



S I R C

Southern India Regional Council

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



55th

Regional Conference of SIRC of ICAI

(Hosted by Ballari Branch of SIRC of ICAI)

Thursday & Friday, 12th & 13th October 2023

Priyadarshini Grounds, Opp Nandagokul Layout,
Bye pass Road, Hosapete (Near Hampi), Karnataka



Scan for Location

INAUGURAL SESSION:

Chief Guest: **Shri Siddaramaiah**

Hon'ble Chief Minister
Govt. of Karnataka

Guests of
Honour:

CA. Aniket Sunil Talati

President, ICAI

CA. Ranjeet Kumar Agarwal

Vice-President, ICAI



NEWSLETTER

September 2023

VOLUME • 49

PART - 3



Details at Page Nos. 13 to 16

CPE PROGRAMMES DURING THE MONTH OF AUGUST 2023

**UAE Corporate
Tax Free Zones
and its
implications
04.08.2023**



Resource Person:
**CA. Manoharan Palerichal
Thulicheri**

**Code of Ethics
Case Study
Discussion
07.08.2023**



Resource Person:
CA. R. S. Balaji

**Artificial
Intelligence
for our
CA Profession
08.08.2023**



Resource Person:
CA. Srinivasan S

**Company Audit
2022-23.
All you need
to know
09.08.2023**



Resource Person:
**CA. Jomon K George,
Former Chairman, SIRC of ICAI**

Case Law – TDS – 11.08.2023



Resource Persons:
CA. Venkatramanan B & CA. Bharathi Krishnaprasad

Live Case Studies in FEMA – 14.08.2023



Resource Person:
CA. Suresh

Data Mining in Tally – 23.08.2023



Resource Person:
Mr. Franklin D

**Finalizing Accounts of the CD –
Responsibilities of RP and
Suspended Directors – 24.08.2023**



Resource Person:
CA. Dharmarajan R

CPE PROGRAMMES DURING THE MONTH OF AUGUST 2023

One Day Seminar in GST on Real Estate (RERA) – 19.08.2023



Chief Guest:
Shri S. Selva Kumar,
Additional Director,
TNRERA, Govt. of Tamil Nadu



Resource Person:
Adv. G. Natarajan



Resource Person:
Adv. E. Suhail Ahmed



Resource Person &
Programme Coordinator :
CA. Vinay Thyagaraj

CPE Programme on World Entrepreneurs' Day – Social Auditor – An Emerging Career prospect – 21.08.2023



Resource Person: **Mrs. Latha Suresh**



Resource Person: **Ms. Marie Banu J**

INTERACTIVE SESSION

Interactive Session with Chairman AASB – ICAI Organised by AASB, ICAI and Hosted by SIRC of ICAI – 16.08.2023



Resource Person:
CA. (Dr.) Sanjeev Kumar Singhal,
Chairman AASB – ICAI interacting with
Members gathering



Cross Section of Members interacting with
Chairman AASB-ICAI

One Day Sub Regional Conference 2023 Hosted by Puducherry Branch of SIRC of ICAI @ Puducherry – 19.08.2023

Dignitaries at the Inaugural Session: Guest of Honour Shri. Ravi Ramachandran IRS, CIT Exemption Chennai, ICAI, Central Council Member CA. Chitale Chandrasekar Vasant, CA. Rajendra Kumar P and CA. Sripriya Kumar, SIRC Secretary CA. A.V. Arun, Regional Council Members CA. Sundararajan R, CA. Revathi S Raghunathan, CA. Rajesh, Chengalpattu Branch Chairman CA. T. Sivagurunathan and Management Committee Members.



Two days Sub Regional Conference - Athichudi - Hosted by Chengalpattu District Branch of SIRC of ICAI – 11.08.2023 & 12.08.2023



Dignitaries at the Inaugural Session: Chief Guest CA. G. Ramaswamy, Past President, ICAI and CA. Rajendra Kumar P, SIRC Secretary CA. A.V. Arun, Regional Council Members CA. Sundararajan R, CA., Revathi S Raghunathan, CA. S. Rajesh, Puducherry Branch Chairman CA. M. Rajesh Kumar and Management Committee Members.

Campus Orientation for newly qualified Chartered Accountants Organised by the Committee for Members In Industry and Business held on 7th August 2023 at Marigold Hall, GRT Convention Centre, GRT Hotels at Chennai



Dignitaries at the Inaugural Session: Chief Guest Thiru K. Pandiarajan Former Minister for Tamil Language, Tamil Culture and Archaeology and Chairman, Ma Foi & CIEL Group, CA. Durgesh Kumar Kabra, Chairman CMI&B, ICAI, Central Council Members CA. Rajendra Kumar P and CA. Sripriya K., SIRC Vice Chairperson CA. Geetha A.B, Secretary CA. Arun A.V., Regional Council Members CA. Rekha Uma Shiv and Newly Qualified Chartered Accountants.

GLIMPSES OF 77TH INDEPENDENCE DAY CELEBRATION – 15.08.2023

Flag Hoisting at ICAI Bhawan, Chennai



CA. Panna Raj S, Chairman SIRC of ICAI hoisting the National Flag in the presence of ICAI Past President CA. R. Bupathy, SIRC Secretary CA. A. V. Arun, Regional Council Members CA. Naresh Chandra Gelli, CA. Sundararajan R, CA. Revathi S Raghunathan, CA. Rekha Uma Shiv and Members.

Special Address by SIRC Chairman

Special Address by SIRC Chairman CA. Panna Raj S. in the presence of ICAI Past President CA. R. Bupathy, SIRC Secretary CA. A. V. Arun, Regional Council Members CA. Naresh Chandra Gelli, CA. Sundararajan R, CA. Revathi S Raghunathan, CA. Rekha Uma Shiv and Members.



Tree Plantation Drive



CA. Panna Raj S, Chairman, SIRC commenced the drive by planting a tree at ICAI, Chennai



Distributing Tree plant to Members
CA. Panna Raj S, Chairman, SIRC distributed Tree plants to Members in the presence of SIRC Vice Chairperson CA. Geetha A. B, Regional Council Members CA. Revathi S. Raghunathan and CA. Rekha Uma Shiv.

CHAIRMAN'S COMMUNIQUE

Dear Professional Colleagues,

Greetings from SIRC

SIRC with warmth welcomes members to "Jnana Sampanna (Enlighten & Evolve)", the Grand Mega Annual Event – 55th Regional Conference of SIRC at Hosapete (near Hampi) – 12th and 13th October 2023:

I join with my colleagues in SIRC and the members of the Ballari Branch of SIRC (the host) to extend a very hearty welcome to all the members to one of the prestigious events of the year, the **55th Regional Conference** to be held at Hosapete (near Hampi, a historical place and a place designated as World Heritage Centre by UNESCO) on the **12th and 13th October 2023**.

I am happy to inform members that this is for the very first time SIRC conducts the Annual Regional Conference in a smaller city (non-metro) in the State of Karnataka and first Conference in any historical place in the State of Karnataka, since its formation in April 1952.

I am also delighted to share that this Conference is being inaugurated by **Shri Siddaramaiah, Hon'ble Chief Minister, Government of Karnataka..** Here again the occasion is unique as for the first time a Chief Minister in office in the State of Karnataka is inaugurating the Regional Conference.

Our beloved **President CA. Aniket Sunil Talati** and beloved **Vice-President CA. Ranjeet Kumar Agarwal** will be gracing the inaugural session along with the host of Central Council Members of ICAI. This Conference also assumes more significance as many other dignitaries from the Government, leaders from corporate and business entities will be participating in this Conference.

There will be blend of presence of doyens of the profession and the members from the younger generation that will provide an opportunity for excellent and exceptional interaction for taking forward our profession.

The theme of the Conference is "Jnana Sampanna – Enlighten and Evolve" by itself highlights the intensity with which the deliberations would add to the value of the conference to enhance and enrich highest degree of excellence. We assure that our endeavour at this Conference is to offer our members the best and elevate the wisdom of our members to higher planes.

The Conference, with congregation of large gathering of our professional fraternity, the intellectual treasure of the Nation, is an appropriate platform to share, interact, learn and develop new perspectives and prospects in developing the professional skill in particular and the profession in general.

The response from members to be part of the Conference is overwhelming. SIRC requests other members to register through the dedicated registration link immediately. The Conference Committee is working assiduously to structure the Conference with a mixture of academic exploration, cultural extravaganza and best ever hospitality to the delegates for them to relish and recall forever their stay at Hosapete (near Hampi).

We have published the details of topics, resource persons, fee structure, contact details of hotels with coordinators for Hotel Booking, details of details of topics, resource persons, fee structure, coordinators for Hotel Booking, Travel & Conveyance Desk coordinators, flight and train schedules elsewhere in this issue of our Newsletter. We request members to plan their travel and accommodation in advance for a comfortable journey and stay.

Continuing Professional Education – The Hallmark of our profession:

Our profession, as you are aware, has much uniqueness and one amongst them is the "Continuing Professional Education". The main objective behind this is to enrich, enhance and enlighten the members of our profession with updates in all fronts connected to our profession. I recall the words of John F. Kennedy who said "The goal of education is the advancement of knowledge and the dissemination of truth". ICAI precisely does through the concept of "Continuing Professional Education".

You may also be aware that ICAI had revised the guidelines from this year for availing CPE Credit hours limiting it to the calendar year instead of 'in a block of three years'. The participation in the 55th Regional Conference is one of the early programmes of SIRC in the months ahead for members to avail 12 Hours CPE Credit. I therefore invite, once again, the members to join in our annual Regional Conference on 12th and 13th October.



Let us continue our quest for learning and updating our inherent knowledge and serve the profession and the Nation with verve and vivacity. To sum up on this caption of "Continuing Professional Education" let me quote the words of Sydney J. Harris "The whole purpose of education is to turn mirrors into windows".

I through this communiqué invite your suggestions on topics and areas on which SIRC and the Branches of SIRC should conduct programmes for the furtherance of our professional interest.

Appeal to Members in Industry:

SIRC is happy to note that over a period of years the participation of members from industry to the programmes organized by SIRC and its branches is increasing. However it is observed that there is a huge variance between the number of members in industry participating and the effective number of members in industry.

SIRC wishes that more number of members from industry should attend the programmes. SIRC designs many programmes which are most relevant to industry-related matters and their participation would make a huge difference in the performance level of our members working in corporate and other organizations. The participation would also offer an opportunity to interact with the practicing members and add value to the proceedings of such programmes. I solicit the participation of members in industry in large numbers for all our programmes. I also request them to join for the 55th Regional Conference to be held on 12th and 13th October 2023 at Hosapete (near Hampi).

SIRC also invites suggestions from members in industry on the possible topics that would be pertinent to their working requirement. SIRC would be happy to organize such industry-specific programmes at Chennai and in other parts of the Southern Region.

Tax Audit:

September is the month when the members would be agog with the completion of the tax audit, a statutory compliance with which our profession is associated. This month is attuned to our members every year and I am confident that they will meet the timeline comfortably and render their professional service with aplomb as ever before.

ICAI has come out with the publication on "Tax Audit", an updated version covering the relevant provisions of Finance Act, 2013. SIRC and the Branches of SIRC conducted Seminars on Tax Audit during the months of July and August 2023. I am sure this publication and the knowledge dissemination at the Seminars held at SIRC and its Branches and the interactions by members at other forums would largely benefit the members in their professional performance.

As the process of tax audit is dynamic in nature, members would experience certain newer issues while performing Tax Audit. SIRC invites inputs from members on any such issues that they feel require the attention of the appropriate Committee – Direct Taxes Committee of ICAI and for taking up with the Ministry of Finance their observations and issues.

A Brief of Programmes held in August 2023:

Sub-Regional Conferences:

Buoyed with the success of the First Sub-Regional Conference held at Vijayawada on the 16th and 17th June 2023 SIRC organized two more Sub-Regional Conferences hosted by Chengalput District Branch of SIRC on 11th and 12th August 2023 and Puducherry Branch of SIRC on 19th August 2023. Both the Conferences attracted large participation of members and the deliberations were of high order.

CA. G. Ramaswamy, Past President, ICAI was the Chief Guest at the Sub-Regional Conference hosted by Chengalpattu Branch. Shri. Ravi Ramachandran IRS, CIT (Exemption) Chennai was the Guest of Honour at the inaugural session. The Conference was attended by CA. Rajendra Kumar P and CA. Sripriya Kumar, Central Council Members and the functionaries of SIRC.

At the Sub-Regional Conference held at Puducherry CA. Rajendra Kumar P, Central Council Member, ICAI, CA. Chitale Chandrashekar Vasant, Central Council Member, ICAI and the functionaries of SIRC graced the occasion.

At this juncture I, on behalf of SIRC and on my own behalf, convey our congratulations and commend the host branches for conducting the events with enormous amount of dedication and diligence. Our appreciation to CA. T. Sivagurunathan, Chairman of Chengalput District Branch of SIRC, CA. M. Rajesh Kumar, Chairman, Puducherry Branch of SIRC and their ebullient teams for their commitment and meticulous planning with perfection. SIRC also places on record the valuable support and coordination by CA. R. Sundararajan, Ex-officio Member of both the Branches. SIRC also expresses its grateful thanks to the excellent response of the members for these two Sub Regional Conferences, I am confident our members would continue their support for the other forthcoming Sub-Regional Conferences, the details of which would be shared in due course.

Independence Day Celebrations:

On the occasion of the Independence Day this year I had the privilege of hoisting the National Flag at ICAI Bhawan. The occasion had the presence of our beloved Past President CA. R. Bupathy as Chief Guest, my colleagues in SIRC CA. A.B. Geetha, Vice Chairperson, CA. A.V. Arun, Secretary, Members of SIRC CA. Naresh Chandra Gelli, CA. R. Sundararajan, CA. Revathi S. Raghunathan, CA. Rekha Uma Shiv and other members, students and officials of ICAI-Chennai. SIRC conveys it's thanks to all who made the occasion a grand event.

