularities or anomalies. Forensic accountants use financial modeling to test different scenarios and identify any potential issues. For example, they may create a model to simulate the cash flows of a business and identify any unusual patterns or discrepancies.

## GAP Theory



**Contributed by:**  
**CA. Swetang Pandya**

Gap up and gap down are two terms used in the stock market to describe the price movement of a stock or an index. A gap occurs when the opening price of a stock or an index is significantly different from the previous day's closing price, and there is no trading activity in between.

#### Gap up:

A gap up occurs when the opening price of a stock or an index is higher than the previous day's closing price. It indicates that there is strong buying interest in the market, and investors are willing to pay a higher price to buy the stock. A gap up is usually a bullish signal and can be interpreted as a positive development for the stock.

#### Gap down:

A gap down occurs when the opening price of a stock or an index is lower than the previous day's closing price. It indicates that there is strong selling pressure in the market, and investors are willing to sell the stock at a lower price. A gap down is usually a bearish signal and can be interpreted as a negative development for the stock.

#### Gap Theory

NIFTY HOURLY CHART AS ON 25<sup>th</sup> April, 2023

There are six horizontal lines in chart. Each line have a color Code which is explained below which I will be going to use in future references also

**Green Line – Shows Top of the Range**



**Red Line – Shows Bottom of the Range**

**Blue Lines – Top Gap**

**Pink Lines – Bottom Gap**

Let me explain here, how to interpret above chart.

1. Broad Range - of the Nifty Hourly Chart is **17842 (Red Line)** to **16917 (Green Line)**. It means this is the most expected boundaries of the nifty as per current chart. If price goes above or below this broad range then we may need to redefine the range again, means above interpretation will not be useful.

2. Top Gap – **17826 to 17736 (Blue Lines)**. Always top gap of the range is no trade zone for buyers. It does not mean that you are suggested to sell here, when to sell is dependent on data analysis

3. Bottom Gap – **17215 to 17116 (Pink Lines)**. Always bottom gap of the range is no trade zone for sellers. It does not mean that you are suggested to buy here, when to buy is depend on data analysis.

#### Possible Trade.

Here possible trade means subject to data and behavioral analysis.

1. **Buy Nifty near 17116 with Stop Loss of 16942 & 16917 already done**

2. **Sell Nifty near 17826 with Stop Loss of 17842 (17851.35) – Today Executed**

**For more detail understating on this topic please click on the link given below**

[https://youtu.be/wEVVKsK\\_ypk](https://youtu.be/wEVVKsK_ypk)





# Business Combinations And Consequent Purchase Price Allocation



**Contributed by:**  
**CA. Hitendra Ranka**

## Meaning

Ind AS 103 / IFRS 3 on Business Combinations, defines Business Combinations as a transaction or other event in which an acquirer obtains control of one or more businesses.

As per US GAAP ASC 805, a Business Combination is a transaction in which

an acquirer obtains control over one or more businesses.

## Accounting – Recognition and Measurement

As per Ind AS 103 / IFRS 3, Business combinations are accounted for using the acquisition method which requires following:

- identifying the acquirer (the acquirer is the entity that obtains control of another entity);
- determining the acquisition date (the date on which the acquirer obtains control);
- recognise and measure the identifiable assets acquired and the liabilities assumed and non-controlling interest; and
- recognise and measure any goodwill or bargain purchase.

As of the acquisition date, the acquirer shall recognize, separately from goodwill, the identifiable assets acquired, the liabilities assumed and any non-controlling interest in the acquiree.

The acquirer shall measure the identifiable assets acquired and the liabilities assumed at their acquisition-date fair values.

## Need for Purchase Price Allocation ('PPA') analysis

Various GAAPs (USGAAP, IFRS, Ind AS) require that the fair value of assets and liabilities acquired in a business combination be recognized in the financial statements of the acquirer entity. PPA is the process whereby allocation of purchase price / consideration paid

for an acquired business among the identifiable assets (including intangible assets) and liabilities assumed is made. PPA is required to ensure that the financial statements of the acquirer entity reflect the fair value of the assets and liabilities acquired in the business combination. This provides more accurate picture of the financial performance and position of the acquirer entity after business combination transaction. PPA also helps to calculate the amount of goodwill recognized pursuant to business combination transaction. Goodwill represents the excess of the purchase price over the fair value of the identifiable assets and liabilities acquired. The amount of goodwill recognized in the business combination can have significant implications for financial reporting, taxation and future impairment testing.

A fairly complex process, it requires in-depth domain knowledge, understanding of the business plan, and expertise in intrinsic valuation to ensure all aspects of the analysis have been factored in correctly. From valuation point of view, intangible assets valuation is most complex and important in PPA exercise.

## Few critical parameters that need to be analyzed before initiating valuation of intangible assets for the purpose of PPA

### Business Entity Valuation

Business valuation is important when valuing intangible assets to ensure that the prospective financial information used in the valuation is market participant specific and does not include any acquirer specific synergy.

Market participant specific refers to the perspective of a hypothetical buyer and seller in the market for the intangible asset, who are assumed to be independent and well-informed. In other words, the valuation should reflect the value that would be assigned to the intangible asset by a third-party buyer who is not a strategic buyer or acquirer with a specific reason for acquiring the asset, such as cost savings or synergy. Including acquirer-specific synergies in the valuation can result in an inflated value that does not reflect the market value of the intangible asset. This is because the synergies may not be replicable by other market participants and may not reflect the true value of the intangible asset on a standalone basis.







To ensure this, we need to compute Internal rate of Return ('IRR') which here represents implied return from the transaction using prospective financial information of the acquired business that may include acquirer-specific elements. Weighted Average Cost of Capital ('WACC') represents the average expected return from the business for a market participant investor and includes an element to compensate for the average risk associated with potential realization of these cash flows.

If WACC and IRR are literally same, it can be concluded that prospective financial information is market participant expected cash flows and the consideration transferred equals the fair value of the business acquired.

In simple words, to ensure that prospective financial information is market participant specific and does not include any acquirer specific synergy benefits, we should carry out the business valuation of the Company (acquired business) and arrive at the implied discount rate at which the Equity value equals the fair value of the Purchase Consideration. The implied discount rate / IRR so arrived is then compared with the Industry WACC.

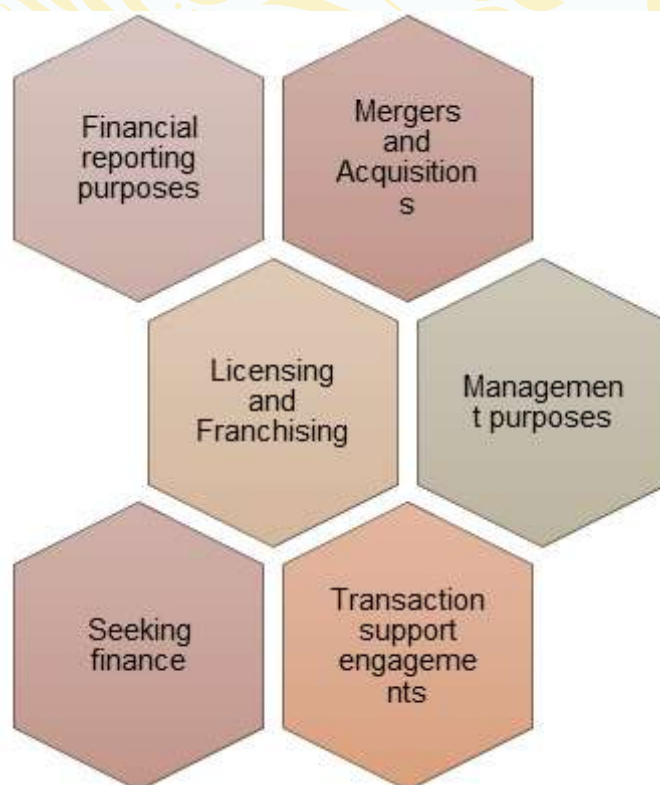
### Measurement of consideration transferred including contingent consideration

Contingent consideration is a financial arrangement in which an acquirer agrees to make additional payments to the seller of a business if certain performance criteria are met in the future. The measurement of contingent consideration depends on the specific terms of the agreement.

In general, contingent consideration should be measured at fair value at the acquisition date. The fair value of contingent consideration should be estimated using a probability-weighted approach that considers the likelihood of achieving the performance criteria and the amount of the potential payments.

To determine the fair value of contingent consideration, companies may use various techniques, such as discounted cash flow analysis, option pricing models, or Monte Carlo simulations. The assumptions and inputs used in these models should be based on reasonable and supportable information, including market data, historical performance, and management's expectations.

Purposes of Intangible Asset valuations



### Broad categories of Intangible assets with few examples



#### Marketing-related

- trademarks
- unique trade design
- internet domains



#### Customer based

- customer contracts
- customer lists
- customer relationships - contractual and non-contractual



#### Artistic related

- royalties
- copyright protection
- motion pictures



#### Contract related

- lease agreements
- permits
- servicing contracts
- non-compete agreements



#### Technology based

- patented or non-patented technology
- software
- formulae

### Valuation Aspects

Out of the three approaches viz. Cost, Market and Income for valuation of Intangible Assets, Income approach is the most common applied method and is frequently used to value





intangible assets mentioned above.

### Following are the popular methods under Income Approach -

- excess earnings method i.e., Multi-Period Excess Earning Method ('MEEM')
- with and without method
- relief from royalty method
- greenfield method and
- distributor method

In this edition, we are focusing on the first method i.e., excess earnings method.

Let us consider valuing customer relationship based intangible asset by using multi-period excess earnings method -

### Valuation of customer relationship based intangible asset

#### i) Meaning

Customer-related intangible assets include customer lists, backlog, customer contracts and contractual and non-contractual customer relationships.

A valuation analyst should consider important elements that create this intangible asset which are mentioned below -

- For customer relationship based intangible asset to exist, it must have informational component or factual information about the customer like name, contact details, buying preferences etc. which can be useful to the Company.
- There is an expectation form such customer relationship for recurring business for the Company.
- Customer-related intangible assets create value for a definite finite period. Over period of time, customer lists will reduce due to customer mortality, competition etc.
- These assets often create value for the company along with use of other assets by the company to generate earnings e.g., property, plant and equipment, working capital, other intangible assets etc.

#### ii) Important steps for valuation of customer relationship based intangible asset under MEEM

- Revenue estimate with appropriate attrition
- Contributory Asset charge
- Rate of return / Risk-adjusted discount rate
- Economic life

- Tax Amortization benefit

Let us understand now each step in detail -

#### a) **Revenue and cash flow estimate with appropriate attrition**

Under this method, revenue and cash flows derived from the subject intangible asset needs to be determined and then cash flows attributed to Contributory assets needs to be deducted. This requires estimating the revenue from repeat business from existing customers as of the valuation date. Since the customer relationship assets derive value for a finite period, the number of customers providing business in future reduces over period of time. Attrition is the measurement of loss of existing customers. Here, if historical data is available, it may be used to arrive at the expected annual attrition rate. The attrition rate so arrived is then applied to projected revenue stream from existing customers to arrive at the expected revenue over the period of economic life of this asset.