G. Narayanaswamy Memorial Lecture:

SIRC in association with Society of Auditors and the D. Rangaswamy Academy for Fiscal Research conducted the G. Narayanaswamy Memorial Lecture on 25th August 2023 to commemorate and recall the contribution of CA. G. Narayanaswamy, Former Central Council Member of ICAI to the profession and the society. Shri Arvind P. Datar, Senior Advocate, Supreme Court delivered the memorial lecture on "Tax Policy – From Revenue Maximisation to Growth Maximisation". CA. G. Subramanian, Former Chairman of Madras Stock Exchange presided over the meeting. The meeting was attended by Past Presidents of ICAI CA. G. Sitharaman (younger brother of CA. G. Narayanaswamy), CA. R. Balakrishnan and CA. R. Bupathy. Past Chairmen of SIRC CA. R. Nagarajan and CA. K. Ravi, Central Council Members of ICAI CA. Rajendra Kumar P and CA. Sri Priya Kumar, members of SIRC, family members, admirers and friends of CA. G. Narayanaswamy and a large gathering of our professional fraternity. I also at this juncture thank CA. R. Sivakumar, Former President of Society of Auditors for his guidance and coordination for this memorable event.

SIRC in tandem with ICAI Activities playing as "Hosts":

Orientation Programme for candidates appearing for Campus Interviews:

On 7th August 2023 ICAI organized the Orientation Programme for candidates appearing for Campus interviews in Chennai. Shri K. Pandiarajan, Executive Chairman, CIEL HR & Ma Foi Strategy was the Chief Guest and gave an inspiration inaugural address. CA. Durgesh Kumar Kabra, Chairman, Members – Committee for Members in Industry & Business, ICAI, CA. Rajendra Kumar, P and CA. Sri Priya Kumar, Central Council Members of ICAI and functionaries of SIRC of ICAI graced the occasion and addressed the members. SIRC hosted the event. Similar orientation programmes are organized across the country by the Committee for Members in Industry & Business (CMI & B), ICAI.

SIRC conveys its good wishes to the candidates participating in the 58th Edition of Campus Placements in 27 Centres across the country and wish them all bright career.

Training Programme for officials of CGST Department:

A Five Day Training Programme under the aegis of the GST & Indirect Taxes Committee of ICAI and hosted by SIRC was held between ... August and ... August 2023. CA. Rajendra Kumar, Chairman of GST & Indirect Taxes Committee and senior officials of the department along with the functionaries of SIRC graced the inaugural sessions. Officials recruited by the Department undergone the Training Programme with eminent resource persons sharing their expertise and wealth of knowledge on GST and other related / allied areas.

Interaction with members on "Audit Trail":

On 16th August 2023 SIRC hosted an Interactive Meeting on "Audit Trail" organized by AASB, ICAI. CA (Dr.) Sanjeev Kumar Singhal, Chairman, Auditing and Assurance Standards Board, ICAI interacted with the members in Chennai. The session was widely appreciated by the participants.

Other Activities in SIRC:

The month of August continues to be dynamic with multifarious academic activities at SIRC Headquarters and at Branches. At SIRC we held "Knowledge updation on line Series" through virtual platform for three days. One Day Seminar on the subject "GST on Real Estate" (RERA) was held on 19th August 2023. Shri S. Selva Kumar, Additional Director, TNRERA, Government of Tamil Nadu was the Chief Guest. Three sessions were held by eminent personalities and was well received.

SIRC expresses its deep sense of gratitude and sincere thanks to all the officials of the Government and the other resource persons for being part of our initiative to offer the best educative forums for our members.

9 CPE Meetings and an Investor Awareness Programme besides the other programmes about which in the foregoing paragraphs I have shared the details.

Two Days Chartered Accountants Conference:

It was a memorable occasion for me to have joined two of our Past Presidents of ICAI CA. B. P. Rao and CA. K. Raghu at the 19th All Karnataka State Level Conference held on 11th and 12th August 2023 along with the Central Council Member CA. Cotha S. Srinivas and Vice-Chairperson of SIRC CA. A. B. Geetha. I appreciate the Chairperson and all Managing Committee Members of Bengaluru Branch for the Conference in a befitting manner.

National Conference at Visakhapatnam:

I had the pleasant privilege of being of the National Conference organized by Professional Development Committee of ICAI under the Chairmanship of CA. D. Prasanna Kumar and hosted by Visakhapatnam Branch on 25th & 26th August 2023. Our beloved President CA. Aniket Sunil Talati graced the inaugural session with his august presence and inaugurated the Conference. I appreciate the efforts and excellent coordination by CA. D. Prasanna Kumar, Conference Director in staging the Conference immaculately.

SIRC congratulates CA. P. Prasanth Kumar, Chairman, Visakhapatnam Branch of SIRC and his team in the Managing Committee has done a commendable work with commitment to add yet another feather in the cap of the Professional Development Committee and the Visakhapatnam Branch of SIRC.

Future Programmes of SIRC:

On 5th September 2023 SIRC would be organizing the Teachers Day in a befitting manner as in the earlier years. On this occasion SIRC would be pleased to honour the teaching faculty for their yeomen service to our students.

We have also scheduled One Day Seminars on "Tax Audit through TALLY", "Systems Audit, Startup and RERA" and "Valuation". We are also proposing to hold a Seminar on a subject, exclusively on industry specific area.

CA. Hariharan Memorial Lecture:

On the evening of 22nd September 2023, SIRC is organizing CA. Hariharan Memorial Lecture at ICAI Bhawan, Chennai. Dr. T V Somanathan, Finance Secretary, Department of Expenditure, Government of India will deliver the Memorial Lecture on "THE CHANGING ECONOMY AND WHAT IT IMPLIES FOR ACCOUNTANTS". SIRC invites members to participate in large numbers.

I am sure with your continued patronage to our programmes we would ensure more and more programmes on diverse topics and act pro-actively to offer the best to our fraternity.

Enhancement of Knowledge:

In the last few months SIRC is publishing articles of current interest and importance besides regular updates on diverse subjects. I am sure the dissemination of knowledge through these articles is much beneficial to the members. I would request members to send their feedback and suggest topics they desire SIRC to publish in the forthcoming issues.

Payment of Annual Membership Fee and Certificate of Practice:

30th September 2023 is the last date for payment of membership / Certificate of Practice fee for the year 2023-24. SIRC requests members who are yet to pay the prescribed fee to make the payment immediately but before 30th September 2023 to ensure that the membership is active. The remittance can be made through the designated Self Service Portal. While doing members may please ensure that they had updated their "Know Your Members – (KYM)" for smooth transaction of the payment of fees.

New Education and Training:

ICAI has hosted the detailed information about the exemption(s) from appearing in paper(s) or Group of Chartered Accountancy Examinations under the New Scheme of Education and Training with effect from May 2024 Examination. I request the members to disseminate the information amongst their articulated assistants and exhort them to visit the ICAI and Board of Studies Website for availing the exemptions that is/are applicable to them.

Festivities:

In the next few months there are many festivities that we will be celebrating. SIRC conveys its Greetings to all the members and their family happy festive days ahead and wishes them prosperity in all aspects.

With warm regards

CA. S. PANNA RAJ
Chairman, SIRC of ICAI

SIRC of ICAI

PROGRAMMES FOR THE MONTH OF SEPTEMBER 2023 ONWARDS

Regn: <http://bit.ly>

| Date (Day) | Timings | Mode | Topic | Resource Person(s) | Fees (Rs.) (Including GST) | CPE Credit Hours |
|--|--------------------|-----------------|--|---|----------------------------|------------------|
| 8.09.2023 (Fri) | 5.00 pm to 8.00 pm | Physical | CPE Meeting on GST in Hospitality Industries and GST on RCM | CA. Manavalan, Chennai | 236 | 3 |
| 8.09.2023 (Fri) | 5.00 pm to 8.00 pm | Virtual Program | Comprehensive over view of Statutory Audit 2023 including checklists and templates for - Schedule III Checklist for AS compliance Checklist for SA compliance Detailed Audit Program Checklist for CARO compliance | CA. Sripriya K, Chennai | - | - |
| 09.09.2023 (Sat) | 10.00am to 5.30 pm | Physical | One Day Seminar on Tax Audit Tax Audit through tally Eminent speaker | CA. Naveen Khariwal, Bengaluru, CA. Vijay Anand, Chennai | 1180 | 6 |
| 16.09.2023 (Sat) | 10.00am to 5.30 pm | Physical | One Day Seminar on Systems Audit, Startup and RERA Venue: Centre of Excellence, Hyderabad | Eminent Speaker | 1180 | 6 |
| 16.09.2023 (Sat) | 10.00am to 5.30 pm | Physical | One Day Seminar on Valuation Venue: P. Brahmayya Memorial Hall, ICAI Bhawan, Chennai | CA. Hemantha Kumar C N. Chennai CA. Pattabhiram, Chennai CS. Ravichendran, Coimbatore | 1180 | 6 |
| 22.09.2023 (Fri) | 6.00 pm to 8.00 pm | Physical | CA. Hariharan Memorial Lecture on "The changing Economy and What it Implies for Accountants". | Dr. T V Somanathan, Finance Secretary, Department of Expenditure, Government of India | - | - |
| 25.09.2023 (Mon) | 5.00 pm to 8.00 pm | Physical | CPE Meeting on Networking Guidelines | Eminent Speaker | 236 | 3 |
| Oct 12 th & 13 th 2023 (Thu & Fri) | 9.00 am to 6.00 pm | Physical | 55th Regional Conference of SIRC of ICAI | Complete details hosted in Conference Website Conference Website https://sirconference.org and at Page No. 13 to 16 | | 12 |

Venue Details: P. Brahmayya Memorial Hall, ICAI Bhawan, No.122, Mahatma Gandhi Road, Nungambakkam, Chennai – 600034.

CPE Credit on attending full programme only

Prior Registraton Complusory : <https://bit.ly/sirclogin>

CA. G. Narayanaswamy Memorial Lecture – 25.08.2023



Resource Person:
Shri Arvind P Datar,
Senior Advocate,
Supreme Court

Floral tributes to Late CA. G. Narayanaswamy by Chief Guest Shri Arvind P. Datar, Senior Advocate, Supreme Court, ICAI Past Presidents and Central Council Members, Office bearers of SIRC of ICAI, D. Rangaswamy Academy for Fiscal Research and The Society of Auditors.

LEADERS THOUGHT

Dear Professional Colleagues,

Greetings of the day and the season...!!!

"A CA Role is critical in Nation Building, they help the nation & the people in financial and economy-related actions to boost the country's economic growth".

As we are aware that a Chartered Accountants in Practice is engaging to deliver various professional assignments like assurance, Direct, Indirect Tax Assignments and other related functions certainly with risk. Though the technological advancement in our profession reduces clerical work but our basic principles cannot be transformed especially in assurance and ethical standards.



Facelift of Assessments:

It is an undisputed statement that opportunities of the traditional practitioners in Rural and semi urban areas in the field of Income tax assessments was reduced to a greater extent because of Faceless assessment scheme of Income tax returns being introduced. It is high time that those practitioners to look for other areas of practice these days.

Traditional thought process:

Another area where our fraternity have to look at is the human resource. As per the statistics from the last few years, the entry to the course got reduced and it become inevitable for the CAs in practise to look for alternative resources like commerce graduates or management graduates.

Remunerative assignments – Pricing the task:

The concern of the time/need of the hour is about the fee being charged for the service we render was not in line with the complexity, time we spent, and the risk being associated with the task.

The value of services rendered may be subjective & specific and a given service may be perceived as more or less valuable depending on how it is "framed" or explained. That is where our fraternity, particularly small and medium practitioners require the skill to make the clients to understand the real business value of the services they take.

Considering the above reasons, it is our job to make the client understand the importance of service. As you are aware many of us would tend to advise on telephonic and casual discussion, unlike the other professionals like advocates and medical professionals who charges the client upfront and the availability of them is subject to appointment, which our fraternity could not prioritise or put into action.

A modest thought in this direction and action would definitely encourage young professional to get into Practice.

Emerging areas of Practice to explore:

Besides, I would suggest the young professional to explore the opportunities in wide variety of fields like partnering in technology, structuring financial models for the enterprise etc.

I thank our Chairman SIRC for this opportunity to share my thoughts once again and my best wishes for the upcoming regional conference at Hosepet.

Yours...

CA. China Masthan T

Immediate Past Chairman – SIRC of ICAI

"Interaction Meet" with Hon'ble President of ICAI at Hubballi Branch on 10-08-2023



Chief Guest CA. Aniket Sunil Talati, President, ICAI with ICAI Central Council Members CA. Cotha S Srinivas, and CA. Dayaniwas Sharma, SIRC Chairman CA. Panna Raj S and Vice Chairperson CA. Geetha A.B, Hubballi Branch Chairman CA. Mallikarjun Pise, Treasurer CA. Akshaykumar Singhi, Hubballi SICASA Chairman CA. Rishabh Upadhyay, and Hubballi Past Chairman CA. Dr. N.A. Charantimath.



ICAI President CA. Aniket Sunil Talati being felicitated by Hubballi Branch Chairman CA. Mallikarjun Pise in the presence of ICAI Central Council Members CA. Cotha S Srinivas and CA. Dayaniwas Sharma, SIRC Chairman CA. Panna Raj S, Hubballi Branch Secretary CA. Dhanapal Munnolli, SIRC Vice Chairperson CA. Geetha A.B.

National Conference organized by Professional Development Committee of ICAI organized by Professional Development Committee of ICAI and hosted by Visakhapatnam Branch on 25th & 26th August 2023 at Visakhapatnam



Chief Guest CA. Aniket Sunil Talati, President, ICAI inaugurating the Conference in the presence of ICAI Central Council Member & Programme Director CA. D. Prasanna Kumar, SIRC Chairman CA. Panna Raj S, Regional Council Member CA. Subba Rao Muppala, Visakhapatnam Branch Chairman CA. Prasanth Kumar Panda and Managing Committee Members.



ICAI Central Council Member & Programme Director CA. D. Prasanna Kumar honouring Chief Guest CA. Aniket Sunil Talati, President, ICAI in the presence of SIRC Regional Council Member CA. Subba Rao Muppala, Visakhapatnam Branch Chairman CA. Prasanth Kumar Panda and Managing Committee Members.