#### b) **Contributory Asset Charges ('CACs')**

There are various other assets in the category of property, plant and equipment, working capital, other intangible assets etc. which contributes in generating the projected revenue from the use of the existing customer relationships. Since the earnings from customer-relationship based intangible asset depends on these assets, the valuer must estimate the CACs to exclude the incremental cash flows attributable to customer relationship based intangible asset. Any non-operating assets which don't contribute in the estimated earnings should not be considered as contributory assets. The amount that should be deducted is typically the alternative costs for the contributory assets or the income such assets would generate in a different use if they were not used in connection with the subject intangible asset.

#### c) **Rate of return / Risk-adjusted discount rate**

The determination of the appropriate discount rate to be used to estimate an intangible asset's fair value requires additional consideration as compared to those used when selecting a discount rate to determine enterprise value. Selecting discount rates for intangible assets can be challenging as observable market evidence of discount rates for intangible assets is rare. The selection of a discount rate for an intangible asset generally requires significant professional judgment. In selecting a discount rate for an intangible asset, valuers should







perform an assessment of the risks associated with the subject intangible asset and consider observable discount rate benchmarks.

When assessing the risks associated with an intangible asset, a valuer should consider factors including the following:

- intangible assets often have higher risk than tangible assets,
- if an intangible asset is highly specialized to its current use it may have higher risk than assets with other potential uses,
- single intangible assets may have more risk than groups of assets (or businesses),
- intangible assets used in risky (sometimes referred to as non-routine) functions may have higher risk than intangible assets used in more low-risk or routine activities.
- the life of the asset. Similar to other investments, intangible assets with longer lives are often considered to have higher risk,

intangible assets with more readily estimable cash flow streams, such as backlog, may have lower risk than similar intangible assets with less estimable cash flows such as customer relationships.

#### a) **Economic life**

An important consideration in the valuation of an intangible asset is the economic life of the asset. This may be a finite period limited by legal, technological, functional or economic factors; other assets may have an indefinite life.

For customer related intangibles, attrition is a key factor in estimating an economic life as well as the cash flows used to value the customer related intangibles. Attrition applied in the valuation of intangible assets is a quantification of expectations regarding future losses of customers. While it is a forward-looking estimate, attrition is often based on historical observations of attrition.

#### b) **Tax Amortization Benefit ('TAB')**

The effect of income taxes should be considered when an intangible asset's fair value is estimated as part of a business combination, an asset acquisition, or an impairment analysis. The present value of the intangible asset's projected cash flows should reflect the tax saving that may result from claiming of depreciation on such intangible asset. If the market or cost approach is used to value an intangible asset, the price paid to create or purchase the asset would already reflect the ability to amortize the asset. However, in the income approach, a TAB needs to be explicitly calculated and added.

## CONGRATULATION



### CA. Nilesh Hirapara

Member of Ahmedabad branch Appointed as  
**CFO of Listed Company Anup Engineering LTD**





# Audit Trail Creation, Maintenance and Reporting



**Contributed by:**  
**CA. Jainam P. Shah**

## A. Introduction:

Ministry of Corporate Affairs (MCA) has added Proviso to Rule 3(1) of Companies (Accounts) Rules, 2014 vide notification No. GSR 205(E) dated March 24, 2021 which states that:

For the financial year commencing on or after the 1st day of April, 2021, every company which uses

accounting software for maintaining its books of account, shall use only such accounting software which has a feature of:

1. recording audit trail of each and every transaction,
2. creating an edit log of each change made in books of account along with the date when such changes were made and
3. ensuring that the audit trail cannot be disabled.

Corresponding amendment was made in Companies (Audit and Auditor) Rules, 2014, vide notification No. GSR 206(E) dated March 24, 2021 whereby auditor of the Company is required to report on:

1. Whether the company has used such accounting software for maintaining its books of account which has a feature of recording audit trail (edit log) facility
2. Whether the same has been operated throughout the year for all transactions recorded in the software
3. The audit trail feature has not been tampered with and
4. The audit trail has been preserved by the company as per the statutory requirements for record retention.

The Applicability of both the notifications were deferred by two more years and now both the provisions are applicable w.e.f. financial year commencing on or after April 1, 2023.

## B. Applicability:

The aforesaid provisions are applicable to all companies including small companies, section 8 companies as well as foreign companies. There is no threshold or exemption specified with respect to applicability of this provisions.

## C. Audit Trail:

The first and foremost question arises on reading of this requirement is what do we mean by Audit Trail and what is to be captured while recording Audit Trail.

The Implementation Guide issued by Institute of Chartered Accountants of India (ICAI Guidance Note) clarifies that Audit Trail (or Edit Log) is a visible trail of evidence enabling one to trace information contained in statements or reports back to the original input source.

Audit trails are a chronological record of the changes that have been made to the data. Any change to data including creating new data, updating or deleting data that must be recorded.

Records maintained as audit trail may include following information:

- 1) WHEN changes were made i.e., date and time (timestamp)
- 2) WHO made the change i.e., User Id
- 3) WHAT data was changed i.e., data / transaction reference; success/failure

Audit trails may be enabled at the accounting software level depending on the features available in such software or same may be captured directly in the database underlying such accounting software.

## D. Coverage:

The question now arises in WHICH TYPE OF SOFTWARE and for WHICH KIND OF TRANSACTIONS, audit trail shall be maintained.

### Software

The ICAI Guidance Note clarifies that for the purpose of audit trail, only those accounting software which are relevant for maintaining books of account should be considered.

"Books of Account" as per Section 2(13) of the Companies Act, 2013 includes records maintained in respect of:

- all sums of money received and expended by a company and matters in relation to which the receipts and expenditure take place;
- all sales and purchases of goods and services by the company;
- the assets and liabilities of the company; and
- the items of cost as may be prescribed under section 148 in the case of a company which belongs to any class of companies specified under that section.







This means any software used to maintain books of account will be covered within the ambit of this Rule. For e.g., if sales are recorded in a standalone software and only consolidated entries are recorded monthly into the software used to maintain the general ledger, the sales software should also have the audit trail feature since sales invoices would be covered under Books of Account as defined under section 2(13) of the Act.

### Transactions

By reading of the Account Rules, it may be noted that companies are required to maintain audit trail (edit log) for each change made in the books of account. Accordingly, the term 'all transactions recorded in the software' would refer to all transactions that result in change to the books of account.

For example, creation of a user in the accounting software may be construed as a transaction in the software. However, creating a user account in the accounting software would not change the records of books of account as defined in Section 2(13) of the Act whereas adding a new journal entry or changing an existing journal entry will be construed as a change made in books of account.

### E. Management Responsibilities:

Management is primarily responsible for identifying the records and transactions that constitute books of account. Management is also responsible for selection of the appropriate accounting software for ensuring compliance with applicable laws and regulations. In order to demonstrate that the audit trail feature was functional, operated and was not disabled, a company would have to design and implement specific internal controls (predominantly IT controls) which in turn, would be evaluated by the auditors for the purpose of Reporting.

### F. Other Considerations:

#### Question-1

Whether reporting with respect to financial year 2022-23 or any preceding financial year is required?

#### Answer-1

The reporting requirement is prospective and will be applicable for reporting w.r.t financial year 2023-24.

In respect of financial year 2022-23, where management has not been mandated to use the accounting software with requisite audit trail facility, the reporting against this clause can be as illustrated below:

*As proviso to rule 3(1) of the Companies (Accounts) Rules, 2014 is applicable for the company only w.e.f. April 1, 2023, reporting under this clause is not applicable.*

#### Question-2

Whether reporting requirement will be applicable for Consolidated Financial Statements as well?

What if there are certain components which are consolidated but are not covered under Companies Act (For example: Partnership Firm consolidated as Subsidiary)?

#### Answer-2

The auditor is required to comment on the above matters both in case of standalone financial statements and consolidated financial statements. However, while reporting on consolidated financial statements, the auditor may observe that certain components included in the consolidated financial statements are (a) either not companies under the Act, or (b) some components are incorporated outside India.

In such case, auditor shall adopt the approach taken in case of reporting on various clauses of section 143(3) of the Companies Act. Reporting on compliance with Rule 11(g) would be done on the basis of the reports of the statutory auditors of subsidiaries, associates and joint ventures that are companies defined under the Act.

#### Question-3

For how many years Audit Trail shall be preserved?

#### Answer-3

Eight Years as required by Section 128 of the Companies Act, 2013.

#### Question-4

Whether this Rules are applicable if Company maintains its books of Accounts manually?

#### Answer-4

No, the rules are applicable only when Company uses accounting software for maintaining books of accounts.

#### Question-5

Whether Auditor can take assistance of external specialist to evaluate the compliance of Audit trail related provisions?

#### Answer-5

Yes, Auditor can involve external specialists or experts in the field of Information Technology to assist in evaluation of management controls and configurations in the accounting software with regard to audit trail.



**Question-6**

Whether audit trail related provisions are applicable when Accounting Software is hosted on Cloud or subscribed as Software as a Service (SaaS)?

**Answer-6**

Yes, It is applicable even when software is hosted on a cloud or at a place outside India or is subscribes as SaaS.

**Question-7**

How to ensure the Compliance when Company has outsourced its book-keeping to a service provider who maintains software at its premises?

**Answer-7**

In case of accounting software supported by service providers, the company's management and the auditor may consider using independent auditor's report of service organization for compliance with audit trail requirements. The independent auditor's report should specifically cover the maintenance of audit trail in line with the requirements of the Act.

**Question-8**

Whether Non-availability of Audit Trail implies that Auditor shall modify his/her opinion on financial statements and on IFCoFR?

**Answer-8**

It should be noted that mere non-availability of audit trail does not necessarily imply failure or material weakness in the operating effectiveness of internal financial controls over financial reporting (IFCoFR). Auditor shall assess the impact of non-availability of audit trail on his/her audit opinion and accordingly take decision based on professional judgement.

**G. Reporting:**

Following are likely scenarios of Auditor's Reporting:

- 1) Management may maintain adequate audit trail as required by the Account Rules.
- 2) Management may not have identified all records/transactions for which audit trail should be maintained.
- 3) The accounting software does not have the feature to maintain audit trail, or it was not enabled throughout the audit period.
- 4) Audit trail feature was disabled for one of the books of account / records or for an accounting software (e.g., fixed asset software did not have audit trail).
- 5) Accounting software is maintained by third party and auditor is unable to assess

whether audit trail feature can be disabled during the reporting period.

- 6) Audit Trail feature is not operating effectively during the reporting period.
- 7) The audit trail has not been preserved by the company as per the statutory requirements for record retention.
- 8) Migration from one software to the other happened during the year and company is in process of establishing necessary controls and documentations regarding audit trail.

An illustrative reporting formats are given by ICAI which can be accessed at: <https://resource.cdn.icai.org/73438aasb59254.pdf>

**H. Representation and Documentation:**

The auditor shall obtain written representations from management on the aspects such as acknowledging management's responsibility, outcome of management's evaluation ensuring the adequacy and effectiveness of the company's procedures for complying to the requirements prescribed for audit trails.

The auditor may document the work performed on audit trail such that it provides:

1. a sufficient and appropriate record of the basis for the auditor's reporting under Rule 11(g); and
2. evidence that the audit was planned and performed in accordance with this Implementation Guide, applicable Standards on Auditing and applicable legal and regulatory requirements.

**I. Conclusion:**

This is the unique reporting requirement introduced by Ministry of Corporate Affairs (MCA) of India. Globally, no similar reporting obligation exists for the auditors in any country. Further, as far as the management of the Company is concerned, since the primary responsibility for establishing and maintaining audit trails is that of the management and the board of directors of the company, the management should ensure that the board of directors approving the financial statements of the company also takes on record the policies and procedures as laid down by the management in respect of assertion and conclusion on the adequacy and operating effectiveness of audit trails. Additionally, the board should also take on record the deficiencies, significant deficiencies and material weaknesses identified by the management, internal auditors, and the auditor.







# G-20 and India's Presidency



**Contributed by:**  
**CA. Samyak Sanghvi**

At the closing session of the G20 summit in Bali, Indonesia, Prime Minister Narendra Modi officially took over the presidency of the group and promised to make it a "catalyst for global change" he said and I made a quote "at a time when the world is simultaneously grappling with geopolitical tensions, economic slowdown, rising food and energy prices and the long-term ill-effects of the pandemic".

December 1, 2022 is a red-letter day as India assumed the G20 Presidency from Indonesia and will convene the G20 Leaders' Summit for the first time in the country in 2023. A nation deeply committed to democracy and multilateralism, India's G20 Presidency would be a watershed moment in her history as it seeks to play an important role by finding pragmatic global solutions for the wellbeing of all, and in doing so, manifest the true spirit of 'Vasudhaiva Kutumbakam' or the 'World is One Family'. As Prime Minister Narendra Modi said, "**India's G20 Presidency will work to promote this universal sense of one-ness. Hence our theme - 'One Earth, One Family, One Future'**"

**So, what is the G20?**

The Group of Twenty (G20) is an intergovernmental forum comprising 19 countries - **Argentina, Australia, Brazil, Canada, China, France, Germany, India, Indonesia, Italy, Japan, Republic of Korea, Mexico, Russia, Saudi Arabia, South Africa, Turkey, United Kingdom and United States and the European Union.**

The G20 members represent around 85% of the global GDP, over 75% of the global trade, and about two-thirds of the world population.

The G20 was founded in 1999 after the Asian financial crisis as a forum for the Finance Ministers and Central Bank Governors to discuss global economic and financial issues. It was upgraded to the level of Heads of State/Government in the wake of the global economic and financial crisis of 2007, and, in 2009, was designated the "premier forum for international economic cooperation".

The G20 Summit is held annually, under the

leadership of a rotating Presidency.

**How does the G20 work?**

The G20 Presidency steers the G20 agenda for one year and hosts the Summit. The G20 consists of two parallel tracks: the **Finance Track** and the **Sherpa Track**. Finance Ministers and Central Bank Governors lead the Finance Track, while Sherpas lead the Sherpa Track.

The **Finance Track** is led by Finance Ministers and Central Bank Governors of the member countries. Within the two tracks, there are thematically oriented working groups in which representatives from the relevant ministries of the members as well as from invited/guest countries and various international organisations participate.

The G20 process from the **Sherpa Track** is coordinated by the Sherpas of member countries, who are personal emissaries of the head of state or head of Government. The Sherpa Track oversees inputs from 13 Working Groups, 2 Initiatives – *Research Innovation Initiative Gathering (RIIG)* and *G20 Empower*, and various **Engagement Groups**, all of whom meet throughout the year and develop their Issue Notes and Outcome Documents in parallel. These substantive discussions then feed consensus-based recommendations to the Sherpa Meetings. The outcome document of the Sherpa-level meetings eventually forms the basis of the Leaders' Declaration, which will be debated and signed (after and if consensus is reached) at the final New Delhi Summit in September this year by the Leaders of all G20 member countries.

In addition, there are **Engagement Groups** which bring together civil societies, parliamentarians, think tanks, women, youth, labour, businesses and researchers of the G20 countries. **The Startup20 Engagement Group will be established under India's G20 Presidency for the first time, recognising the role of startups in driving innovation that responds to a rapidly changing global scenario.**

Active consultation with the Engagement Groups forms an integral part of India's "inclusive ambitious, decisive, and action-oriented", G20 approach, as outlined by Prime Minister Narendra Modi in the Bali Summit previous year.

India holds the Presidency of the G20 from December 1, 2022 to November 30, 2023. The 43 Heads of Delegations- the largest ever in G20-will be participating in the final New Delhi







Summit in September this year.

The **G20 Logo** draws inspiration from the vibrant colours of India's national flag – saffron, white and green, and blue. It juxtaposes planet Earth with the lotus, India's national flower that reflects growth amid challenges. The Earth reflects India's pro-planet approach to life, one in perfect harmony with nature. Below the G20 logo is "Bharat", written in the Devanagari script.

**The theme of India's G20 Presidency - "Vasudhaiva Kutumbakam" or "One Earth · One Family · One Future"** - is drawn from the ancient Sanskrit text of the Maha Upanishad. Essentially, the theme affirms the value of all life – human, animal, plant, and microorganisms – and their interconnectedness on the planet Earth and in the wider universe. The theme also spotlights LiFE (Lifestyle for Environment), with its associated, environmentally sustainable and responsible choices, both at the level of individual lifestyles as well as national development, leading to globally transformative actions resulting in a cleaner, greener and bluer future.

For India, the G20 Presidency also marks the beginning of "Amritkaal", the 25-year period beginning from the 75th anniversary of its independence on 15 August 2022, leading up to the centenary of its independence, towards a futuristic, prosperous, inclusive and developed society, distinguished by a human-centric approach at its core.

***A new working group on Disaster Risk Reduction will be established under India's Presidency to encourage collective work by the G20, undertake multi-disciplinary research and exchange best practices on disaster risk reduction.***

India's special invitee guest countries are **Bangladesh, Egypt, Mauritius, Netherlands, Nigeria, Oman, Singapore, Spain and UAE.**

**G-20's invited international organisations are UN, IMF, World Bank, WHO, WTO, ILO, FSB, OECD, AU Chair, NEPAD Chair, ASEAN Chair, ADB, ISA and CDRI.**

G20 meetings will not be limited only to New Delhi or other metropolises. Drawing inspiration from its G20 Presidency theme of "Vasudhaiva Kutumbakam"-"One Earth One Family One Future, as well as the Prime Minister's vision of an 'all of government' approach, India will host over 200 meetings in over 50 cities across 32 different workstreams, and would have the opportunity to offer G20 delegates and guests a glimpse of India's rich

cultural heritage and provide them with a unique Indian experience. The Presidency is also a chance for the G20 Secretariat to provide the country's citizens with the unique opportunity be a part of India's G20 story.

The Indian G20 presidency has also planned a year-long India Experience' for G20 member countries, special invitees, and others.

### **What are India's G20 Priorities?**

The opportunity to lead G20 comes at a time of compounding existential threat, with the COVID-19 pandemic having exposed the fragilities of our systems under the cascading impacts of climate change. In this regard, climate change is a key priority for India's presidential Presidency, with a particular focus towards not only climate finance and technology, but also ensuring just energy transitions for developing nations across the world.

Understanding that the issue of climate change cuts across industry, society, and sectors, India offers the world LiFE (Lifestyle for Environment) -a behaviour-based movement that draws from our nation's rich, ancient sustainable traditions to nudge consumers, and in-turn markets, to adopt environmentally-conscious practices. This ties closely with India's G20 theme: 'Vasudhaiva Kutumbakam' or 'One Earth. One Family. One Future.

An accelerated, resilient and inclusive growth is a cornerstone for sustainable development. During its G20 Presidency, India aims to focus on areas that have the potential to bring structural transformation. This includes an ambition to accelerate integration of MSMEs in global trade, bring in the spirit of trade for growth, promote labour rights and secure labour welfare, address global skills gap, and build inclusive agricultural value chains and food systems etc.

India's G20 Presidency collides with the crucial midpoint of the 2030 Agenda. As such, India acknowledges the detrimental impact of COVID-19, which changed the current decade of action into a decade of recovery. In line with this perspective, India wants to focus on recommitting G20's efforts to achieving the targets laid out in the 2030 Agenda for Sustainable Development

As G20 Presidency, India can foreground its belief in a human-centric approach to technology, and facilitate greater knowledge-sharing in priority areas like digital public infrastructure, financial inclusion, and tech-enabled development in sectors ranging from agriculture to education







India's G20 priority will be to continue pressing for reformed multilateralism that creates more accountable, inclusive just, equitable and representative multipolar international system that is fit for addressing the challenges in the 21<sup>st</sup> century.

India hopes to use the G20 forum to highlight inclusive growth and development, with women empowerment and representation being at the core of India's G20 deliberations. This includes a focus on bringing women to the fore, and in leading positions, in order to boost socio-economic development and achievement of SDGs.

India kick-started its presidency term agenda with a series of cultural initiatives that included various Jan Bhagidari activities, a special University Connect event with 75 educational institutions from across the country, the lighting up of 100 ASI monuments with the G20 logo and colours, and showcasing G20 at the Hombill festival in Nagaland. Sand artist Shri Sudarshan Pattnaik also created sand art of India's G20 logo on Puri beach in Odisha. Various other events, youth activities, cultural performances, and site excursions showcasing the sights and traditions of respective city-venues, are also planned throughout the year-long calendar.

**The Summit of 2023 is significant in many ways.**

India's G20 Presidency is a special opportunity for India to contribute to the global agenda on urgent issues of global significance.

The first step toward a new world order for the post-Covid age is to build an international agreement on reforming multilateral organisations like the UN.

It is an opportunity to take on the role of Global South leader.

The increasing importance of G20 in a world where issues like global warming, the COVID-19 pandemic and the conflict in Ukraine are pressing issues cannot be ignored.

**What can India share with the world during its Presidency?**

- The G20 presidency is an opportunity to present the diversity that is India to the outside world.
- Among large democracies, India has by far been the best performer in handling the Covid-19 pandemic.
  - For the world, the Indian public goods delivery mechanism, at a billion-plus

scale, has set a new template.

- The management of the economy by India during the pandemic has been extraordinarily prudent with prescient decision-making.
- India's independent foreign policy, so visibly demonstrated in the ongoing NATO-Russia (Ukraine) war, has made the world sit up and take notice.
  - The assertion of its national interest is also markedly different from the "glory" days of Non-Aligned Movement.
- G20 can act as a forum to exchange experiences on **societal benefits and growth** as complementary goals would lead to fresh thinking on employment and environment.
- India has its own initiatives like "LiFE Movement" & "The One Sun One World One Grid" to offer to the world.
- From scaling up of a seamless **digital payment model built on the public digital infrastructure (UPI) to the unique digital identity**, and from the successful **financial inclusion model** of the bottom quintile to the **seamless transition to green energy**, India now has many models to showcase, particularly for the developing world.