Two Day Chartered Accountants Conference held on 11th & 12th August 2023 at Bengaluru



Dignitaries at the Inaugural Session - Chief Guest Mr. Murali, Chairman & Managing Director, Shriram Properties, Guest of Honour CA. Panna Raj S, Chairman, SIRC of ICAI, Special Invitees ICAI Past Presidents CA. B.P. Rao and CA. K. Raghu, ICAI Central Council Member CA. Cotha S. Srinivas, SIRC Vice Chairperson CA. Geetha A.B., Bengaluru Branch Chairperson CA. S. Divya, Bengaluru Managing Committee Members and Chairman and Managing Committee Members of Ballari, Belagavi, Hubballi, Kalaburgi, Mangaluru, Mysuru and Udupi.

55th

Regional Conference of SIRC of ICAI



(Hosted by Ballari Branch of SIRC of ICAI)

Thursday & Friday, 12th & 13th October 2023

Priyadarshini Grounds, Opp Nandagokul Layout,
Bye pass Road, Hosapete (Near Hampi), Karnataka



Scan for Location



INAUGURAL SESSION:

Chief Guest: **Shri Siddaramaiah**

Hon'ble Chief Minister, Govt. of Karnataka

Guests of Honour: **CA. Aniket Sunil Talati**

President, ICAI

Guests of Honour:

CA. Ranjeet Kumar Agarwal

Vice-President, ICAI



Technical Sessions

CA. Jatin Christopher
Bengaluru

GST – Facing
Litigation &
Inspection

CA. Vinay Mruthyunjaya
Bengaluru

An Overview of the
Process & Benefits for MSME's
under the INSOLVENCY &
BANKRUPTCY CODE

Dr. Girish Ahuja
New Delhi

Critical
analysis of
sections 9B & 45(4)

CA. Ameet Patel
Mumbai

Technological Time Bomb
in CA's Pocket – How does a
CA deal with the impending
cyclone in one's practice?

**Eminent Resource
Person**

Professional
Opportunities
for SMPs

CA. M.P. Vijay Kumar
Chennai

SMP as CFO of
Small & Medium
Businesses

CA. K. Gururaj Acharya
Bengaluru

Financial Statements
for SMEs – Non compliances
observed

**Eminent Resource
Person**

Common Errors
in Financial
Reporting

Delegate Fee* (Visit <https://sirconference.org> to Register online)

| Limited Seats (First Come First Served basis) | Members | Non- Members | Scan QR Code for Registration |
|--|-----------------|-----------------|----------------------------------|
| Up to 5th September 2023 (Early Bird Registration has been extended due to requests of many Members). | Rs.4,500 | Rs.6,500 | * 18% GST Extra |
| 6 th Sep. to 25 th Sep. 2023 | Rs.5,500 | Rs.7,500 | |
| 26 th September 2023 onwards | Rs.7,000 | Rs.9,000 | |
| Spot | Rs.8,000 | Rs.10,000 | |

Hampi Sightseeing on 14th October 2023

Registration Link: https://www.sirc-icai.org/forthcoming_programmes.php
Helpline: Contact No: 9176826789, Email Id: sirccpe@icai.in

CA. Panna Raj S

Chairman, SIRC of ICAI

CA. A.V. Arun

Secretary, SIRC of ICAI

55th REGIONAL CONFERENCE of SIRC of ICAI

FLIGHTS DETAILS TO AND FROM HOSAPETE

TRAVEL & CONVEYANCE DESK (COORDINATORS)

| Tamil Nadu | Karnataka | Kerala | Andhra Pradesh & Telangana |
|------------------------------------|---------------------------------------|-----------------------------------|-------------------------------------|
| CA. Mahendra Soni +919481044755 | CA. Boraiah +919986723219 | CA. Gavisiddappa +918428393938 | CA. Anil Kumar N R +919845018539 |
| CA. Nagaraj G +919901900557 | CA. Srinivas Neljeri +919035873567 | CA. Manjunath +916361718159 | CA. Vinay +918495807378 |

DIRECT FLIGHTS TO HOSAPETE

| FROM | FLIGHT | TO | BY ROAD | TO |
|----------------------|--------|-----------------------|---------|----------|
| BENGALURU (05.55 am) | → | HUBLI (07.20 am) | → | HOSAPETE |
| BENGALURU (19.15 pm) | → | HUBLI (20.40 pm) | → | HOSAPETE |
| BENGALURU (15.10 pm) | → | VIDYANAGAR (16.10 pm) | → | HOSAPETE |
| CHENNAI (10.40 am) | → | HUBLI (12.30 pm) | → | HOSAPETE |
| HYDERABAD (15.45 pm) | → | HUBLI (17.05 pm) | → | HOSAPETE |
| MUMBAI (14.50 pm) | → | HUBLI (16.25 pm) | → | HOSAPETE |
| DELHI (12.00 pm) | → | HUBLI (14.25 pm) | → | HOSAPETE |

CONNECTING FLIGHTS TO HOSAPETE

| FROM | FLIGHT VIA | TO | BY ROAD | TO |
|--------------------------|----------------------|-----------------------|---------|----------|
| COIMBATORE (06.30 am) | CHENNAI (10.40 am) | HUBLI (12.30 pm) | → | HOSAPETE |
| MADURAI (08.05 am) | CHENNAI (10.40 am) | HUBLI (12.30 pm) | → | HOSAPETE |
| TRICHY (09.50 am) | HYDERABAD (15.45 pm) | HUBLI (17.05 pm) | → | HOSAPETE |
| TIRUPATI (12.30 pm) | HYDERABAD (15.45 pm) | HUBLI (17.05 pm) | → | HOSAPETE |
| VIJAYAWADA (12.35 pm) | HYDERABAD (15.45 pm) | HUBLI (17.05 pm) | → | HOSAPETE |
| VISHAKAPATANAM (13.10PM) | HYDERABAD (15.45 pm) | HUBLI (17.05 pm) | → | HOSAPETE |
| PUNE (07.25 am) | BENGALURU (15.10 pm) | VIDYANAGAR (16.10 pm) | → | HOSAPETE |
| VIJAYAWADA (10.25 am) | BENGALURU (15.10 pm) | VIDYANAGAR (16.10 pm) | → | HOSAPETE |

DIRECT FLIGHTS FROM HOSAPETE TO OTHER DESTINATIONS

| FROM | BY ROAD | TO | FLIGHT | TO |
|----------|---------|-----------------------|--------|----------------------|
| HOSAPETE | → | HUBLI (07.40 am) | → | BENGALURU (09.10 am) |
| HOSAPETE | → | HUBLI (21.40 pm) | → | BENGALURU (22.55 pm) |
| HOSAPETE | → | VIDYANAGAR (16.40 pm) | → | BENGALURU (17.40 pm) |
| HOSAPETE | → | HUBLI (16.45 pm) | → | CHENNAI (18.25 pm) |
| HOSAPETE | → | HUBLI (17.25 pm) | → | HYDERABAD (18.45 pm) |
| HOSAPETE | → | HUBLI (12.50 pm) | → | MUMBAI (14.15 pm) |
| HOSAPETE | → | HUBLI (14.55 pm) | → | DELHI (17.25 pm) |

CONNECTING FLIGHTS FROM HOSAPETE TO OTHER DESTINATIONS

| FROM | BY ROAD | TO | FLIGHT VIA | TO |
|----------|---------|------------------|----------------------|---------------------------|
| HOSAPETE | → | HUBLI (16.45 pm) | CHENNAI (20.25 pm) | COIMBATORE (21.30 pm) |
| HOSAPETE | → | HUBLI (16.45 pm) | CHENNAI (20.25 pm) | TRICHY (21.35 pm) |
| HOSAPETE | → | HUBLI (07.40 am) | BENGALURU (10.35 am) | MADURAI (12.05 pm) |
| HOSAPETE | → | HUBLI (07.40 am) | BENGALURU (11.10 am) | VIJAYAWADA (12.40 pm) |
| HOSAPETE | → | HUBLI (07.40 am) | BENGALURU (10.45 am) | TIRUPATI (11.40 am) |
| HOSAPETE | → | HUBLI (17.25 pm) | HYDERABAD (21.20 pm) | VISHAKAPATANAM (22.30 pm) |
| HOSAPETE | → | HUBLI (17.25 pm) | HYDERABAD (20.55 pm) | PUNE (21.50 pm) |

55th REGIONAL CONFERENCE of SIRC of ICAI

TRAINS DETAILS TO HOSAPETE

| NO | STATES | CITIES | TRAINS | |
|----|---------------|--------------------|--|--|
| 1 | ANDRA PRADESH | AMARAVATI | AMARAVATI TO HOSPET | |
| | | | AMARAVATI EXP (18047) 13:15 VISAKHAPATNAM Wed, 11 Oct TO 06:19 HOSAPETE JN | |
| | | | AMARAVATHI EXP (17225) 19:45 VIJAYAWADA JN Wed, 11 Oct TO 08:10 HOSAPETE JN Thu, 12 Oct | |
| | | | BZA UBL EXP (17330) 13:50 VIJAYAWADA JN Wed, 11 Oct TO 02:25 HOSAPETE JN Thu, 12 Oct | |
| 2 | GOA | PANAJI | PANAJI TO HOSPET | |
| | | | HARIPRIYA EXP (17416) 12:03 HATKANAGALE Wed, 11 Oct TO 22:05 HOSAPETE JN | |
| 3 | TAMIL NADU | CHENNAI | CHENNAI TO GUNTAKAL | GUNTAKAL TO HOSAPETE |
| | | | MAS LTT EXPRESS (12164) 18:20 MGR CHENNAI CTL TO 01:40 GUNTAKAL JN | KCG YNK EXP (17603) 04:10 GUNTAKAL JN TO 06:18 HOSAPETE JN |
| | | | ADI HUMSAFAR (22919) 16:00 MGR CHENNAI CTL TO 23:25 GUNTAKAL JN | AMARAVATI EXP (18047) 04:10 GUNTAKAL JN TO 06:19 HOSAPETE JN |
| | | | MS CSMT EXP (22158) 06:20 CHENNAI EGMORE TO 14:10 GUNTAKAL JN | YPR SAMPARK KRT (12650) 5:25 GUNTAKAL JN Wed, 11 Oct TO 17:35 HOSAPETE JN Wed, 11 Oct |
| | | | MAS SNSI SF EXP (22601) 10:20 MGR CHENNAI CTL TO 21:40 GUNTAKAL JN | HAMPI EXPRESS (16592) 04:40 GUNTAKAL JN Wed, 11 Oct TO 07:00 HOSAPETE JN Wed, 11 Oct |
| | | | | HARIPRIYA EXP (17415) 02:55 GUNTAKAL JN Wed, 11 Oct TO 05:15 HOSAPETE JN |
| | | | | JSME VSG EXP (17322) 02:40 GUNTAKAL JN Wed, 11 Oct TO 05:05 HOSAPETE JN Wed |
| | | | | BZA UBL EXP (17330) 23:35 GUNTAKAL JN Wed, 11 Oct TO 02:25 HOSAPETE JN |
| 4 | TELANGANA | HYDERABAD | HYDERABAD TO HOSPET | |
| | | | YPR SAMPARK KRT (12650) 08:30 KACHEGUDA TO 17:35 HOSAPETE JN | |
| | | | KCG YNK EXP (17603) 21:05 KACHEGUDA TO 06:18 HOSAPETE JN | |
| 5 | KERALA | THIRUVANA NTAPURAM | NO DIRECT TRAINS AVAILABLE | |

Virtual CPE programmes conducted by SIRC of ICAI

Please note the link for Resources of Past Virtual and other programmes of SIRC of ICAI

<https://www.sirc-icai.org/past-programmes.php>

55th REGIONAL CONFERENCE of SIRC of ICAI

DETAILS OF HOTELS AND CO-ORDINATORS

| Sl No | Name of the Hotel | Contact person Name for Hotel Booking | Contact Nos of Hotels | Approximate Room Tariff Rates plus applicable taxes | |
|--|--------------------------------|---------------------------------------|-------------------------|---|-------------------|
| CA. Srikant - Co-ordinator - 9980083123 | | | | | |
| 1 | Shanbhag Hotel | Thippesh | 9986942328 | 1500 | 1200 |
| 2 | PBS Grand Hotel | Govind | 7019521993 | 1500 | 1200 |
| 3 | Pallavi Residency | N Shivakumar/ Shashank | 7411660898/ 9448456327 | 2500 | 2000 |
| 4 | Vishnu Priya Comforts | H Ramesh | 9480113663 | 2000 | |
| 5 | Hotel Priyadarshini pearl | | | | |
| 6 | Hyatt Palace Hampi | Anirudh | 9900304604 | 8000 | |
| CA. Managala - Co-ordinator - 9448234580 | | | | | |
| 1 | Pai Comfort | Sanketh G Pai | 9886011240 | | |
| 2 | PAI Residency | Gopal pai | 8394-222633/ 9449233766 | 2000 | 1800 |
| 3 | Hotel Shivanand | | 8496060222 | 2000 | 1700 |
| 4 | Swagath Hotel | Koushik | 7204539998/7406539998 | 2500 | 2000 |
| 5 | Prathap Residency | | 8496960222 | 2000 | 1700 |
| CA. Nagaraj Gundi - Co-ordinator - 9901900557 | | | | | |
| 1 | Amrut Residency | Y S Prasad/ Srinivas | 9880544559/7975234081 | 1800 | 1200 |
| 2 | Mega Inn | | 8867774426 | 2000 | 1800 |
| 3 | Ananyya comfort | Imran | 9449815966 / 9483044448 | 2500 | 2000 |
| 4 | Samarth Residency | Vinod | 9108520884 | | |
| 5 | Clark Inn | Anil | 6361565495 | | |
| CA. Rajesh - Co-ordinator - 9448143588 | | | | | |
| 1 | Yatri Nivas | Suresh V Prabhu | 944857 6148 | | |
| 2 | Heritage Resort Hampi | Prasanna D | 9845640283 | 8000 | |
| 3 | Kalleshwar Lodge | G Mangunath | 9449172062 | | |
| 4 | Elvove Black Hampi | Joydeep Benerjee | | | |
| 5 | Rock Regency Hampi | | | | |
| 6 | Jungle Lodge and Resorts | Ravi/ Ratnappa | 7090056898/ 9742226898 | | |
| CA. Shankar - Coordinator - 9964677722 | | | | | |
| 1 | Brindavan Lodge | Subashchandra Shetty | 9448260126 | | |
| 2 | Bilwa Lodge | Ramchandra Barade | 9972214565 | | 1100 |
| 3 | Kings Court/ Gen X Hotel | Sameer/Neelashree | 6364460381/8050433302 | 3000 | 2500 |
| 4 | Brindavan Residency | | 8277429999/08394-299999 | 2500 | 2000 |
| 7 | Prakash | Hotel Mayura Bhuwaneshwar | 8970650025 | 3500 | |
| CA. Haji - Co-ordinator - 9686476587 | | | | | |
| 1 | Hotel Priyadarshini | Prashanth | 7676997788 | 3500 | 2500 |
| 2 | Malligi Hotel | Hassena | 9242144834 | 3800 | 2000 Old block |
| 3 | Hampi International | Ismail Shaik | 8050978924 | | |
| 4 | KRISHNA PALACE | Kiran | 9901912127 | | |
| 5 | Hotel Vijayanagara Kings Court | Shabaaz | | 4000 | 6000 |
| 6 | Raj Residency | Ravi/ Basavaraj | 9448511253 | 2000 | 0 |
| 7 | Haripriya Lodge | | 9535292007 | 1000 | |
| 8 | Royal Orchid | Jakir | 9591997274 | 4500 | |
| 9 | Vijayashree Heritage | | | 6000 | |
| 10 | Dormant | Ramesh | 9480113663 | | |

UPDATES

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Investor Awareness Programme under the aegis of CFMIP, ICAI organised by SIRC of ICAI at Dr. MGR-Janaki College for Women, Adyar – 31.08.2023



Resource Person: Mr. Prasanna Seetharaman



Group photograph of the students with Resource person and organizers

Regional Level Quiz Competition for Students at Bangalore -18.08.2023



Winners:

Mr. Nagaarjit N and Mr. Harishh from Coimbatore Branch of SIRC of ICAI and Mr. Venkata Lokesh Tanguturi and Mr. Sumanth Kumar Anumala from Bengaluru Branch of SIRC of ICAI

Regional Level Debate Competition for Students at Bangalore -18.08.2023



Winners Debate against:

Mr. Sriram Prabhu from Madurai, Ms. Aditi Solanki from Chennai and

Winners Debate for:

Ms. Udita Sharma from Vishakhapatnam, Mr. Kabir Singh from Bengaluru.

ARTICLE

SME REPORTING w.r.t. AUDITING STANDARDS

Contributed by: **CA. Ganesh Balakrishnan, Hyderabad**



Indian SMEs are classified under the law, 'Micro, Small and Medium Enterprises Development Act, 2006' (MSME Act).

Under the MSME Act, the classification depended on two factors:

1. Investment in plant and machinery.
2. Turnover of the enterprise.

| Classification of companies | Investment threshold | Annual turnover |
|-----------------------------|---|----------------------------|
| Micro enterprise | Investment in plant and machinery/ equipment not more than Rs 1 crore. | Not more than Rs 5 crore. |
| Small enterprise | Investment in plant and machinery/ equipment not more than Rs 10 crore. | Not more than Rs 50 crore. |
| Medium enterprise | Investment in plant and machinery/ equipment not more than Rs 50 crore. | Not more than Rs 250 crore |

The significance of the SME sector in India

A significant impetus for industrialization and liberalization requires a practical and notable step towards creation of jobs which in turn will increase the country's general prosperity. While large corporations contribute significantly to the overall health of the economy, the lack of opportunities in every field, to establish various other types of enterprises typically kills prospects for the national economy and fails to instill the spirit of economic freedom and opportunities in the population. The expansion and development of the SME sector needs to be geared toward meeting these principles.

When it comes to employment, SME sector employ over 120 million people. They also account for roughly 45% of total national exports. Needless to mention, this sector achieves the dual goals of economic growth and increased national income, as well as the social responsibility of providing large-scale employment. There are almost 63.4 million registered and unregistered SMEs in India.

The importance of an Audit for SMEs

An audit is essential for any business to evaluate its internal control systems and the effectiveness of its accounting processes while adhering to well-defined rules and regulations. Auditors are responsible for providing an independent opinion on the truth and fairness of accounting statements that are made available by the company to third parties.

Further to the audit opinion, auditors also generally provide to the management recommendations about risk factors, areas of improvement and operational efficiency. An audit is necessary to measure the effectiveness of organizational control in a business organization. An audit is essential for any business as it offers a more explicit understanding, and it helps businesses with a different perspective that helps them implement changes based on a better understanding. It is also beneficial aids in establishing robust organizational efficiency.

Whilst the above audit requirements are for companies which are diverse and have complex business transactions these may not be applicable for SME's in entirety due to the attributes given below-

Concentration of ownership and management in a small number of individuals;

- Straightforward or uncomplicated transactions;
- Simple record-keeping/centralized accounting;
- Few lines of business and few products within business lines;
- Few internal controls;
- Few levels of management with responsibility for a broad range of controls;
- Few personnel, many having a wide range of duties;
- Use of less complex IT systems;
- Extensive involvement by the owners and senior management in the day-to-day activities of the business.

All SMEs need not necessarily display all such attributes. The auditor will need to apply judgment to determine whether the company has such attributes.

Key Principles for SME Audits

The following key principles should be considered when conducting audits of SMEs:

- 1. Proportionality:** Audit procedures should be tailored to the size and complexity of the SME, avoiding unnecessary work and focusing on areas of significant risk.
- 2. Professional judgment:** Auditors must use their professional judgment to determine the nature, timing, and extent of audit procedures, taking into account the unique characteristics and risks associated with the SME.
- 3. Risk-based approach:** Auditors should focus on areas of higher risk, allocating resources efficiently to address the most significant risks and material misstatements.
- 4. Communication:** Effective communication between the auditor and the SME's management is crucial for identifying and addressing risks, as well as for ensuring the quality of the audit.
- 5. Documentation:** Auditors should maintain sufficient and appropriate documentation to support their audit conclusions and demonstrate compliance with auditing standards.

Audit of IFCFR (Internal Financial Controls over Financial Reporting) & Financial Statements in SMEs (Refer Footnote 1)

In case the audit to be performed is a combined audit of IFCFR and financial statements; the auditor should plan and perform the work to achieve the objectives of both audits, which are as follows:

- Audit of the financial statements: To express an opinion on the fairness with which the financial statements present, in all material respects, financial position, results of operations, and its cash flows in conformity with financial reporting framework;
- Audit of IFCFR: To express an opinion on the effectiveness of the company's internal control over financial reporting.

While the objectives of the audit of internal controls over financial reporting and audit of financial statements are not identical, the auditor can plan and perform the work to achieve the objectives of both the audits in an integrated manner.

Also, in case of a combined audit being performed auditor may obtain a combined engagement letter and written representation letter for audit of IFCFR & audit of financial statements.

- 1. Audit Planning-** There shall be no change in the judgement of materiality in case an audit is performed of IFCFR and financial statements both.
- 2. Risk Assessment Procedures-** The auditor has to obtain an understanding of the company and its environment by performing walkthroughs and a top-down approach can be used to the audit of internal financial controls over financial reporting to select the controls to test. A top-down approach begins at the financial statement level and with the auditor's understanding of the overall risks to internal financial controls over financial reporting.
- 3. Auditor response, including tests of accounts and controls-** The auditor should design testing of controls to accomplish the objectives of both audits simultaneously. The auditor should determine an appropriate mix of the nature, timing, and extent of testing based on the associated risks and other factors and perform the testing of design and operating effectiveness of relevant controls. Also, substantive procedures have to be performed for all relevant assertions regardless of the assessed level of control risk.
- 4. Completion and Reporting-** In the phase of completion and reporting, the auditor should evaluate the results of testing, particularly for identified misstatements and control deficiencies. If there is any misstatement identified by substantive procedures performed for financial statements audit; the effectiveness of the control cannot be inferred by the same.

In case any identified deficiency in an internal control is remediated by the management before the year end the audit opinion on controls may be unmodified, but in respect of the financial statements, auditor will need to perform additional substantive audit procedures to mitigate the risk of those controls which were not designed or operating effectively during a major part of the financial year.

The auditor can place reliance on the work of an internal auditor for the audit of IFCFR in accordance with SA 610. The auditor, where considered relevant, should determine:

- Whether, and to what extent, to use specific work of the internal auditors; and
- If so, whether such work is adequate for the purposes of the audit.

In case business processes of an SME are outsourced to a third party or group's shared service center the auditor may consider following options, considering nature, size and complexities of such outsourced business processes, to obtain evidence that the relevant controls are operating effectively:

- Obtain the service auditor's report; if any
- Perform tests of the company's controls over the activities of the service organization (input-output • controls);
- Perform test of controls at the third-party location or the shared service center directly

Testing of Internal Controls in SMEs

In small & medium enterprises the company may not have its processes & controls available in documented form. In such cases the auditor may consider whether other related documentation is available for obtaining sufficient understanding. A practical way to identify such other documentation is to look for the information that the company uses to run its business. Examples of such other documentation is as follows-

- Circulars/Memorandum relating to practices followed for an efficient conduct of business.
- Period closure accounting adjustments circulars/guidelines may specify the period end activities carried out by a company covering some of the aspects e.g., period-end accruals/provisions, period end adjustments for exchange differences, assumptions of estimates including provisions for employee benefits, doubtful debts, warranty, reconciliation of key accounts (inter-company accounts, bank, sub-ledgers and general ledger etc.)
- Internal departmental documents prepared by a department for its functioning.
- Checklists used may provide factors or points to be considered while carrying out an activity/ process so as to ensure accuracy and consistency in processing of the documents.
- Relevant extracts of Management/Internal Audit and key improvement areas and actions to be taken by the senior management/board on periodic basis may provide an insight into the areas covered in the reports to gain understanding of relevant processes.
- Other information available with the company which can be used to supplement process understanding and risk assessment e.g., minutes of Board/Committees meetings, Business Plan, and information prepared for the purpose of obtaining loans from Banks/institutions, rating reports issued by various authorities etc.

If such documentation evidencing the performance of the control is not available does not by itself create the presumption of ineffectiveness of the control. Rather, the auditor must be satisfied that the control actually operated through other corroborating evidence that is sufficiently persuasive. In this regard, the following examples of evidence can be considered by an auditor:

- Memorandum that outlines the considerations, rationale and conclusions reached;
- Email correspondence from the control operator demonstrating follow up and resolution of items that meet the criteria/thresholds;
- Corroborating inquiry via discussions with others that interact with the control operator in the performance of the review;
- Detailed meeting minutes, which include the considerations, rationale, conclusions, as well as how those were arrived at;
- Notations on forms, documents or analysis that demonstrate the substance of the execution of the review;
- Recalculations and agreement to underlying data and support when the control is designed to achieve those objectives;
- Obtain an appropriate management representation.

If the auditor has performed testing towards determining the effectiveness of the controls at an interim phase of the audit; the auditor should determine the need for additional evidence for operation of the controls for the remaining period i.e., perform roll forward procedures. The extent and nature of such roll forward procedures depends on various factors such as, the time period of interim testing, results of interim period testing, changes in the control, the risk associated with the control, etc. considering nature of business, size of operation and organizational structure of the entity.

Testing of IT General Controls in SMEs-

While performing an audit of small and medium enterprises; IT general controls are evaluated only where the IT system is being relied by the management to operate controls relevant for financial reporting. In case, where controls are largely manual in nature or limited dependency is placed on the IT system, evaluation and testing of IT General Controls may not be necessary.

If an entity has an inherently weak IT system it may not directly result in a control deficiency. In cases where inherently weak application systems are in use, the auditor first needs to identify whether there is significant dependency on use of IT. In case, there are adequate manual controls which ensure completeness and accuracy of financial data and address the relevant assertions and financial reporting risks, may compensate weakness in such IT Systems. In case of IT dependent manual control, auditor may consider obtaining evidence of management's review of reliability and appropriateness of exception report used for operation of control.

For example, following procedures may be performed in case of Trial Balance:

- Test mathematical accuracy by testing the sum up of all debits and credits side. These should be balanced (net to zero).
- Track to source of document – trial balance to general ledger amount to ensure that all accounts have been accurately transferred from general ledger account to trial balance.
- Test completeness – to ensure that all account balances have been posted to trial balance by comparing the account name and code from chart of account to general ledger.

Further, reliance may be placed on the reports generated from IT Systems by performing testing of completeness and accuracy of reports generated from IT systems (for example performing input/output tests).

Audit Documentation:

- The auditor shall document:
 - a) The overall responses to address the assessed risks of material misstatement at the financial statement level, and the nature, timing and extent of the further audit procedures performed;
 - b) The linkage of those procedures with the assessed risks at the assertion level; and
 - c) The results of the audit procedures, including the conclusions where these are not otherwise clear.
- If audit evidences about the operating effectiveness of controls obtained in previous audits used, then document the conclusions reached about relying on such controls that were tested in a previous audit.
- Documentation shall demonstrate that the financial statements agree or reconcile with the underlying accounting records.

Applicability of Indian Accounting Standards to SME's

Small and medium-sized enterprises (SMEs) are not required to comply with Ind AS. However, the Ministry of Corporate Affairs has issued a voluntary adoption scheme for SMEs that allows them to adopt Ind AS voluntarily. This scheme is applicable to SMEs that are not listed or are not in the process of getting listed on any stock exchange in India or outside India.

SME audits are the future of audit professionals. They are to have enhanced focus on regulations, technology & compliances. Simpler businesses do not necessarily mean an easier audit; such businesses have fewer financial controls, more related-party transactions, lower capacity to close the books (i.e., accuracy of accruals and provisions), and can be subject to some complex taxation requirements.

More experienced professionals involved in the audit can bring many benefits and efficiencies to the audit process. Having complete knowledge of relevant auditing standards, coupled with experience in making good professional judgments, is essential for SME audit efficiency. Evolving markets and new services require to make significant investments in skills and technology and to move away from the traditional practice model and develop new ways of operating.

1. *Source: Implementation Guide on Audit of Internal Financial Controls over Financial Reporting with Specific Reference to Smaller, Less Complex Companies.*

(The author can be reached through email bganesh@deloitte.com)

Posted at Egmore RMS/(Patrika Channel)

Registered - RNI Reg. No. 28192/1975 - RNP Registered No. TN/CH(C)327/18-20

WPP No. TN/PMG(CCR)WPP-354/2018-20

Vide SSP(C)Dn. Lr. No. G/RNP/327/2021/Digs dt. 24.06.2021 period extended upto 30th September 2021



Hurry Up!