**For us Global challenges, opportunities & way ahead are concerned**

- Currently, there are **five challenges** plaguing the world that the G20 can attempt to fix.
  - First and the most pressing is the in-your-face **Russia-Ukraine conflict**.
  - The second challenge is of **rising prices**, particularly of **food**.
  - The third challenge is **energy**.
    - Russia is teaching the world that while sanctions against it could impact its economy in the future, in the short term, these sanctions are failing.
  - As rising food and energy prices lead to inflation, the fourth





challenge is **the manner in which countries are attempting to fix the problem.**

- The fifth challenge is the **threat of stagflation** that is high inflation and economic stagnation
- Hosting the G20 Presidency is expected to result in economic opportunities in different sectors such as **tourism, hospitality, IT and civil aviation** among others.
  - The sectors of significant importance would be ranging from **energy, agriculture, trade, digital economy, health and environment to employment, tourism, anti-corruption and women empowerment**, including in focus areas that impact the most **vulnerable and disadvantaged.**

The purpose of establishing G20 is to create an

atmosphere that supports equitable global growth and development. Bring together the most powerful economies in the world, both developed and emerging, to talk about global financial and economic stability. To tackle the present situation

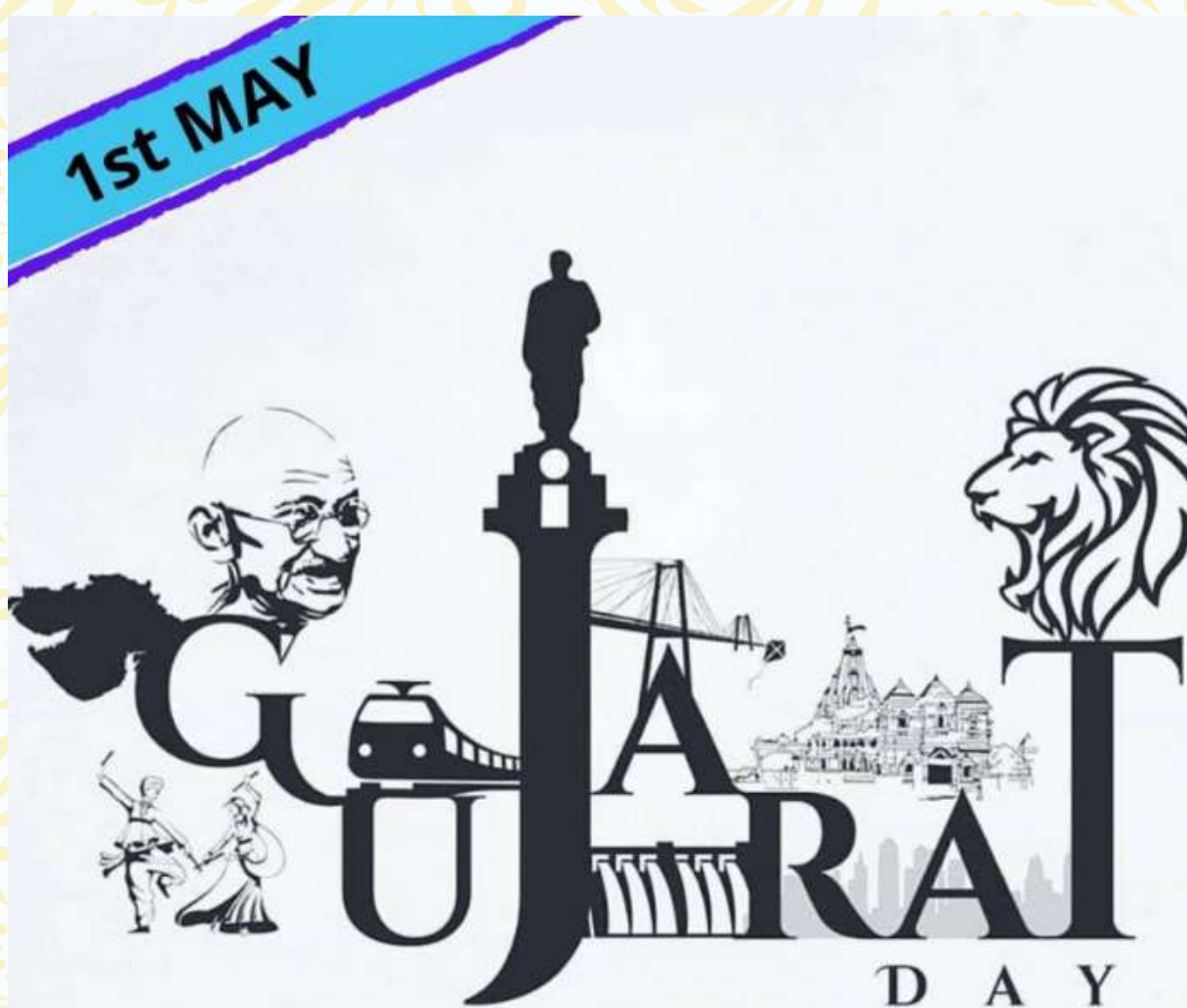
Governments must find measures to assist the vulnerable without necessarily increasing debt levels. The need to closely monitor external risks would be a major issue in this regard.

The G20 leaders must advocate for "more open, stable, and transparent rules-based commerce" in order to alleviate the world's supply shortages.

Increasing the global value chains' resilience would assist safeguard against upcoming shocks.

Keeping the blazing inflation under control is the G-20's top priority.

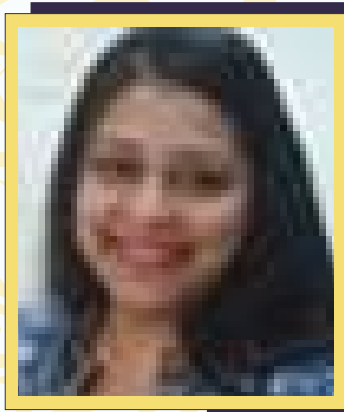
A strong, sustained, balanced, and inclusive recovery necessitates G-20 cooperation, and this cooperation necessitates not only maintaining peace in Ukraine but also "helping prevent future division"







# GST on Library Materials



## Background Educational Institutions: -- (EI)

As per Definition 2(y) mentioned in notification 12/2017-CT Rate, "Educational institution" (EI) means an institution providing services by way of,-

**Contributed by:**  
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- i. pre-school education and education up to higher secondary school or equivalent;
- ii. education as a part of a curriculum for obtaining a qualification recognized by any law for the time being in force;
- iii. education as a part of an approved vocational education course;

In this article I have covered points related to EI providing services by way of education as a part of a curriculum for obtaining a qualification recognized by any law for the time being in force i.e. Universities / Colleges.

## Taxability on supply of various Library materials

Generally Educational Institutions (EI) such as Universities / Colleges are required to procure various library related reading materials such as printed/online journals, periodicals, books etc. mainly for its students and faculty. The GST taxability on all such input supplies differ based on its characteristics. Let us understand this one by one.

- i. Supply of printed newspapers, journals or periodicals are "Nil" rated supplies.
- ii. Supply of online educational journals or periodicals to an EI are "Nil" rated supplies.
- iii. Supply of printed books to an EI are "Nil" rated supplies.
- iv. Supply of e-books are taxable at 5%.
- v. Supply of any other online information services are taxed at 18%.

## Issues & Challenges

Printed books and printed journals/periodicals are classified under different headings whereas

online journals/periodicals and e-books are covered under different headings for taxation purpose.

### What is E-book?

E-book is an electronic version of a printed book supplied online which can be read on a computer or a hand-held device. The condition of "educational" has not been attached to E-Books.

From above we can see that both - supply of printed books as well as printed journals/periodicals are "Nil" rated supplies.

Online educational journals/periodicals supplied to EI are "Nil" rated supplies whereas e-books even if supplied to EI attracts GST @ 5%. The word "educational" has not been attached to this.

As far as printed journals/periodicals are concerned, the condition is that it should appear at least four times a week. However, there is no such condition of "appearance at least four times a week" has been attached to such online journals or periodicals since practically it may not be possible also.

Other information services like e-Library platform, online access of databases/information provided to EI are taxed at 18%.

## Concluding Remarks

Post Covid-19, the world has witnessed a gradual shift from printed version of reading materials to online version of reading materials. EIs are not exceptions to this too. There has been a tremendous shift from printed version to electronic version of educational materials which include journals, newspapers, periodicals and even books too which are supplied to EI.

While online educational journals/periodicals are "Nil" rated but e-books are taxed @ 5% even though these are educational books and supplied to EIs. There seems to be no logical reason in differentiating these since both online educational journals/periodicals and e-books are supplied to EI. Merely because the word "educational" has not been attached to "e-





books" should not qualify e-books to be taxed other than "Nil" rated even though supplied to EI.

Let us imagine the situation where students/faculty will have e-Library platform instead of attending physical library of EI. Such kinds of e-Library platforms are generally provided by "Information Service Provider" to EI wherein EI subscribes this kind of services for its students and faculty for information/database access, search for articles, facility of mobile applications so that students/faculty can access from remote locations, in built remote authentication, personalized tailor-made features etc. This kind of e-Library platform is also taxed at 18%.

### Recommendation

Considering the overall impact of GST on library materials, there is a need to rationalize the GST rates on input supplies of educational materials provided to EI as the readers are mainly its students and faculty. To foster sustainable development in EI, digital solutions also play vital role. To promote digital disruption, there is a need to rationalize GST rates on digital solutions and services provided to EI. Since the educational services are "exempt" from GST, any GST collected on its input supplies is cost to EI and finally to students.

### Disclaimer

This GST alert is only for the purpose of information and does not constitute any advise or opinion in any manner.

## CFO Crux Series



**Contributed by:**  
**CA. Pooja Thakkar**

In the current digital age, many businesses have realigned or are in the process of realigning their business practices. The one critical aspect that is also under the lens is that of the CFO. The virtual CFO – an outsourced service provider is a concept that allows businesses of any size to benefit from the services of a CFO without having to hire a full-time employee. The role of a Virtual CFO is to be a forward-thinking strategist whose primary purpose is to provide strategic insight to help move the needle forward in business. No business is too big or too small to benefit from Virtual CFO services.

The proliferation of the startup ecosystem has generated specialized service providers which fit the requirement of startups. Virtual CFO is one such specialized service provider. Startups normally do not have the resources to hire a full-time CFO. Startups like to keep fixed costs low, and having an outsourced service provider provides them with the flexibility of choosing services as and when required. A Virtual CFO provides strategic, value add services to a startup which cannot be provided by an accountant. Over and above providing services at par with regular CFO as 'the steward', the CSP (CFO Service Provider) also offers the role of 'the Strategist' by providing direction to build the business model and imbibe the financial culture and

discipline.

Virtual CFO services are not limited to dealing with numbers. CSP works as a mentor with HODs helping them in agile decision making, scenario planning, and decentralized decision making. Rather than being fully focused on numbers, budgets, and reports, CSPs are adopting a much broader approach which is changing the way they add value to their business. As well as managing finances, today's CSPs are increasingly expected to provide guidance and advice to the CEO and board on a range of other issues. While this is more apparent in Medium Size Listed companies, it is also percolating to the mid-cap as well as unlisted organizations, where a CFO is required to be a sparring partner. This shift provides senior Chartered Accountants opportunity to develop as the potential CFO — the pinnacle of many financial executives' careers.