**SOUTHERN INDIA REGIONAL COUNCIL of
THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA**
(Set up by an Act of Parliament)
CA FINAL AND INTERMEDIATE (NEW SYLLABUS) COURSE - MAY 2024 EXAMS
GROUP WISE & PAPER WISE REGISTRATION

RECORDED
SESSIONS
AVAILABLE

Commencing from 25th September 2023 - Tentatively will end in March 2024

| INTERMEDIATE - (Physical cum Virtual) | | | FINAL (Virtual) | |
|---|---|----------------|---|---|
| Timing : Morning 6.30am to 9.30am (Group 1) Evening 5.30pm to 8.30pm (Group 2) | | | Timing : Morning 6.00am to 9.00am (Group 1) Evening 6.00pm to 9.00pm (Group 2) | |
| SUBJECTS | | | SUBJECTS | |
| PAPER 1 | ADVANCED ACCOUNTING | | PAPER 1 | FINANCIAL REPORTING |
| PAPER 2 | CORPORATE AND OTHER LAWS | | PAPER 2 | ADVANCED FINANCIAL MANAGEMENT |
| PAPER 3 | TAXATION | | PAPER 3 | ADVANCED AUDITING, ASSURANCE AND PROFESSIONAL ETHICS |
| PAPER 4 | COST AND MANAGEMENT ACCOUNTING | | PAPER 4 | DIRECT TAX LAWS & INTERNATIONAL TAXATION |
| PAPER 5 | AUDITING AND ETHICS | | PAPER 5 | INDIRECT TAX LAWS |
| PAPER 6 | FINANCIAL MANAGEMENT AND STRATEGIC MANAGEMENT | | PAPER 6 | INTEGRATED BUSINESS SOLUTIONS (Multi-disciplinary case study with strategic management) |
| INTERMEDIATE | PHYSICAL | VIRTUAL | FINAL | VIRTUAL |
| GROUP -1 | ₹13,000/- | ₹12,000/- | GROUP-1 | ₹14,000/- |
| GROUP -2 | ₹13,000/- | ₹12,000/- | GROUP-2 | Will be Announced (Call-7358506400) |
| BOTH GROUP | ₹24,000/- | ₹21,000/- | BOTH GROUP | Will be Announced (Call-7358506400) |
| SUBJECT WISE | Will be Announced (Call-8220522669) | | SUBJECT WISE | Will be Announced (Call-7358506400) |

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CA. PANNA RAJ S. CHAIRMAN, SIRC of ICAI

Obituary

| Sl. No. | MRN | Name | Status | Place | Date of Death |
|---------|--------|------------------------------------|--------|---------------|---------------|
| 1 | 005721 | CA. RAMASWAMY T | FCA | CHENNAI | 29/Jun/2023 |
| 2 | 018979 | CA. CHEMBUKKAVU KRISHNAN VASUDEVAN | FCA | KOCHI | 03/Jul/2023 |
| 3 | 014953 | CA. KUNCHITHAPATHAM G | FCA | KUMBAKONAM | 11/Jul/2023 |
| 4 | 016190 | CA. VISWANATH DAS N | FCA | PARVATHIPURAM | 12/Jul/2023 |
| 5 | 265152 | CA. SARATH B | FCA | CHENNAI | 12/Jul/2023 |
| 6 | 234873 | CA. PRAVEEN KUMAR K R | FCA | CHIKKAMGALURU | 14/Jul/2023 |
| 7 | 006743 | CA. JAGANNATH K | FCA | SECUNDERABAD | 19/Jul/2023 |
| 8 | 009394 | CA. BALACHANDRA SAM A | FCA | CHENNAI | 24/Jul/2023 |

May the Almighty, Architect of the Universe rest there soul in peace.

Company Audit 2022–2023

All you need to know

Contributed by: CA. Jomon K. George
Former SIRC Chairman, Kochi



We are in the midst of the 2022–23 company audit season. The recent changes in presentation and reporting requirements need to be understood and applied by corporates and company auditors.

The Key Aspects in this regard are:

- Statutory Framework (Chapter X – CA 2013)
- Professional Pronouncements (Accounting & Auditing Standards)
- Specific Reporting Requirements (CARO, ICOFR etc..) with the following focus areas :
- True & Fair • Format of FS • AS Compliance • Internal Controls • Informed Reporting

Conduct of the Audit in total compliance with Standards on Auditing (mandatory – ICAI & The Companies Act 2013 – Section 143(9))

What's New

- Schedule III - Revised format (Section 129)
- Mandatory Nature of Auditing Standards
- CARO 2020
- Audit Trail

Schedule III – Major Changes

- Rounding off made mandatory (00s to Crs).
- The term “Property Plant & equipment” in place of Tangible Assets.
- Disclosure of Promoters Shareholding.
- Ageing & date of Completion of Capital WiP/Intangibles under Development
- Current Maturities of LT borrowings to be under ST Borrowings.
- Ageing of Trade Payables (MSME) (<1 yr, 1–2 yrs, 2–3 yrs, MT 3 yrs)
- Ageing of Trade Receivables (Disputed separately) (< 6 months, 6m–1 yr, 1–2 yrs, 2–3 yrs, MT 3 yrs)
- Details of Immovable Properties not held in the name of the company
- Whether revaluations if any has been done by a Registered Valuer u/s 247.
- Amount of change on Revaluation, if more than 10% of the NCV.
- Utilisation of Borrowings.
- Whether Quarterly Returns of Current assets filed with banks are in agreement with Books of Account
- Whether the company has been declared a Wilful Defaulter
- Whether registration/satisfaction of charges have been filed on time.
- Details of Loans & Advances to RPs...
- Whether any proceedings have been initiated against the company under The Benami Transactions (Prohibition) Act.
- Whether the company has acted as an intermediary in a Money Laundering Transaction
- Details of Transactions with Struck off Companies.
- Whether the provisions of Section 2(87) on No. of Layers have been complied with.
- Full details of CSR expenses .. Spent/Unspent etc..
- Details of Crypto Transactions, if any

Ratios with explanation for items included in numerator & denominator and reasons for 25% or more variation as compared to Previous Year

- | | |
|------------------------------------|---------------------------------|
| - Current Ratio | - Trade payables turnover ratio |
| - Debt–Equity Ratio | - Net capital turnover ratio |
| - Debt Service Coverage Ratio | - Net profit ratio |
| - Return on Equity Ratio | - Return on Capital Employed |
| - Inventory turnover Ratio | - Return on Investment |
| - Trade Receivables turnover Ratio | |

In the Profit & Loss Account

- Total Revenue is replaced with Total Income.
- Grants/Donations received included (Sec 8 Cos).
- To give details of unrecorded transactions surrendered/disclosed in IT assessments.

CARO 2020 (Notified on 25th February, 2020 Applicable from FY 2021-22)

| Overview of the Order | |
|---|----|
| New Clauses (including 2 re-introduced) | 7 |
| Modified Clauses | 7 |
| Retained Clauses | 7 |
| Total | 21 |
| Sub Clauses | 47 |

Summary of Changes

| Newly Added (Clauses) (7) | Modified (Clauses) (7) | Retained (Clauses) (7) |
|--|---------------------------------------|--|
| Transaction Not recorded in Books | Fixed assets | Acceptance of deposits |
| Ability of Company to meet its Liabilities CSR - Transfer of Unspent Amount to Fund | Inventory | Maintenance of cost records |
| CSR - Transfer of Unspent Amount to Fund | Repayment of Loans granted by company | Loans, Investments, securities & guarantee's - Sec 185 & 186 |
| Statutory Auditor Resignation | Default in repayment of dues | Application of funds raised |
| CFS : reference to negative remarks in Subsidiary CARO | Reporting of frauds | Related Party Transactions |
| Internal Audit System (CARO 2003) | Nidhi Company | Non-Cash Transactions |
| Cash Loss (CARO 2003) | Registration with RBI | Payment of statutory dues |

| APPLICABLE FROM | APPLICABLE TO | NOT APPLICABLE TO |
|--|---|---|
| Financial year commencing on or after 1 st April, 2021. | Every company including a foreign company as defined in section 2(42) of the Companies Act, 2013. | Banking company |
| | Government Company | Insurance company |
| | Branches | Section 8 company |
| | | One person company |
| | | Small company under section 2(85) of Companies Act, 2013* |

CFS: Report on negative remarks of Auditors Report (CARO) of Subsidiaries.

New Clause 1 | Internal Audit System (xiv)

- whether the company has an internal audit system commensurate with the size and nature of its business; (Re-introduced from CARO 2003)
- whether the reports of the Internal Auditors for the period under audit were considered by the statutory auditor

New Clause 2 | Cash Loss (xvii)

Whether the company has incurred cash losses in the financial year and in the immediately preceding financial year, if so, state the amount of cash losses **(Re-introduced from CARO 2003)**

New Clause 3 | Unrecorded Income (viii)

Whether any transactions not recorded in the books of account have been surrendered or disclosed as income during the year in the tax assessments under the Income Tax Act, 1961 (43 of 1961), if so, whether the previously unrecorded income has been properly recorded in the books of account during the year.

New Clause 4 | Resignation of Statutory Auditor (xviii)

Whether there has been any resignation of the statutory auditors during the year, if so, whether the auditor has taken into consideration the issues, objections or concerns raised by the outgoing auditors;

New Clause 5 | Capability of meeting its liabilities (xix)

On the basis of the financial ratios, ageing and expected dates of realisation of financial assets and payment of financial liabilities, other information accompanying the financial statements, the auditor's knowledge of the Board of Directors and management plans, whether the auditor is of the opinion that no material uncertainty exists as on the date of the audit report that company is capable of meeting its liabilities existing at the date of balance sheet as and when they fall due within a period of one year from the balance sheet date;

New Clause 6 | Ttransfer of unspent CSR amounts to fund (xx)

- a) whether, in respect of other than ongoing projects, the company has transferred unspent amount to a Fund specified in Schedule VII to the Companies Act, within a period of six months of the expiry of the financial year in compliance with second proviso to sub-section (5) of section 135 of the said Act;
- b) whether any amount remaining unspent under sub-section (5) of section 135 of the Companies Act, pursuant to any ongoing project, has been transferred to special account in compliance with the provision of sub-section (6) of section 135 of the said Act.

New Clause 7 | CARO remarks of other auditors – CFS (xxi)

Whether there have been any qualifications or adverse remarks by the respective auditors in the CARO reports of the *companies included* in the consolidated financial statements, if yes, indicate the details of the companies and the paragraph numbers of the CARO report containing the qualifications or adverse remarks.

Cash Flow Statements

All companies except Small, Dormant & OPCs must prepare Cash Flow Statements. Auditor to report on the Cash Flow statements too....

Depreciation

Schedule II with detailed list of assets and useful lives. Residual Value Percentage fixed @ 5%. Component Accounting introduced ... For Intangible Assets, AS 26 to apply...

Accounting Standards

All ASs (29-2) will apply. Please refer All Companies (Accounting Standards) Rules 2021. ASs 15, 16, 18, 22, 26 etc.... Special care

IFC Reporting (ICOFR)

Small companies and companies with Turnover < 50 Crs and Borrowing < 25 Crs are exempt.

Other Reporting Requirements 143 (3) (f) & (h)

- Any qualification, reservation or adverse remark relating to the maintenance of accounts and other matters connected therewith.
- Observations or comments of the auditors on financial transactions or matters which have any adverse effect on the functioning of the company..
- Impact of Pending Litigations on Financial Position
- Provision as required by AS for material foreseeable losses on long term contracts including derivative contracts have been made.
- Delay if any in transferring funds to IEPF.

AUDIT TRAIL } APPLICABILITY – PERIOD

- The auditor's reporting requirement will be prospective from the date of applicability. As per the Audit rules, the auditors reporting responsibility commences from 01 Apr 2022. However, the Companies rules was amended, and the applicability of audit trail requirements commences from 01 Apr 2023.
- There is likely to be a scenario, for the financial year 2022-23, in the absence of compliance requirement for the companies, auditors would not be able to report under the Audit Rules.

Illustrative reporting in such a scenario

“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.”

(The author can be reached through email cajomonkgeorge@gmail.com)



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CA.PANNARAJ.S
CHAIRMAN-SIRC OF ICAI

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TAX AUDIT UNDER SECTION 44AB

Issues Re: Reporting against Query No.16 of Form 3CD

Contributed by: CA. N.S. Srinivasan, Chennai



INTRODUCTION

This is the tax audit season for the assessment year 2023-24 relevant to previous year ended 31.3.2023. The tax audit per se is a very vast topic. The recent exposure draft of the Institute on this subject runs to 388 pages. Hence, it may not be possible to cover all aspects relating to tax audit in an Article. At the same time, it should be possible to exhaustively deal with certain vital issues expected to arise while carrying out the tax audit.

As everyone is aware, while the main Tax Audit Report (TAR) is required to be furnished in either Form 3CA or Form 3CB, as the case may be, the Annexure to the TAR is required to be furnished in Form 3CD which is in the form of replies to various queries contained in that Form. There are total number of 44 main queries and in each one of those queries, there are several sub-queries with sub-serial numbers like a, b, c, d, e and so on. The replies to most of the queries are in the nature of furnishing various details extracted from the books of account, financial statements as well as computation of the taxable income for the relevant assessment year.

NATURE OF THE REPORTING OBLIGATION VIS-À-VIS FORM 3CD

As far as reporting in Form 3CD is concerned, the said Form No.3CD is dealt in Paragraph 3 of Form 3CA Report and Paragraph 5 of Form 3CB Report. In both these paragraphs, the tax auditor is expected to certify whether the particulars given in Form No.3CD are true and correct. The use of the phrase "true and correct" appears to connote a factually assertive statement and thereby casting onerous responsibility on the tax auditor in terms of ensuring accuracy of the particulars reported in the Form. However, it is worthwhile to note that the words "true and correct" are circumscribed by the phrase "in my/our opinion and to the best of my/our information and according to the explanations given to me/us". Because of this, it becomes evident that even while reporting the particulars in Form 3CD, the tax auditor is enabled to express his opinion as well as the disclaimer, if warranted, while stating the replies to any one or more of the queries in Form 3CD. The right given to the tax auditor to highlight his observations/qualifications also endorses such a view. Therefore, while reporting the particulars in reply to any of the queries in Form 3CD, the tax auditor can adopt the stand which is independent of the contention/stand of the assessee.

In this Article, an attempt is made to deal with various aspects of reporting vis-à-vis Query No.16 of the TAR – Form 3CD. This query is chosen for detailed analysis because, some of the sub-queries in Query No.16 have become subject matter of significant amendments in the last two years. Because of those amendments, there is scope for more than one view being canvassed in respect of the issues arising there from. Hence, the reference in the introductory remarks about the nature of reporting vis-à-vis Form 3CD of TAR.

QUERY NO.16 OF FORM 3CD

This Query No.16 contains five sub-queries (a) to (e). But all of them are pertaining to amounts not credited to P&L account. The same are dealt as under:

QUERY NO. 16(a) – Items falling within the scope of Section 28

Section 28 is the charging Section for computation of Profits and Gains of Business or Profession (PGBP). Out of the various items of incomes, whether actual or deemed, dealt by Section 28, some of them are also dealt by Query No.16b. Hence, in respect of those items, it is better to report the same against Query No.16b instead of under this query. (Ex:- Duty Drawback, Export Incentives etc.,). However, the following items which are dealt in specific clauses in Section 28 assume lot of importance and will pose practical difficulties for tax auditor.

The value of any benefit or perquisite, whether convertible into money or not, arising from business or the exercise of a profession – vide sub-clause (iv) of Section 28. Finance Act 2023 has revised this sub-clause by a new sub-clause with effect from assessment year 2024-25 which is as under:

- "The value of any benefit or perquisite arising from business or exercise of a profession whether -
 - a) convertible into money or not or
 - b) in cash or in kind or partly in cash or partly in kind

Through this amendment, benefits or perquisites in the form of cash are also included in this clause and thereby, judicial precedents which held that benefits in cash are not covered have been nullified. This has to be borne in mind.

- Any interest, salary, bonus, commission or remuneration by whatever name called, due to or received by a partner of a firm from such firm to the extent of those amounts are allowed as deduction in computing the PGBP of the firm vide sub-clause (v) of section 28. This will have to be reported only if not credited to P&L account and instead credited to capital account of the assessee.
- Compensation received or receivable, whether in cash or in kind, under non-compete agreements/non-disclosure agreements vide sub-clause v(a) of section 28. If the compensation for non-compete covenant is taxable under the head "income from capital gains", then, it is outside the purview of this sub-clause (a) but may have to be reported against sub clause 16(d).
- The fair market value of inventory as on the date on which it is converted into or treated as capital asset determined in the prescribed manner vide sub-clause vi(a) of Section 28. This sub-clause was introduced by Finance Act 2018 with effect from assessment year 2019-20 and elaborate Rules have been notified vide IT Rule 11UAB for determination of the fair market value of the item of inventory which has been converted into or traded as capital asset. Even though this information can be disclosed against query no.16(c) as any other item of income, since it is one of the items specified in section 28, this has necessarily to be reported against query No.16(a).

Some of the aforesaid items of incomes dealt by Section 28 are explained hereafter:

- 1 Regarding the value of any benefit or perquisite arising from business or exercise of profession, the first issue is what is the exact meaning of the word "arising from business/profession"? This is crucial because only if the particular benefit or perquisite fulfills the requirements of the phrase "arising from", it will be construed as taxable as per Section 28(iv). Although the words "accrual" and "arising" are used inter-changeably in the Income Tax Act with reference to items of incomes, there is a thin line of difference between the two words. For instance, in the case of CIT vs K N D Investments (367 ITR 616 (AP)), when shares were allotted at a value less than the market value but subject to a lock-in period of three years, it was held that the benefit in the form of differential pricing of shares cannot be treated as having arisen to the assessee unless, the lock-in period is over. Basically, the word "arising" can be considered to be referring to the certainty of the benefit or perquisite being available to the assessee. It is also worth noting that even the amended sub-clause (iv) of Section 28 which will be effective from assessment year 2024-25 continues to use the word "arising".
- For instance, a distributor of a product which is manufactured by a principal may be contractually entitled for receiving few more items of the product free of cost on achieving certain milestones in terms of sale of the products. However, immediately on achieving such milestones, there is no necessary for that distributor to recognize the entitlement of FOC supplies as income based on accrual unless and until the same is at least confirmed in writing by the principal manufacturer. While the entitlement for FOC supplies accrues on achieving the milestone targets, the same will be considered as having arisen on acknowledgement of the entitlement claim by the other party.
- In this context, useful reference can be made to the decision of the Supreme Court in the case of CIT vs M/s. Excel Industries Ltd (CA No.125 of 2013). In this case, the assessee company were entitled to make duty free imports of raw materials through advance licenses and DEPB issued against export obligations. The issue in dispute was in which year, the benefit for duty free imports is taxable, whether in the year in which the exports are made or in the year in which the duty free imports are made. The department contended that it is taxable in the year in which exports are made since the assessee acquires the right for duty free imports the moment exports are effected. But the assessee contended that this benefit arises to them only when the imports are made without payment of duty which may happen in later years. The contention of the assessee was upheld throughout the hierarchy of appeals right from first appeal to Supreme Court. For coming to this conclusion, the Supreme Court relied on various landmark decisions like Shoorji Vallabdhas, Morvi Industries Ltd, Godra Electricity Co. Ltd as well as State Bank of Travancore case. In paragraph 20 of the decision, it was observed that an income accrues when it becomes due but it must be accompanied by the corresponding liability of the other party to pay the amount. Only then can it be said that for the purposes of the taxability the income is not hypothetical and it has really accrued to the assessee. Again in paragraph 27 of the decision, the court reiterated three tests laid down by the various earlier Supreme Court decisions, namely:
 - i Whether the income accrued to the assessee is real or hypothetical.
 - ii Whether there is a corresponding liability of the other party to pay the income to the assessee as admitted by the other party and
 - iii The probability or improbability of realization of the benefits by the assessee considered from a realistic and practical point of view.

- In view of this thin line of difference between accrual and arising, it becomes difficult for the tax auditor to identify instances of benefit or perquisite having arisen during the year. For this purpose, one has to scan through voluminous documents and correspondences between the assessee and their customers and sift those benefits or perquisites which have actually arisen to the assessee during the relevant previous year. It is also likely that such instances may spill over from one previous year to the other previous year for the reasons explained above and still, the reporting obligation will arise only in the previous year in which it has actually arisen to the assessee.
2. Another important aspect which has to be taken care by the tax auditors in respect of the benefits/perquisites is the newly introduced TDS obligation under Section 194R with effect from 1.7.2022 in respect of benefit or perquisite relating to business or profession. By way of consistency in legislation, in Section 194R also, the TDS obligation is imposed only when the benefit or perquisite has arisen. Therefore, the assessee who is entitled for the benefit or perquisite should clearly explain to the tax deductor that the TDS from such benefit/perquisite has to be recovered only when the tax deductor has admitted the claim/entitlement of the tax deductee for such benefit/ perquisite. Definitely, the tax auditor will have to compare the TDS recoveries under Section 194R as reflected in both 26AS statements and TIS summary of the assessee with the corresponding entries in the books of accounts and accordingly, report the relevant particulars in TAR. It is likely that several of these instances of benefit or perquisite will be appearing as balance sheet items (eg: waiver of dues, waiver of trade dues/loan dues which are directly credited to capital account in sole proprietary / partnership business. Such items may be converted into equity in the case of companies. Items of inventory which are received as FOC supplies and included as part of the year-end inventory but not accounted through P&L statement because of there being no cost of acquisition etc.)
- Similarly, there could be certain benefits like trade discounts/volume discounts etc., allowed by the principal but accounted as reduction in the purchase cost in the P&L account instead of being credited in the P&L account. But strictly speaking, such items need not be reported in TAR because it is not a case of the amount not credited in the P&L account. It is credited in the P&L account only. Instead of being credited in the P&L account as a separate revenue item, the same is credited in the cost of the goods sold (COGS) account thereby resulting in reduction of the COGS and increase in the taxable income of the assessee. Hence, the submission that such transactions/credits need not be reported in Form 3CD. However, as mentioned in the exposure draft of the Institute, it is advisable to report such items along with the information that they are credited in the P & L account by way of reduction in cost.
 - Further, there could be certain instances of benefit or perquisite which are not subjected to TDS recovery under Section 194R (Eg: waiver of loan recovery by banks/financial institutions/NBFCs under settlement schemes). In such instances, one has to carefully analyse the voluminous documents involved between the lenders and the assessee and determine the exact date on which the decision for waiver has got crystallized either by bilateral/multilateral agreement or through judicial pronouncement/arbitral awards. If such events occurred after the end of the previous year, they need not be recognized and reported. Even if they happened before the end of the previous year, it may be advisable to wait and watch till the expiry of the limitation period prescribed under the relevant statutes for the affected parties to go on appeal against the judicial pronouncement/arbitral awards and once such period has lapsed, the benefit can be reckoned as having arisen during the relevant previous year.
 - Where assessee follows accrual system of accounting and accordingly accounted such benefits in an earlier previous year but they get crystallized in the later year, it is suggested to disclose these items in the TAR for the later year since they will not be appearing as credit in the P&L account of the later year. But it should be accompanied by disclosure that the same has already been accounted by the assessee in the earlier year. On the other hand, if the assessee is following cash system of accounting and these benefits are included in the P&L account in a later year based on actual receipt but the same has arisen in an earlier year, then also, in the year in which the benefit has arisen, the assessee will have to report the same along with a confirmation that it will be accounted in the year in which it is actually received.
 - The items of benefits/ perquisites contemplated in section 28 may arise either based on contractual terms or received ex-gratis as well. In the CBDT circular No.12 of 2022, instances of benefits/perquisites are explained. Some of those instances are receipt of gift by a professional/ business man, sponsored holiday trips for the business persons and their relatives on achieving certain business targets, receipt of free tickets for major events like cricket matches, receipt of gift by social media influencers and so on. One of the instances of benefit covered by the CBDT circular is compensation received by an assessee who is in business in respect of agreement entered for purchase of land which was breached by the seller. The same is held to be taxable u/s. 28(iv). In a reverse situation an assessee who is in business and enters into an agreement for selling an immovable property which is a business asset and receives

advance but the purchaser cancels the agreement and the advance amount received by the assessee is forfeited either wholly or partly, then an issue may arise whether the amount of advance so forfeited is taxable as PGBP or IOS. This is because of the specific provision to this effect in section 56(2)(ix). Even though the said asset was held as a business asset, as long as it fulfills the tests as a capital asset, the earnest money forfeited has to be taxed only as IOS. But the question of reporting the same will arise only if it is not routed through the P&L account. Even in such a case, it may have to be reported against query no 16(d) as any other item of income and not against query 16(a) since it is not in the nature of PGBP.

3. Finally, wherever such benefits/perquisites are received in kind or partly in cash and partly in kind, the issue of determining the FMV as on the date of arising may become a difficult exercise for which guidance can be had from the detailed clarifications issued by CBDT on Section 194R through Circular No.12 of 2022 dated 16.6.2022 as well as Circular No.18/2022 dated 13.9.2022.

QUERY NO. 16(b) – Proforma credits, Drawbacks, Refund of Duty of Customs or Excise or Service Tax or Refund of Sales Tax or Value Added Tax where such credit/drawbacks or refunds are admitted as due by the authorities concerned

At the outset, it is quite surprising that while the CBDT have been amending various Rules with alacrity, they have not bothered to update this query by deleting the reference to Excise Duty, Service Tax, Sales Tax and Value Added Tax even though they have been omitted long before. It is also surprising that they have not included GST as one of the items of taxes in this list. Of course, Excise Duty may be still relevant for oil marketing companies as well as liquor manufacturers. Even though there is no reference to GST, it can be presumed that it is also included in this list since it is a successor to Excise Duty and Sales Tax.

Some of these statutory claims will be instances which have to be routed through P&L account as income (eg: Sale proceeds of transferable export incentives, sale proceeds of renewable energy certificates etc., Whereas, certain of these statutory benefits could be instances which will go to reduce the COGS (eg: Entitlement for advance license/duty free import of inputs, refund of Special Additional Customs Duty (SAD) etc.). In whichever mode the same has to be accounted, the actual timing of the accounting will depend on the method of accounting followed by the assessee whether accrual or cash. If accrual system is followed, then, these benefits will have to be accounted as and when the assessee has fulfilled the eligibility conditions for the same as per their records including the submission of the claim forms. But in respect of assessee who are following cash system of accounting, these benefits will be accounted only on actual realization. Even in the case of assessee who are following accrual system of accounting, they may opt for accounting the above benefits on actual realization considering the uncertainty involved regarding the realizability as well as the quantification of the same along with appropriate disclosure in the statement on significant accounting policies as well as in the Notes on Accounts. Whichever be the method of accounting followed, reporting requirement in TAR against this sub-clause will get triggered only when these benefits are admitted by the jurisdictional authorities as due to the assessee. Only in that year, reporting this sub-clause will have to be done. At the same time, such disclosure will have to be followed by further disclosure regarding the particular previous year in which the said item of claim has already been accounted by the assessee (if following accrual system of accounting) or will be accounted by the assessee in the later year (if following cash system of accounting). This view is endorsed in ICAI's exposure draft on tax audit also.

Moreover, wherever the item results in reduction of COGS and is not an item of revenue, that fact also has to be reported. There could also be an instance where the assessee has made payment towards some of these statutory liabilities under protest and is disclosing the same as a receivable item in the balance sheet and pursuing the refund of the same by the concerned authorities. When such amounts are got refunded, then, such items also will have to be reported against this sub-clause even though the same will not have any impact on computation of income. This is because, when the amount was paid under protest, it would not have been claimed as an expenditure. Despite this, reporting of the same is advised against this sub-clause along with appropriate explanation regarding the non-includability of this receipt in computation of PGBP (eg: amount paid against excess GST refund claimed earlier but subsequently, got refunded by the authorities based on representations either by way of NEFT transfer or by way of restoration of the amount paid in the electronic credit ledger of the assessee).