To effectively Delivery services as the CSP, the CAs must consider that:

This is not a compliance or audit function but a business function (Execution)

Not only gap/issue finding but finding solutions, implementing solutions and resolving matter

Proficiency to work on multiple ERPs and good understanding of financial

software can be of immense help

Continuous knowledge update and upgrade is very crucial

Leadership Role is must have characteristic of the CSP

Strong interpersonal and people skills can be a great tool







# The evolving field of Investment Banking!!!



**Contributed by:**  
**CA. Rushabh Shah**

## An introduction

Investment banking is a specialised field of banking that focuses on providing financial advice and services to corporations, governments, and other institutions. It involves activities such as underwriting securities, raising capital, mergers and acquisitions, and providing strategic advice to clients. Investment banks play a crucial role in the financial ecosystem, facilitating capital formation and driving economic growth.

The concept of investment banking can be traced back to the early 19th century when firms such as Rothschild and Morgan emerged as dominant players in the industry. In India, investment banking started to gain prominence in the 1990s with the liberalisation of the economy and the opening up of various sectors to foreign investment. Prior to this, the Indian banking sector was largely dominated by public sector banks, which focused on traditional banking activities such as deposits and loans.

With the entry of private sector and foreign banks, investment banking activities such as underwriting, mergers and acquisitions, and private equity started gaining traction. Investment banks in India also started diversifying their services, offering various financial products such as debt syndication, project finance, and structured finance.

One of the significant milestones in the evolution of investment banking in India was the establishment of the Securities and Exchange Board of India (SEBI) in 1988. SEBI is the regulatory body that oversees the securities market in India and plays a critical role in ensuring investor protection and market integrity. Establishing SEBI brought transparency and accountability to the Indian capital markets, making it an attractive destination for foreign investors.

Another important development in the Indian

investment banking industry was the introduction of electronic trading platforms. In 1994, the National Stock Exchange of India (NSE) was established, providing a modern and efficient platform for trading equities and derivatives. The introduction of electronic trading platforms not only made trading more accessible but also increased the speed and efficiency of transactions.

The liberalisation of the Indian economy and the increasing adoption of technology has led to significant growth in the investment banking industry in India. According to a report by KPMG, the Indian investment banking industry is expected to grow at a CAGR of 8.6% between 2020 and 2025, driven by factors such as increasing private equity investments, rising IPO activity, and a growing trend towards consolidation in various sectors.

## Way Ahead

We wouldn't be overstating if we predict that the banking sector will undergo more changes than it has in the previous 100 years. In fact, the financial sector will appear entirely different in 2030 than it does now. For quite some time, there has been news about the inevitable and continuous humdrum around Fintechs and Big-tech companies in banking and other financial services.

Banks will need to provide specific initiatives now to aid in their future preparation due to shifting customer expectations, developing technology, and new business models.

The Investment Banking (IB) industry is in such great shape than it has ever been thanks to a slew of factors, including:

1. A shift to a more capital-efficient, feasible execution business; and
2. More emphasis on captive revenue streams

Banks have provided investment banking services to various clientele, from huge MNCs (Multinational Corporations) to ordinary folks. Currently, high-frequency trading, virtual IPOs, new technologies, and a change in employment trends are some factors that impact investment banking.

In short, the technological shift will deeply





affect the world of investment banking. IBs' advanced trading activities demonstrate their high levels of agility and technological adaptation, which puts them well ahead of traditional banks. The Global IB of the future can therefore be based on an ecosystem that would include the following:

1. A worldwide client business model;
2. Primarily hedge funds able to offer risk recovery opportunities;
3. A well-diversified, sizable, and liquid sales & trading franchise; and
4. A global, ideal "Tencent-type" ecosystem marketing strategy with a material scale and liquidity.

Let's take a look at other crucial factors that will shape the future of Investment Banking in 2030:

#### **Digitalisation:**

This quickly transforms how business is done in all financial institutions, including investment banking, courtesy of AI, digital applications, interactive platforms, AR, and VR. Electronic trading is taking over the financial markets, underscoring the pressing need for investment banking IT system improvements and the unification of various trading systems.

#### **Blockchain:**

This new kind of intermediary might be performed by blockchain; however, unlike a bank, which is a real business entity, a blockchain is a digital tool. Ideally, this kind of technology will lower fees, speed up payments, significantly improve security, and completely eradicate fraud.

#### **AI and Automation:**

In the long run, it's conceivable that people will have even less influence over personal finances. AI has been nicknamed the "Robo-advisor" for both personal and professional use. Even today, people collaborate closely with their software counterparts to decide, identify trends, read news, and process information. But while we are making great strides in the automation and AI fields, before the "Robo-advisor" becomes the de facto "employee" in all major investment banks, especially in the field of laws and regulations, establishing an infrastructure, human acceptability, execution, privacy and ethics, security, and other concerns need to be thoroughly examined.

#### **Exceptionally Secure Mobility:**

The ability for many of us to obtain information from any location, at any hour, and on any gadget is a major development that will affect how work is

done. Currently, users of common consumer applications like Paytm, and Google Pay can still access funds when they want, but in the world of investment banking, employees working in highly regulated sectors do not currently experience this. Many personnel in the banking system are now restricted to officially authorised and provided devices that are often only accessible from an office location. Professionals like traders and consultants will soon have access to their colleagues' private data and deals whenever needed.

#### **The Opportunity**

The investment banking industry is significantly transforming due to the changing business landscape and technological advancements. This presents a tremendous opportunity for Chartered Accountants (CAs) to expand their knowledge and expertise and contribute to the industry's growth.

As a result, CAs need to keep abreast of the latest technological developments and understand how they can be leveraged to benefit their clients. For instance, blockchain technology can help streamline the investment banking process by reducing transaction costs, eliminating intermediaries, and improving transparency.

Furthermore, the investment banking industry is also witnessing changes in its players' business models and strategies. Investment banks are now shifting towards a more client-centric approach, focusing on providing customised solutions to meet clients' specific needs. This shift allows CAs to expand their service offerings and provide more specialised services to clients.

CAs can also help investment banks navigate the changing regulatory landscape in the industry. With the increasing focus on corporate governance and transparency, regulators are introducing new regulations and guidelines to protect investors' interests. CAs can play a crucial role in ensuring that investment banks comply with these regulations and provide advisory services to clients on navigating the complex regulatory frameworks.

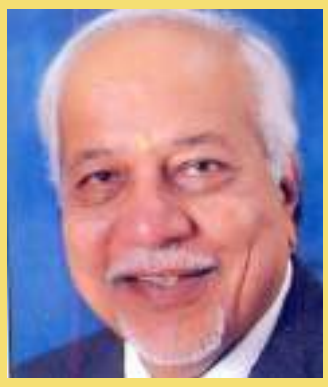
Another area where CAs can contribute to the investment banking industry's growth is by leveraging their expertise in financial reporting and analysis. Investment banks require accurate and timely financial information to make informed investment decisions. CAs can provide these services to investment banks and help them improve their financial reporting and analysis capabilities.







# Trustees of Charitable Trusts awake and be careful.



**Contributed by:**

**CA. Ajit C. Shah**

**Budget 2017-18:**

- If one trust give corpus donation to other trust, donor trust will not get deduction of that donation, before this it was allowable.
- If objects of the trust is to be amended, trust will have to inform Principal Chief Commissioner of Income Tax (Exemption), within 30 days.
- If trust is not able to file its return of income within due date, trust will not get exemption of Section 11 of the Act, i.e. no deduction of any expenditure is available.
- Political Party Trust cannot accept donation in cash, for more than Rs.2,000/

**Budget 2018-19:**

- When any trust make payment to any person, on which Tax is to be deducted, if trust has not make tax deduction or forget to deduct tax, trust has to pay tax @ 30% on that amount. If trust make payment of Rs. 1,00,000 for expenditure on which tax is to be deducted, and trust forget to deduct tax, trust is liable to pay tax @ 30% i.e. Rs. 30,000.
- If the tax has been deducted and for get to deposit in government treasury, before submitting return of income, trust will not get deduction of the amount and is liable pay tax @ 30%
- If the trust has make payment in cash to a person more than Rs. 10,000 in a day, trust will not get deduction of that amount.

**Budget 2019-20:**

- From 1<sup>st</sup> September, 2019 on words, Principal Chief Commissioner of Income Tax can asked for any

We know that since last 6 to 7 years, Income Tax Act-1961, introducing harsh provisions, which become headache for the trustees as well as auditors of the Charitable and Religious trusts, to conduct the activities of the trust smoothly.

document from trustee, if he is not satisfy with the documents which are lying with him.

- Power for cancellation of Trust registration at any time by Principal Chief Commissioner of Income Tax has been given, if trust has not follow the provisions of any other Acts.

**Budget 2020-21:**

Since 1972, when section 11, 12 and 13 were added to the Income Tax Act, 1961, once registration was granted to the trust was for the life time. In this budget a new provision was introduced that from 1<sup>st</sup> June, 2020 all the trusts which are registered under Income Tax Act, have to make an application for re registration along with all the documents like, Trust Deed or Constitution of Trust, last three years audit report, copy of registration certificate issued u/s 12A or 12AA of the Act, copy of registration with charity commissioner or any authority, details of all the trustees, like PAN, Adhar Card, Resident address, mobile no, email id etc. all the documents must be in English language.

This details are to be submitted before 30<sup>th</sup> September, 2020, which was extended up to 31<sup>st</sup> March, 2021, there after 30<sup>th</sup> September 2021 and lastly 31<sup>st</sup> March, 2022.

**Budget 2021-22:**

**Amendment in Section 10(23C)**

Under this section 10(23C) of the Income Tax Act, 1961, educational and medical trusts are covered and get 100% exemption of their income since last 40 years. Other charitable trusts, NGOs are following under section 11 and 12 of the Income Tax Act, 1961. Under section 10(23C), schools, colleges, universities, hospitals were working smoothly without any disturbance and all the income of these institutions were tax free.

From assessment year 2022-23, there were no difference with intuitions following u/s 10(23C) and section 11 and 12. The institutions which are enjoying deductions under both the sections i.e. 10(23C) and 11 and 12 have





to select only one section for exemption that is either 10(23C) or 11 & 12.

Under Section 10(23C), mostly following institutions were covered, Educational and Medical whose annual receipts were below Rs. 5 crors were fully exempt. If the gross receipts are more than Rs. 5 crors they may take the permission of Chief Commissioner of Income Tax, for exemption.

#### **Treatment of Corpus Donations:**

Under the existing provisions of the Income Tax Act, 1961, corpus donations received by trusts, institutions, funds etc. are exempt.

These entities are not allowed to accumulate more than 15% of their income or in specified cases, accumulated for specific purpose up to 5 years.

Voluntary contributions made within a specified direction that it shall form part of Corpus are required to be invested or deposited in one or more of the forms or modes specified in section 11(5) of the Act.

Application for charitable or religious purposes from the corpus as referred to in clause (d) of this subsection, shall not be treated as application of income for charitable or religious purposes.

#### **Treatment of Expenditure incurred out of Borrowed Funds:**

There are instances, wherein the charitable institutions have been found to be claiming amount incurred out of the borrowed funds as application of income and also based on judicial precedents, repayment of loans also has been claimed as an application in few cases.

In order to put an end to such controversy and to bring in clarity in the law, the following amendment was proposed.

Applications from loans and borrowings shall not be considered as application for charitable or religious purposes. However when loans and borrowing is repaid from the income of previous year, such repayment shall be allowed as application in previous year in which it is repaid to the extent of such repayment.