QUERY NO.16 (c) – Escalation claims accepted during the year

These instances would normally arise in the case of assessee who are into execution of various contracts and projects especially, Civil and EPC contracts. In such cases, the assessee would have claimed escalation of the contract price based on increases in contract costs. It is also possible that disputes are pending before the judicial authorities in respect of such escalation claims. Even recently, the Government of India announced an amnesty scheme for settlement of claims of small businesses by the various Ministries of Government of India. Even in the case of assessee who are not into contract execution business, there could be escalation claims made for price increases which will get settled after protracted negotiations. In such cases, the reporting under this clause would arise only if the same is admitted by the other party. This is based on the golden principle laid down by the Supreme Court in Excel Industries Limited case which was referred earlier.

As far as accounting of such claims is concerned, there should not be any mismatch between the admission of the claim and the year of its accounting at least in respect of assessees who are following accrual system of accounting. Because, even as per accrual, the revenue can be accounted only if it is certain to be realized. But, in the case of assessees who are following cash system of accounting, there can be year mismatch between the assessee including the same in their P&L account and the year in which the claims are admitted by the other party. In such situations also, it is advisable to disclose the escalation claim admitted during the previous year against Query No.16(c) along with explanation that the same will be included in the P&L account when it is actually realized.

QUERY NO. 16(d) – Any other item of income

This is a very wide query reporting for which could pose lot of challenges. One view regarding the reporting for this query will be that it encompasses only those items of income which are in the nature PGBP but not credited to P&L account (Eg: employee contributions towards PF during the year which were not remitted on or before the applicable due dates, the difference between the sale consideration realized and the stamp duty guideline value of an immoveable property which was held as stock in trade and sold during the year and becomes taxable by virtue of Section 43CA, the difference between the book value and fair market value of inventory as on the date of dissolution of a partnership firm and so on. The information relating to employees provident fund is also required to be furnished against Query No. 20(b). Similarly, the information relating to the amount of income taxable by virtue of Section 43CA is also required to be reported against Query No.17. Hence, in such cases, it is advised to cross reference the reporting against this Query No. 16(d) with the disclosures made in the subsequent queries as well.

While there is no doubt regarding the reportability of these items, questions are raised whether this sub-clause requires reporting of other items of income which are taxable under other heads and not credited to the P&L account of the assessee. This will be quite relevant in the case of tax audit of sole proprietary businesses or professionals who will be having income taxable under other heads like income from house property, income from capital gains and income from other sources but which are all routed through other bank accounts and not the bank account of the business/ profession which is subjected to tax audit. One view could be that the same are not to be reported for the reason that TAR will cover only all those transactions which are reflected in one way or the other in the books of accounts and which are subjected to tax audit and it cannot be extended to cover transactions which are captured in other records maintained by the assessee. Support for this view could be found in some of the provisions of Chapter XVIIIB wherein, the TDS obligation for individual and HUF assessees is waived in respect of expenses in the nature of personal payments.

The other view could be that it is safer for the tax auditor to report such other items of incomes also against this sub-clause. The justification for such view is that there could be instances where there are fund transfers between the books of accounts relating to PGBP and other books of accounts through which those transactions are routed which prompt the tax auditor verify to those books of accounts as well. It is also to be noted that in TAR itself, information is sought on claims for Chapter VIA deductions which have no connection with computation of PGBP but which are relevant for computation of taxable income (eg: Query No.33 of TAR which calls for Section-wise details of deductions admissible under Chapter VI-A). Hence, the suggestion for the tax auditors to verify not only the books of accounts relating to the business which is being subjected to tax audit but also the records relating to income from other heads and take a call on reporting against this query. The responsibility will be all the more when the tax auditor himself is preparing and uploading the IT return of the assessee in which details of all other incomes are furnished.

QUERY NO. 16(e) – Capital Receipts, If any

This again is a very controversial query which has to be dealt with carefully by the tax auditor. On an apparent review of the accounts, not many capital receipts could be deduced and reported. One such instance which is referred in the exposure draft is the receipt of investment subsidy/capital subsidy especially in the case of start-up businesses. Such subsidies have to be reported only if they were received during the previous year relevant to the tax audit. Those which were received in the earlier years when the assessee was not subjected to tax audit need not be reported. If the subsidy has the effect of reducing the cost of any item of property, plant and equipment or intangible asset, that fact also can be reported.

Few more items of capital receipts which could warrant reporting against this sub-clause are as under:

Gift of plant and machinery/intangible assets/investments received from parent company/group companies. It is likely that the gift received will be routed through P&L account as an exceptional item. Hence, it will not be reckoned for computation of PGBP. That is why, it may warrant reporting against this sub-clause.

Interest free loan granted by group companies for acquisition of PPE items and subsequently recovery of the same being waived and on the outstanding amount of loan being adjusted against the cost of the asset.

If an item of loan reflected in the books of account in the name of a party is not confirmed by that party nor the party is traceable nor the source of funds available to the party for granting the loan could not be properly explained, then, the same will have to be reported here because of the requirement of Section 68.

The amount received during the year by an unlisted company (other than the venture capital fund or venture capital company) from a resident of India towards share application money, share capital, share premium or any such amount by whatever name it is called. It is likely that the company is able to offer proper explanation regarding the nature and source of amount subscribed and also furnish appropriate declaration and documentary evidence to that effect and thereby avoid the mischief of the said amount being deemed as income as per the second proviso to section 68. Still, the tax auditor may have to disclose the receipt of the amounts alone against this sub-clause without making any comments regarding the taxability or otherwise of the amounts received. The role of the tax auditor in this case is only in the nature of informer and not even a whistle blower. Thereafter, it is for the assessing offer to examine the taxability or otherwise of the amount received.

Forfeiture of share subscription which is transferred to capital reserve.

Excess value of assets received over the liabilities in schemes of merger/de-merger.

In cases where shares and securities are received as gift, it is likely that the same is taxable as income from other sources in the hands of the recipient as per Section 56(2)(x). In such cases, it is advisable to report such gift against sub-clause 16(d) rather than sub-clause 16(e).

CONSEQUENTIAL ISSUE DUE TO CBDT CIRCULAR

One interesting issue which has emerged by way of clarification through Circular No.18 of 2022 is the arbitrary manner in which the CBDT are clarifying the law on various issues through their circulars. This is with reference to the clarificatory response to Question No.5 in Circular No.18 of 2022. This refers to the gifting of a car by a company to its dealer after subjecting the same to TDS recovery under Section 194R. Subsequently, the dealer is said to be using the car for his business. But the query is whether the dealer will get deduction for depreciation in calculating his income under the head "PGBP". The answer to the query goes on to say that once the company has deducted tax on gifting of the car in accordance with Section 194R and the dealer has included the benefit as income in his income tax return, it will be deemed that the actual cost of the car for the purpose of Section 32 of the Act shall be the amount of benefit included by the dealer as income in his income tax return and the dealer can get depreciation on the car on fulfilment of other conditions for claiming depreciation. This clarification by the CBDT regarding the cost of acquisition of the car for the purpose of claiming depreciation by the dealer is totally farfetched and is against the corresponding provisions of the Act as well as its own ICDS-5 relating to tangible fixed assets.

As per Section 43(1), the actual cost is defined to mean the actual cost of the asset to the assessee reduced by that portion of the cost thereof, if any, as has been met directly or indirectly by any other person or authority. In the instant case, even assuming that the cost of the car is Rs.10 lakhs but the dealer has not paid for the same. This is because, the cost has been fully met by the company which has gifted the car to him. Hence, the cost becomes zero. It is a moot point whether the income tax liability discharged by the dealer either by way of TDS recovery by the company or by way of full tax liability met by the dealer (through TDS recovery as well as advance tax payment) can be treated as cost of the car. Strictly speaking, it cannot be considered as cost for the reason that the payment of tax liability is not for acquiring the car. It is the statutory liability discharged by the dealer for getting the benefit. Further, vide Paragraph 5 of ICDS-5 on tangible fixed assets, it is stated that the actual cost of an acquired tangible fixed asset shall comprise its purchase price, import duties and other taxes but excluding those subsequently recoverable and any directly attributable expenditure on making the assets ready for its intended use. Any trade discounts and rebates shall be deducted for arriving at the actual cost. As per this, first of all, this car is not a fixed asset acquired by the dealer. It was donated to him. Hence, even as per ICDS, cost cannot be attributed to the car for claiming depreciation. If the car is meant to be used by the dealer for his personal use and thereby will be treated as capital asset, receiving the same as gift will not be subjected to tax in his hands as income from other sources as per Section 56(2)(x). This is due to the fact that the motor car is not covered by the definition of the term "property" in the Explanation to Section 56(2)(vii).

CONCLUSION

As readers will appreciate, for reporting in respect of one item of Query in TAR itself, a Chartered Accountant is expected to devote so much attention and collect voluminous information and documentation. Therefore, it is high time either the Institute or the CBDT realize the magnitude of the exercise and implement appropriate measures for making the tax audit a remunerative professional assignment for the Members along with the rider that the Members also should discharge their professional responsibilities with utmost care, diligent and competence.

(The author can be reached through email vandvchennai@gmail.com)

**ICITSS Courses by SIRC of ICAI
(Physical Mode)
Information Technology Training (ICITSS- IT)
From 11.09.2023 to 27.09.2023**

| BATCH NO | TIMINGS |
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| ICITSSITT_CHENNAI_39 | 07.30 A.M. TO 01.30 P.M. |
| ICITSSITT_CHENNAI_40 | 01.45 P.M. TO 07.45 P.M. |

**Orientation Course (ICITSS-OC)
From 12.09.2023 to 29.09.2023**

| BATCH NO | TIMINGS |
|---------------------|--------------------------|
| ICITSSOC_CHENNAI_37 | 07.00 A.M. TO 01.30 P.M. |
| ICITSSOC_CHENNAI_38 | 01.45 P.M. TO 08.15 P.M. |

The enrolment of students shall be done on First come First served basis.

Please register through the link:
https://www.icaionlineregistration.org/Admin_Module/login.aspx

**AICITSS Courses by SIRC of ICAI
(Physical Mode)
Advanced (ICTISS) MCS Course
From 12.09.2023 to 30.09.2023**

| BATCH NO | TIMINGS |
|-------------------------|--------------------------|
| AdvICITSSMCS_CHENNAI_33 | 07.00 A.M. TO 01.30 P.M. |
| AdvICITSSMCS_CHENNAI_32 | 01.45 P.M. TO 08.15 P.M. |

**Advanced Information Technology Training
(AICITSS- AIT) From 11.09.2023 to 27.09.2023**

| BATCH NO | TIMINGS |
|--------------------------|--------------------------|
| AICITSSAdvITT_CHENNAI_28 | 07.30 A.M. TO 01.30 P.M. |
| AICITSSAdvITT_CHENNAI_29 | 01.45 P.M. TO 07.45 P.M. |

The enrolment of students shall be done on First come First served basis.

Please register through the link:
https://www.icaionlineregistration.org/Admin_Module/login.aspx

Important Announcement

Amendment to the “Clarification Regarding Authority Attached to Documents Issued by the Institute” and Consequential Amendment to the “Preface to the Standards on Quality Control, Auditing, Review, Other Assurance and Related Services”

- I. In 1985, the Council of the Institute of Chartered Accountants of India had issued a Clarification namely “Clarification Regarding Authority Attached to Documents Issued by the Institute” (“The Clarification”). The Clarification was revised in February 2022. The Clarification is in force as on date. The Clarification provides the level of authority of various documents issued by the Institute e.g. Accounting Standards, Auditing Standards, Guidance Notes on Accounting, Guidance Notes on Auditing.
- II. The Council of ICAI at its 422nd meeting held on 30th June & 1st July 2023 considered the recommendations of the Auditing and Assurance Standards Board (AASB) of ICAI regarding some changes required to be made in the Clarification to provide more clarity, to make the provisions more robust and to remove the provisions which are not relevant in the present context. The Council also considered the recommendations of AASB regarding some consequential changes required to be made in “Paragraph 11 - Guidance Notes” of the “Preface to the Standards on Quality Control, Auditing, Review, Other Assurance and Related Services” (“The Preface”) in order to align the Preface with the changes made in the Clarification. At the meeting, the Council agreed with these recommendations and decided to issue the amended Clarification and the amended Preface.
- III. The amended Clarification is enclosed as Appendix 1. (Please click here to download)
The amended Preface is enclosed as Appendix 2. (Please click here to download)
- IV. This Announcement is effective from the date of its hosting on ICAI’s website.

Auditing and Assurance Standards Board

Printed and Published by: Mr. S. Sabarigreesan, Deputy Secretary, ICAI on behalf of Southern India Regional Council of the Institute of Chartered Accountants of India, ‘ICAI Bhawan’. # 122, Mahatma Gandhi Road, Nungambakkam. Chennai-34. Phone: 044-39893989, 30210321. Email: sirc@icai.in Website: www.sirc.icai.org/ **Designed by:** Rajkumar, 9445802341, S.P. Kovil, Chengalpattu. **Editor:** CA. Panna Raj S. Chairman, SIRC of ICAI.

ANNUAL FEE CIRCULAR 2023-24

Members are advised to remit Annual Membership/Certificate of Practice fees for the year 2023-2024, which became due for payment on 1st April, 2023 and needs to be paid on or before 30th September, 2023. All Members are requested to pay the fee immediately as Tax Invoice (in terms of GST Liability) has been already generated. The applicable amount of Annual Membership/Certificate of Practice Fee including GST is given below.

Members may also pay total fees in advance for Membership/COP in exact amount for 10 years (1+9 years) along with GST. In such case, any upward revision in amount of fee in future, their Membership/COP will not be removed/cancelled from the Register of Members/COP on account of fee revision. [It may be noted that an ACA who has paid advance membership fee for a period not exceeding 10 years and at a later stage opts for FCA status then the member is required to pay difference of fee (the difference of fee in conversion from ACA to FCA and Fellow Member Admission Fee) for the remaining period.]