#### **Treatment of unabsorbed deficit/excess application of earlier years:**

The deficit arising out of excess expenditure over income during the earlier year, can be set off against the

surplus of income relating to subsequent year in computing taxable income of the later A.Y.

#### **Raising of prescribed limit for exemption to certain entities under section 10(23C):**

Section 10(23C) (iiia) and (iiiae) provides for exemption for the income received by any person on behalf of university or educational institution/ hospital or institution as the case may be, the exemption is available to referred entities if their annual receipt does not exceed the prescribed amount of Rs. 1 Cr. The said limit was increased to Rs. 5 Cr.

#### **Budget 2022-23:**

##### **• Books of Accounts to be maintained:**

It was proposed to prescribe the books of account to be maintained in the form and manner as well as the place, as may be prescribed.

##### **• Penalty for providing unreasonable benefits:**

To discourage the misuse of the property of the trust, it is proposed to insert **new section 271AAE** to provide penalty to the trust.

(1) Where the trust or institution has passed unreasonable benefits to trustee or any specified persons, it will be penalized with the sum equal to the value of the benefits passed, at the first instance of such a violation.

(2) The penalty shall be double the amount of such benefits passed, if such violation is noticed again in any subsequent year,

(3) The penalty shall be in addition to any other penalty leviable under any provisions of the Act.

• If the trust has any business income, books of account for that is to be kept separately.

#### **Budget 2023-24:**

##### **• Treatment of donation to other trusts:**

The income of the trust is







exempt subject to the fulfilment of certain conditions, some of such conditions are as under:

(1) At least 85% of the income of trust should be applied during the year for the purposes of the trust. (2) Trusts are allowed to either apply mandatory 85% of their income either themselves or by making a donation to the trust with similar objects.

(3) If donated to other trust, donation should not be towards corpus to ensure that the donations are applied by the done trust.

Thus, every trust is allowed to accumulate 15% of its income each year.

In order to plug loophole and possible misuse of this provision, it is proposed that only 85% of the eligible donations made by a trust to another trust shall be treated as

application.

- All the trusts have to get their accounts audited and send audit report in Form No 10B/10BB before 30<sup>th</sup> September of every year. If audit is not submitted within time, trust will not get deduction of section 11 and 12.
- Form No 10B, is to be submitted by a trust whose gross receipts are more than Rs. 5 Cr. Or received any donation from outside India or spend any amount outside India.
- Form No 10BB, is to be submitted by a trust whose gross receipts are more than Rs. 2,50,000 but less than Rs. 5 Cr.

It seems that now a days it become very difficult for the trustees of any charitable or religious trust to provide services for trust. They should be much care full about the activities and accounting of the trust.





# Real Talk: Breaking Down ChatGPT's Limits



**Contributed by:**

**CA. Silva Shah**

ChatGPT, a highly advanced language model based on the GPT-3.5 architecture is turning the heads! It is a cutting-edge technology that has revolutionized the field of natural language processing. It has the ability to comprehend and produce human-like responses in a variety of contexts, making it an invaluable tool for businesses, professionals, and individuals alike. One of the most remarkable aspects of ChatGPT is its versatility. It can be used for a wide range of tasks, including language translation, content generation, and even chatbot development. Its flexibility and adaptability have made it an increasingly popular choice for businesses seeking to automate their customer service functions. Furthermore, ChatGPT's artificial intelligence capabilities have enabled it to continually improve its performance and accuracy. As a result, it can generate highly sophisticated responses that are open indistinguishable from those produced by humans.

So much buzz is going about this new baby in the world of Artificial Intelligence! It has taken the world by storm with its capabilities and countless number of use cases, but having said this, it is the Time to shift our focus to - where and when we should refrain from using it! Yes, this Gamechanger has its own limitations also. Here are some critical junctures where we should apply our judgement before adopting ChatGPT for solutions:

**Confidential or sensitive information:** Being Professionals, we, Chartered Accountants, are firm believers of integrity and confidentiality. ChatGPT is an AI model and not a human, so it does not have the same ethical and legal obligations as a human professional. Therefore, it may not be suitable for handling confidential or sensitive information, such as financial statements or personal data. Inadequate

precision on recent developments: ChatGPT is trained of vast amount of human knowledge up to September 2021 only. Hence, it does not promise accuracy on information about any event which has occurred after this TimeLine. The use of ChatGPT for any recent happening might be not helpful or misleading, at Times.

**Highly specialized Domains:** ChatGPT does produce content to write responses to Income Tax notices! But, no matter how technology gets advanced, few areas can never be converted into virtual. ChatGPT may not always be able to provide accurate or reliable information regarding complex legal or regulatory requirements. In such cases, need to consult a human professional who has specialized expertise in the relevant area can never be compromised.

**Ethical Issues:** ChatGPT is a pre-trained AI model, the content which is provided by it belongs to its author. However, unlike Google, ChatGPT does not produce the resources from where it has produced the content. And there triggers the risk of Plagiarism! And calls for Ethical Considerations for Chartered Accountants.

**Emotional or personal issues:** ChatGPT is capable to talk to any tone you wish it to set into! It is needless to say that it is capable to offer sympathy to the user when prompted to do so! But we should not forget that a Machine can never match to Man when it comes to Emotional Intelligence. AI tools are certainly Artificially intelligent, but their emotional intelligence is still questionable. Overall, ChatGPT represents a major step forward in the field of natural processing language, and its potential applications are virtually limitless. But machines are made by humans only, they can supplement human efforts and can never replace the **Creator** of it!

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# Reopening u/s. 148 of Income Tax Act in the cases of Donation to Registered Unrecognized Political Parties (RUPP):



**Contributed by:**  
**CA. Chetan Agarwal**

RUPPs, inter alia, covered in the action are as hereunder:

Bhartiya Rashtriya Tantra Party	Rashtrawadi Party	Jantaraj	Navsarjan Bharat Party
Jantawadi Party	Congress	Satta Kalyan Party	Bharatiya Jan Kranti Dal
Apna Desh Party	Rashtriya Samajwadi Party (Secular)	Sardar Vallabh Patel Party	
Lok Kalyan Party	Rashtriya Krantikari Samajwadi Party	Jan Sangharsh Virat Party	
Yuva Jan Jagruti Party	Saurashtra Janta Paksha	Motherland Party	National
Loktantra Jagrut Party	Bhartiya Kisan Parivartan Party	Rashtriya Komi Ekta Party	
Lok Shahi Satta Party	Garvi Gujarat Party	Indian Swarna Samaj Party	
Jan Man Party	Gujarat Janta Panchayat Party		

which got searched/ raided. The search premises were spread across 4 states and a UT viz., Maharashtra (Mumbai), Bihar (Patna), Uttar Pradesh (Lucknow), NCR (Ghaziabad) and Silvassa. A total of 119 premises were covered out of which 91 premises were covered u/s 132 of the Act and remaining premises were covered u/s 133A of the Act. The search was conducted after credible evidence of a scam going on in the form of donations to Political Parties for claiming bogus deduction u/s. 80GGC/80GGB of the Act which are then re-routed back to the donors in cash/RTGS/NEFT or other banking channels, was gathered and collated with other relevant data points. Enquiries revealed that few such so called political parties are engaged in huge tax evasion racket and that these are formed for the sole purpose of aiding and abetting tax evasion and earning commission in the process.

The modus operandi detected in the course of search operation revealed that the donation is received through cheque/RTGS/NEFT in the RUPP's bank account. Thereafter, such amounts are routed to an intermediary in the form of expenses towards political and social welfare activities. Such intermediaries are shell entities which are specifically formed for the purpose of layering funds through their bank accounts without carrying out any business activities. These entities are either

formed and controlled by the same persons running the political parties or by certain other individuals who create and manage multiple bogus entities by using credentials of other men/women of no means by paying them meagre amounts. These bogus entities have no physical/business existence, and they are solely used for providing accommodation entries. It is also observed that bank accounts of new intermediary entities are created for this purpose, used for few years to route crores of funds and then bank accounts are either closed suo-moto by the handlers to escape the eyes of law or closed subsequent to actions by Law enforcement agencies. Thus, the handlers of the intermediaries keep forming new namesake/bogus entities and open their bank accounts, use it for providing accommodation entries, close it down and start with new bogus entities. These bogus entities are formed on one hand to layer unaccounted moneys and evade tax and on the other hand earn commission on all the funds routed through it.

The political parties in India are governed by Representation of the People Act (RPA) 1951. The said law (The Representation of the People Act 1951, Section 29A) sets down certain conditions for a political party to form and get registered by the Election Commission of India (ECI):

It must consist only of Indian citizens

It must call itself a political party set up for the purpose of contesting elections to the Parliament and State Legislatures and for no other purpose.

It must have at least 100 registered electors as its members.

All the registered political parties under RPA Act can be categorized into two categories.

1. Registered Recognized political party (RRPP)
2. Registered Unrecognized political party (RUPP)

Either newly registered parties or those which have not secured enough percentage of votes in Assembly or General Elections to become a state party or those which have never contested in elections since being registered are considered as registered unrecognized parties.

On the basis of search conducted by Income Tax Department on various Registered Unrecognized Political Parties (RUPP) department has unearthed the modus operandi of bogus donations for claiming deduction u/s. 80GGC / 80GGB. Hence, department has initiated reopening of assessment u/s. 147 by issuing notice u/s. 148A(b) on the donors of these parties. We have analyzed many such notices, on the basis of which following options are available to the assesses involved:





### **First Option:**

- Disregard the claim of donation u/s. 80GGB /80GGC in return to be filed u/s. 148, which assessee will receive after replying notice u/s. 148A(b) along with order u/s. 148A(d) and pay income tax along with interest.
- Pay penalty u/s. 270A (50% of tax in case Assessing Officer (AO) initiate penalty for underreporting of income and 200% in case AO initiate for Misreporting of income). **PAY TAX AND RELAX.**
- E.g.: for Rs.1,00,000 donation tax will be Rs. 30,000 (assuming 30% slab), Interest will be approximately Rs. 10,000 to Rs. 20,000 depending on facts and penalty will be Rs. 15,000 if AO initiate penalty considering this as underreporting and Rs. 60,000 if AO initiate penalty considering this as Misreporting. There are more chances of AO considering this as Misreporting.
- To summarize, disregarding the donation by accepting contention of Income Tax Department will require donor to pay tax, interest and penalty approximating to around Donation amount. Additionally, this will attract same consequences for further years if donation is claimed in those years also.

### **Second Option**

- As per our analysis and understanding of issue, Department will not take any soft stand in these cases and addition will be made for such donation amount. This will invite Tax, Interest and Penalty u/s. 270A on such donations. Penalty u/s. 270A for underreporting is 50% of the tax evaded and misreporting is 200% of the tax evaded.
- The remedy available to the donors is to file appeal against such orders after the Assessment order is received u/s. 147 r.w.s. 143(3)/144/144B. The First appeal has to be filed before CIT(Appeals) within 30 days of Assessment order. But there is rare possibility of any success to the appeal filed before CIT(A).
- Against the negative order of CIT(Appeals), donor has to file appeal in Income Tax Appellate Tribunal (ITAT) within 60 days of CIT(A) order. Success in ITAT will depend on how Income tax officer takes stand in this matter. But as per our analysis there is 50% to 70% probability of success in ITAT in these cases on technical contentions taken by

assessee in appeal.

- In the cases where donors opt not to go in appeal or in cases where appeal gets dismissed, the donor has to pay the required tax, interest and penalty. But in this scenario, this will invite IT Authorities to do the same additions in further years.
- The cost involved for litigating against the notice of Department includes fees of consultant upto ITAT level and appeal filing fees.
- It is advisable to consult the expert from the beginning of the case so that appropriate technical grounds can be built and case can build up in a manner which will be helpful in appeal level.

Below is the process chart for better understanding:

**Action** - Show cause Notice Received u/s. 148A (b)

**Counter** – Give Reply after consulting with experts (Proper reply will create base for future)

**Action** – Reopening Order will be Received u/s. 148A (d) and notice u/s. 148

**Counter** – File return u/s. 148. Give replies to various notices received.

**Action** – CIT(A) hearing notice.

**Counter** – File reply before CIT(A) taking various technical grounds as well as on merits

**Action** – CIT(A) hearing notice.

**Counter** – File reply before CIT(A) taking various technical grounds.

**Action** – Negative CIT(A) order will be received dismissing appeal filed.

**Counter** – File appeal against the order before ITAT within 60 days.

**Action** – Negative CIT(A) order will be received dismissing appeal filed.

**Counter** – File appeal against the order before ITAT within 60 days.

**Action** – Receipt of penalty order u/s. 270A.

**Counter** – File appeal against the penalty order before CIT(A) within 30 days.

**Action** – Hearing in ITAT.

**Counter** – Fight on technical grounds in ITAT based on ground built in earlier stages of Assessment. There is 50-70% probability of success in these cases at this stage.







# Empowering Farmers for a Better Future

## The Role of FPOs in India and How Chartered Accountants Can Help



**Contributed by:**  
**CA. Mahesh Desai**

In India, agriculture is the backbone of the economy, providing livelihoods to over half of the country's population. However, the income of farmers has been stagnant for decades. To address this issue, the government has initiated several schemes and programs, including the promotion of Farmer

Producer Organizations (FPOs).

FPOs are collective organizations formed by small and marginal farmers to collectively undertake farming activities, including input procurement, production, processing, and marketing. The formation of FPOs is aimed at empowering farmers by enabling them to access markets, technology and other support services. FPOs are expected to play a significant role in doubling the income of farmers, as envisioned by the government.

### The Role of Farmer Producer Organizations in India

FPOs play a crucial role in improving the income of farmers in India. They can:

1. **Enhance bargaining power:**  
FPOs can negotiate better prices for farmers by pooling their produce and negotiating with buyers. This helps farmers get better prices and higher returns for their produce.
2. **Access to markets:**  
FPOs can help farmers access better markets for their produce. They can also help in linking farmers with value chains, enabling them to get better prices for their produce.
3. **Access to credit:**  
FPOs can help farmers access credit by providing collateral and other support services. This helps farmers invest in their farms, leading to increased productivity and higher incomes.
4. **Sharing of knowledge and technology:**

FPOs can facilitate the sharing of knowledge and technology among farmers, leading to better farming practices and increased productivity.

5. **Risk management:**  
FPOs can help farmers manage risk by providing insurance and other risk management tools.

### The Role of Chartered Accountants in supporting FPOs

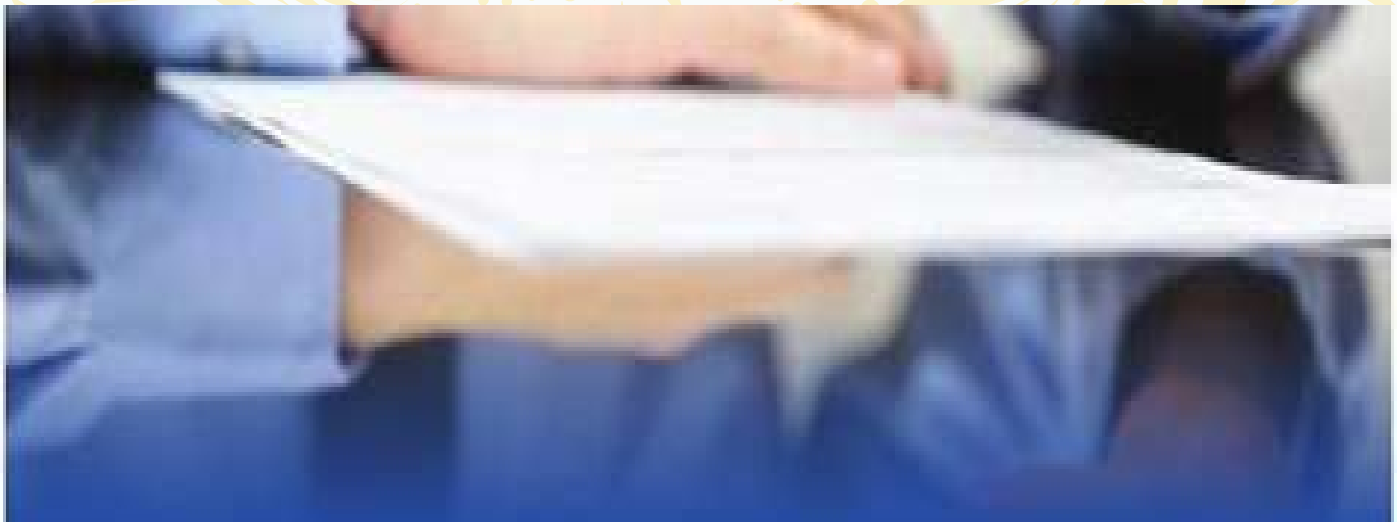
Chartered Accountants (CAs) can play a critical role in supporting FPOs in various ways. Some of the ways in which CAs can support FPOs include:

1. **Financial management:**  
CAs can help FPOs manage their finances, including budgeting, accounting and auditing. This helps FPOs maintain financial discipline and transparency.
2. **Compliance management:**  
CAs can help FPOs comply with various regulatory requirements including tax compliance and other legal requirements.
3. **Business planning and strategy:**  
CAs can help FPOs develop business plans and strategies including marketing and sales strategies. This helps FPOs achieve their objectives and goals.
4. **Capacity building:**  
CAs can provide training and capacity building support to FPOs on financial management, compliance management and other areas. This helps FPOs improve their skills and knowledge.
5. **Government grants & fund raising:**  
CAs can help FPOs raise funds including accessing loans and grants from various sources. This helps FPOs invest in their farms and expand their operations.

### Conclusion

FPOs have the potential to transform the lives of farmers in India by improving their incomes and livelihoods. We, CAs can play a critical role in supporting FPOs by providing financial management, compliance management, business planning and strategy, capacity building, and fundraising support. By working together, FPOs and CAs can help farmers achieve their goals and aspirations.





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## Upcoming Events

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**Fees: Rs 60,000 per couple / Rs 30,000 per person**

\* Includes all Meals, Flight Tickets, Entry Tickets & Sightseeing as mentioned in the Itinerary, Internal Transfers and Accommodation in a hotel in earmarked rooms as twin sharing basis.







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Till 30<sup>th</sup> Apr 2023

Non-Corporate - Rs. 20,000 + GST

Corporate - Rs. 25,000 + GST

Individual Player - Rs. 2,000 + GST\*

After 30<sup>th</sup> Apr 2023

Non-Corporate - Rs. 25,000 + GST

Corporate - Rs. 30,000 + GST

Individual Player - Rs. 2,500 + GST\*

Registration closes on 02 May 2023

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## Event in Images



Launching FIT CA PROGRAM on 5th April, 2023



National Conference on Capital Market @ Ahmedabad on 07 & 08.04.2023



SEMINAR ON VALUATION on 01.04.2023



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One Day Training Programme for Peer Reviewers at Ahmedabad on 14.04.2023





Session on Stress Management on 19.04.2023



Seminar On Audit Trail On 12.04.2023



TALK SHOW ON THE POWERHOUSE HOUR: CELEBRATING WOMENS EXCELLENCE by CS. Dr. Mamta Binani, National President of ICSI on 22.04.2023.



FDP / Half Day Mentorship Programme for Empanelled Counsellors - Are Willing to Become Career Counsellors on 27.04.2023 at



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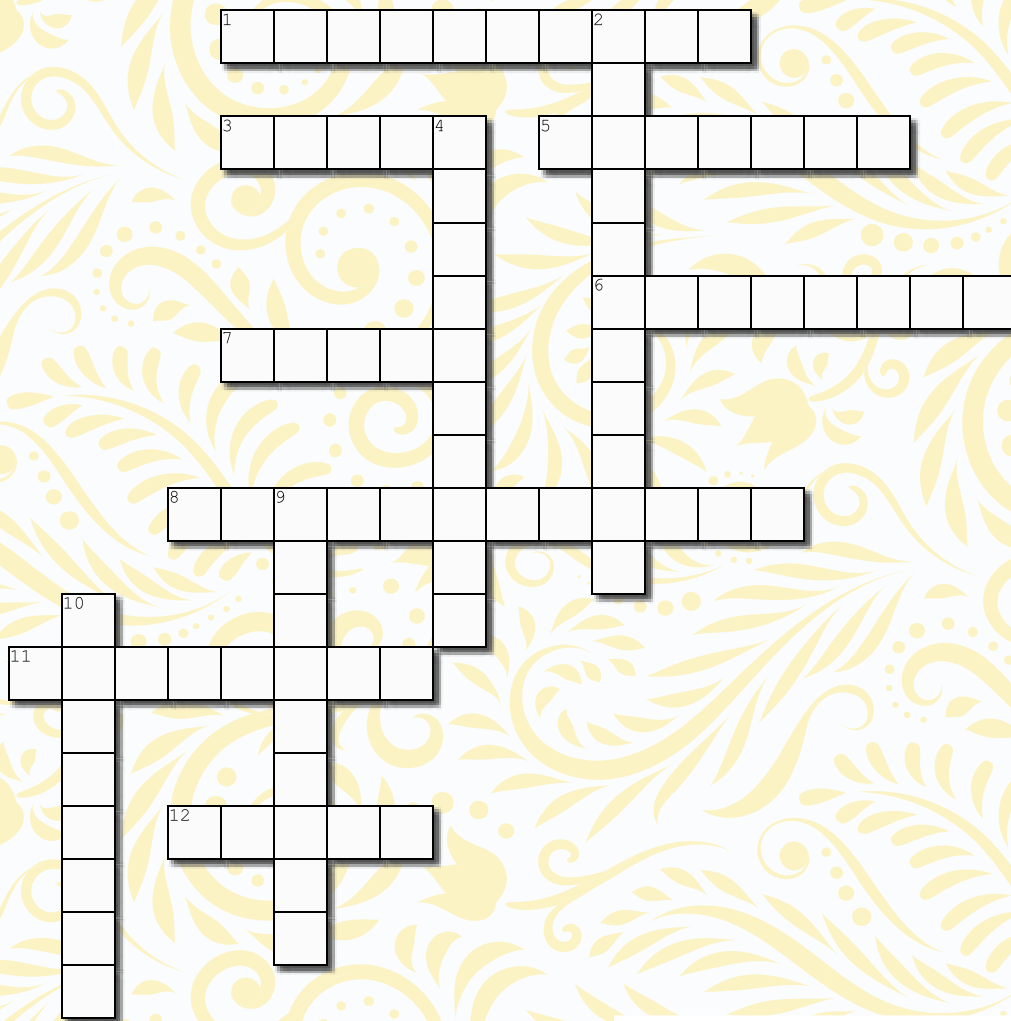
One Day Seminar on Valuation On 29.04.2023





# Crossword

## Crossword No.- 002



### Across

1. A nuisance lawsuit is an example of a \_\_\_\_\_ liability that is considered to be remote.
3. Net sales minus the cost of goods sold is \_\_\_\_\_ profit.
5. Assets that will turn to cash or be used up within one year (or within the accounting cycle if it is longer than one year) are \_\_\_\_\_.
6. GAAP is the acronym for generally \_\_\_\_\_ accounting principles.
7. Inventory is often reported at the \_\_\_\_\_ of FIFO cost or market.
8. Depreciation, depletion, and \_\_\_\_\_ are treated similarly on the statement of cash flows.
11. Prepaid Insurance is an example of an expense that has been \_\_\_\_\_ to the balance sheet and will be expensed in a later \_\_\_\_\_.
12. The financial statements assume that the company is a \_\_\_\_\_ concern.

### Down

2. The statement of cash flows usually explains the change in Cash and Cash \_\_\_\_\_.
4. SEC is the acronym for \_\_\_\_\_ and Exchange Commission.
9. The gain or loss on the sale of a long-term asset is reported in the \_\_\_\_\_ activities section of the cash flow statement.
10. An increase in Inventory will cause the cash provided by operating activities under the indirect method to \_\_\_\_\_.

### Note:

1. 1st 3 Correct Entries will get Appreciation Certificate / Prize
2. Last date of correct answer submission is 7th May, 2023
3. Send a photo of correct answer on: newsletterabadica@gmail.com



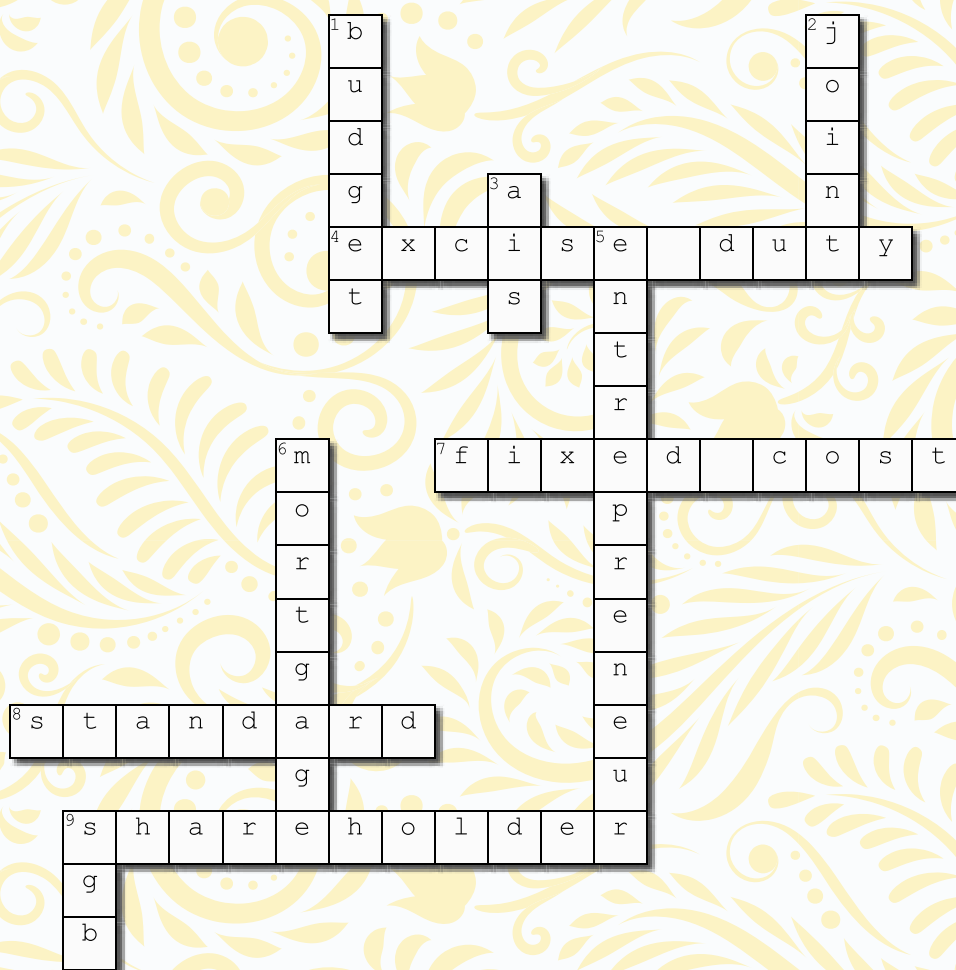




# Solution Crossword

Crossword No.- 001

Complete the crossword puzzle be



Created using the Crossword Maker on TheTeachersCorner.net

## Across

4. Tax Levied on Liquor, Petrol, Diesel (**excise duty**)
7. business costs, such as rent, that are constant whatever the quantity of goods or services produced. (**fixed cost**)
8. \_\_\_\_ deduction can be claimed by all salaried employees (**standard**)
9. Dividend is taxed in the hands of \_\_\_\_ (**shareholder**)

## Down

1. an estimate of income and expenditure for a set period of time (**budget**)
2. this type of account are owed by more than one person (**joint**)
3. all information regarding a taxpayer at one place (**ais**)
5. one who takes risk and initiative to set up their own business (**entrepreneur**)
6. a legal agreement by which a bank or other creditor lends money at interest in exchange for taking title of the debtor's prop (**mortgage**)
9. Gold earns interest and backed by GOI (**sgb**)

## Crossword No.- 001 Winners

1. CA. Harsh Nayak
2. CA. Khushali Patel



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# નૂતન નાગરિક સહકારી બેંક લિ.

મલ્ટી સ્ટેટ શિક્ષ્યુલ બેંક

સહકાર અમારો, સમૃદ્ધિ આપની.

## નૂતન સમૃદ્ધિ

૩૬૪ દિવસની ચાપલ યોજના

સીનીયર સીડીઝન માટે

8.25%  
વાર્ષિક

જનરલ પબ્લીક માટે

7.75%  
વાર્ષિક

સહકાર અમારો,  
સમૃદ્ધિ આપની.

ડિપોઝિટ (વર્ષિક)

8.50%  
Onwards

હોમ લોન

- મહત્તમ રૂ. ૧.૫૦ કરોડ સુધી
- ૧૨૦ મહિનાની - મહત્તમ ૧૨ વર્ષ
- ૧૨% ફિ-વેલિંગ વેલ્યુ

₹ (પચાસ લાખથી)

ડિપોઝિટ (વર્ષિક)

8.75%  
Onwards

કાર લોન

- મહત્તમ રૂ. ૧૦ લાખ સુધી
- ૧૨% ફિ-વેલિંગ વેલ્યુ
- મહત્તમ ૩૬ મહિના

₹ (પચાસ લાખથી)

ડિપોઝિટ (વર્ષિક)

9.00%  
Onwards

બિઝનેસ બુસ્ટર

- મહત્તમ રૂ. ૧૦ લાખ સુધી
- ૧૨% ફિ-વેલિંગ વેલ્યુ

₹ (પચાસ લાખથી)

ડિપોઝિટ (વર્ષિક)

13.00%  
Onwards

પર્સનલ લોન

- કોમ્પલેટ સિક્યોરિટી વગર

₹ (પચાસ લાખથી)



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## (જાતીય આધિન)

### વ્યાજના દર વાજતીવજતના કિસ્સાએ આધિન

\*Deposit upto ₹ 5 Lacs is insured under DICGC schema.

હેડ ઓફિસ : સમર્થેશ્વર મહાદેવ મંદિર સામે, લો-ગાર્ડન પાસે, એલીસબ્રીજ, અમદાવાદ-૩૮૦ ૦૦૬  
ફોન: ૦૭૯-૨૬૪૪૩૭૨૪, ૨૬૪૪૪૫૫૮ ઇ-મેઇલ : [admin@nutanbank.com](mailto:admin@nutanbank.com)



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The Institute of Chartered Accountants of India

### Features:

- ✓ Dashboard for CA/Professionals: Track client activities
- ✓ Document management system
- ✓ Seamless payroll management
- ✓ Real-time GST working
- ✓ Multiple branch management
- ✓ Inventory management
- ✓ Audit reports and analysis
- ✓ User dashboard and management

#### Discount offered to CA members in practice

Features/Packages	Samanvay	Shuruat	Samridhi
Suitable Enterprise	Auditor Version	Single Package	Outsourcing Module
Package Price	Free	10,000	40,000
Offer Price	Free	5,000	25,000
Renewal Price	Free	5,000	25,000
No. of Users	1	4	10
No. of Company	1	2	Unlimited
No. of Branches	1	3	Unlimited
No. of Products/services	500	3000 (Only Service)	Unlimited
Max Invoices (Sales + Purchase JV)	1,000	10,000	7,00,000
Invoice Package (3000 Invoices)	NA	1,000	2,000



 63588 58915

 info@ankpal.com

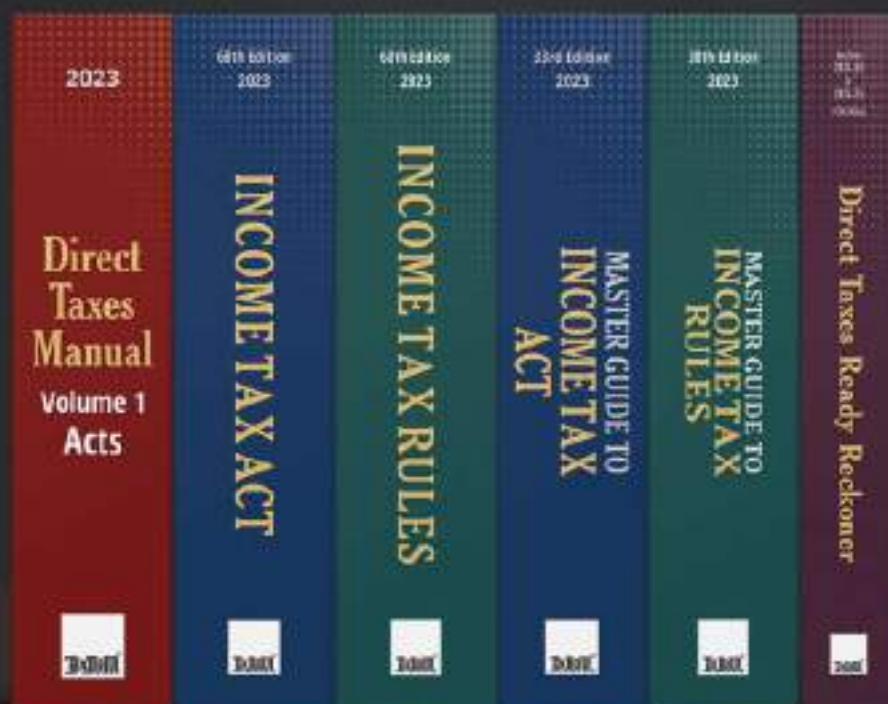


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