Annual Membership Fees Structure for the year 2023-2024

| Sr. No | Categories | Associate | Fellow |
|--------|---|-----------|-----------|
| 1 | Members Holding COP (Includes Membership fees and COP fees) | Rs. 5,310 | Rs. 8,260 |
| 2 | Members not Holding COP | | |
| 2(i) | Age below 60 years as on 01.04.2023 | Rs. 1,770 | Rs. 3,540 |
| 2(ii) | Age above 60 years as on 01.04.2023 | Rs. 1,298 | Rs. 2,714 |

Note: The Fees above are inclusive of GST @ 18%

ICAI is promoting "I GO GREEN with ICAI" scheme under which Member opting e-journal will be given a discount of Rs.590/- (including Rs. 90 GST) on total amount of Membership Fees.

Air Mail charges payable for CA Journal (in case of members abroad) Rs. 2478/- including GST (not applicable if member opts for e-journal).

We appeal to all our members to contribute generously to Chartered Accountants Benevolent fund (CABF)

Chartered Accountants Benevolent Fund (Optional)

| | |
|------------------------|-----------------------------------|
| Life Membership | Rs.10000/- (If not a Life Member) |
| Yearly Subscription | Rs. 1000/- |
| Voluntary Contribution | A respectable amount |

S Vaidyanath Aiyar Memorial Fund (Optional)

| | |
|------------------------|----------------------------------|
| Life Membership | Rs.1000/- (If not a Life Member) |
| Yearly Subscription | Rs.50/- |
| Voluntary Contribution | A respectable amount |

Payment of fee shall be made online through Self-Service Portal (SSP) at the link <https://eservices.icai.org/>

Procedure for Payment of Annual Membership/COP Fees of Partner by the Firm

The Partner has to give consent for payment of fees by the Firm through his login on SSP. Click "Pay Now/Give consent" >> Select Yes (see screenshot) >> Select Firm >> select Journal Type >> Check details >> select "I agree" >> Submit.

After that HI (Head Incharge) of the Firm will login to his account on SSP >> will click "Firm Function" >> will click "ICAI Bulk Renewal Form for HI" >> will click on "Bulk Renewal Form" >> will select FRN >> select check box "Make payment for Partners" >> Click "Proceed" >> Details of the Partners who have provided their consent will appear >> Proceed and make payment.

User Manual for annual Membership and COP payment is available at the link <https://resource.cdn.icai.org/61637sspfaq-50147mem-fee.pdf>

M&SS

Extend your helping hands: Contribute Generously to CABF

APPEAL TO MEMBERS TO CONTRIBUTE GENEROUSLY TO CHARTERED ACCOUNTANTS BENEVOLENT FUND (CABF) TO SUPPORT THEIR PROFESSIONAL COLLEAGUES AND THEIR DEPENDENTS IN DISTRESS.

OBJECTIVE OF CHARTERED ACCOUNTANTS BENEVOLENT FUND (CABF)

The objective for which the fund is established is to provide financial assistance for maintenance, education or any other similar purpose to necessitous persons being:-

- a) persons who are or have been members of the Institute, whether subscribers to the fund or not; or
- b) wives and children of persons who are or have been members of the Institute, whether subscribers to the fund or not.
- c) widows and children Of deceased persons Who have been members Of the Institute whether subscribers to the fund or not.
- d) relatives or others who were dependent for support on a person who has been a member of the Institute, whether subscriber to the fund or not; and who has died without leaving a widow or child.

PROCEDURE FOR BECOMING A MEMBER OF THE CABF:

There are two categories of members

- a) Life Member:** A single payment Of Rs. 10000/- shall make a person eligible to be admitted as a life member of the fund w.e.f. 1st January, 2020. Thereafter he shall not be liable to pay any amount on account of subscription and shall be styled as a 'Life Member'.
- b) Ordinary members:** All other members shall be described as 'Ordinary Members' and shall have to pay an annual subscription of Rs. 1000/-. Apart from this any member can subscribe for 'Voluntary Contribution'.

Procedure for making payment:

Membership subscription to the Chartered Accountants Benevolent Fund can be paid along with annual membership fee online.

- *Application Form for Life Membership of CABF:* Please VISit <https://ca.f.ical.org/lifeMember> and apply for Life Membership of CABF.
- *Application Form for Ordinary Membership of CABF:* Please visit <https://cabf.icali.org/OrdinaryMember> and apply for Ordinary Membership of CABF.
- *Application Form for Voluntary Contribution to CABF:* Please VISit <https://ca.f.ical.org/voluntaryMember> and apply for voluntary contribution to CABF.

EXTENT OF ASSISTANCE AVAILABLE

Monthly Assistance

Maximum monthly assistance available to a member or persons eligible to receive the assistance is from Rs.15000/- per month according to the circumstances of the use renewable after one year. This is for maintenance of family of members/widow/relatives of deceased members.

Financial assistance will be given only to the members/widows/relatives whose monthly family income is not more than Rs. 25000/- pm.

Ex-gratia financial assistance of Rs.150000/- is provided to the legal heir of deceased member in case of accidental death/unnatural death at the age below 55 years against claim.

Procedure for availing assistance

Application for financial assistance can be made through CABF portal <https://cabf.icali.org/> along with all relevant supporting documents mentioned therein.

Please visit <https://cabf.icali.org/financial> for Application for Monthly Financial Assistance from CABF

Please visit <https://cabf.icali.org/exgratia> for Application Form for Ex-gratia (Lumpsum) Financial Assistance from CABF

Please visit <https://cabf.icali.org/medical> for Application for Medical Financial Assistance from CABF

The application must be recommended by any Central Council Member or Chairman/ Vice Chairman/Secretary of any Regional Council or Branch/Ex-President/Chairman/Vice-Chairman and Member Secretary/ Member of Managing Committee of CABF/ Member of Managing Committee of Regional Council.

We appeal to our members to contribute generously to Chartered Accountants Benevolent fund (CABF) to support their professional colleagues and their dependents in distress.

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CORPORATE LAW

Contributed by: **CA. M. Asir Raja Selvan, Chennai**

The following are the important update in Companies Act, 2013, Limited Liability Partnership Act, 2008 & SEBI (LODR) from 25th July 2023 to 24th August 2023.

I. Companies (Incorporation) Second Amendment Rules, 2023

G.S.R. ---- (E) :- In exercise of the powers conferred by sections 3, 4, sub sections (5) and (6) of section 5, section 6, sub-sections (1) and (2) of section 7, sub-sections (1) and (2) of section 8, sub-sections (2), (3), (4), (5) and (9) of section 12, sub-sections (3), (4) and proviso to sub-section (5) of section 13, sub-section (2) of section 14, sub-section (1) of section 17, section 20 read with sub-sections (1) and 92) of section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules further to amend the Companies (Incorporation) Rules, 2014, namely:-

These rules may be called the Companies (Incorporation) Second Amendment Rules, 2023.

They shall come into force on the date of their publication in the Official Gazette.

The change is a new Form No.RD – 1 has been substituted. Member may refer the notification to view the revised form.

II. Condonation of delay in filing Form 3, Form 4 & Form of LLPs

The Ministry of Corporate Affairs (MCA) vide its General Circular No.08/2023 dated 23rd August 2023 condoning the delay in filing few LLP forms.

Based on the representations made and to address the difficulties face in filing Form 3, Form 4 & Form 11 of LLPs, the Ministry, in exercise of its power under section 67 of the Limited Liability Partnership Act, 2008, has decided to grant one-time relaxation in additional fees to those LLPs who could not file Form-3, Form-4 and Form-11 within due date and provide an opportunity to update their filings and details in Master-data for future compliances.

Important points on availing the condonations are :

1. Form – 3 & Form –4 would be processed under Straight Through Process (STP) except when filed for change in business activity.

Note : All are requested to take care in filing the old events first and so on so that the master data is updated properly.

2. At the time of filing these forms, the pre-filled data as per existing master data of the LLP shall be provided but the same shall have the facility to edit. The onus of filing the correct data would be on the stakeholders. In case of mis-representation, the Designated Partner and the professional certifying the form may be liable for adverse action as per the provisions of the law.
3. The filing of Form – 3 and Form – 4 **without additional fee shall** be applicable for the event dates **1st January 2021 and onwards**.

For events prior to 1st January 2021, these forms can be filed with the additional fees as below :

For **Small LLPs** – Normal fee plus **2 times** normal fee

For **other than Small LLPs** – Normal fee plus **4 times** normal fee

4. These forms shall be **available for filing** from **1st September 2023 to 30th November 2023**.
5. The LLPs availing this scheme shall not be liable for any action for delayed filing of Form – 3, Form – 4 and Form –11.

Reduction of timeline for listing of shares in Public Issue from existing T+6 days to T+3 days

- SEBI, vide Circular No. SEBI/HO/CFD/TPD1/CIR/P/2023/140 dated 9th August 2023, has notified the reduction of timeline for listing of shares and the key points of the circular are given below:
- Consequent to extensive consultation with the market participants and considering the public comments received pursuant to consultation paper on the aforesaid subject matter, it has been decided to reduce the **time taken for listing of specified securities after the closure of public issue** to **3 working days (T+3 days)** as against the present requirement of 6 working days (T+6 days); 'T' being issue closing date.
- The T+3 timeline for listing shall be **appropriately disclosed in the Offer Documents** of public issues.

Applicability of this circular :

- Notwithstanding anything contained in Schedule VI of the ICDR Regulations, the provisions of this circular shall be applicable:
 - On **voluntary basis** for **public issues opening on or after 1st September 2023** and
 - **Mandatory** for public issues opening **on or after 1st December 2023**.

Members may refer the circular for revised timelines for listing of specified securities and various activities involved in the public issue process.

FEMA

Contributed by: **CA. G. Murali Krishna, Hyderabad**

I. Case Law:

D.V. RAVI, G.V. RAMAN, R. SRIDHAR, M/S. SHRIRAM TRANSPORT FINANCE CO. LTD. VERSUS THE DIRECTORATE OF ENFORCEMENT, RESERVE BANK OF INDIA, DEPARTMENT OF ECONOMIC AFFAIRS MINISTRY OF FINANCE (FOR FIPB)

Facts of the Case:

- As per the extant FDI regulations in 2005, the petitioner company ("company") sought approval of Foreign Investment Promotion Board (FIPB) for receiving FDI from Newbridge India Investments III Ltd, Mauritius ('Investor') for investment up to INR 600 Cr and subsequent downstream investment in another group company of the petitioner.
- In Dec 2005, FIPB approved the investment under 'subscription and / or subsequent acquisition up to 74% of the equity shares' of the petitioner company.
- From Feb 2006, the company started receiving inward remittances from the investor to a tune of INR 546 Cr in multiple tranches against which the company allotted equity shares to a tune of INR 303 Cr and warrants to a tune of INR 243 Cr. The warrants were subsequently converted into equity shares in 2012. Post such conversion, the stake of the investor stood at 49% which was within the overall approval 74%.
- The company filed FCGPR for equity shares allotted and it was approved. However, the FCGPR up on conversion of warrants to equity shares was rejected by RBI wherein it was conveyed that warrants were not an approved equity instrument as per extant FEMA regulations and RBI asked the company to get FIPB post fact approval for said allotment.
- The company approached FIPB through a post facto approval application in Dec 2012. In Feb 2013, FIPB replied that the policy regarding the issue of warrants at the material time was not explicit and that since the warrants in question have already been converted into equity shares, as such approval of FIPB was not required at that point of time. Based on said reply from FIPB, the FCGPR for warrants to equity shares was approved by RBI.
- The company filed compounding application towards the delay in filing of FCGPR and other connected matters, and the corresponding compounding fee was also paid to RBI.
- Meanwhile, in 2012, the Enforcement Directorate (ED, the first respondent) issued a show cause notice to the company in relation to the allotments. Though the company submitted relevant documents / information, ED did not revert with any queries.
- However, in 2019, after a gap of 7 years, ED issued fresh show cause notice alleging that the company ought to have obtained FIPB approval for issue of warrants, that the warrants were not an equity instrument as per extant FDI regulations and accordingly contravened FEMA provisions.
- The company contended that there was no violation because they approached FIPB for a post fact approval and there was no objection from FIPB as per its reply in 2013.
- The company further contended that it is RBI which is the regulator of foreign exchange matters, and it is RBI or FIPB alone which can decide whether the approval is required or not. It further contended that the ED is only an enforcement agency, and it does not have any jurisdiction in deciding whether the approvals are required or not.

- k. The company contended that it was RBI which suggested to have post facto approval of FIPB, which means that warrants as such were not prohibited at the material time but only that the policy was not clear. The company claimed that had it been not permitted or was there any implied prohibition, RBI itself would have asked for explanations.
- l. It may be noted that effective 2010 the definition of equity instruments was amended to include share warrants.

Held that:

- a. The stand of FIPB that no post facto approval is required as the warrants have since been converted into equity shares should not be read in isolation and it should be read in conjunction with the earlier part of the order, where FIPB has intimated that there was no explicit policy regarding issuance of warrants at the relevant point of time.
- b. Omission to spell out warrants to be included in the term 'security' as defined u/s 2 (za) of FEMA cannot be taken to mean that issuance of warrants is prohibited. Prohibition should be clearly spelt out either explicitly or even impliedly.
- c. When RBI itself has accepted that there was no contravention in relation to issue of warrants, the show cause notice issued by ED to the petitioners alleging that there is no permission for issuance of share warrants is not only uncalled for, but is also an act usurping the powers of ED.
- d. When FIPB, the authority, who is vested with power to grant approval has held that no post facto approval is required, interpreting the order in any other fashion, that too by an authority, who is not empowered to decide on the manner in which the said order has been passed, it does not lie in the mouth of the ED to claim that approval has not been obtained and such a finding is not only perverse, but arbitrary, illegal and unreasonable and, therefore, the impugned order passed as a consequence of the said finding deserves to be interfered with.
- e. Accordingly, the impugned order passed by the ED is set aside and all the writ petitions are allowed.

II. Update on Compounding Orders issued under FEMA Regulations:**a. Hijaz Kuroda Gloves Company Pvt. Ltd.**

| | |
|-----------------|--|
| Regulation | Para 9 (1) A of FEMA 20/2000-RB Paragraph 9 (1) B of FEMA 20/2000-RB Paragraph 8 of FEMA 20/2000-RB Paragraph 9 (2) of FEMA20/2000-RB Regulation 13.1(3) of FEMA 20(R)/2017-RB Regulation 4(2) of FEMA 395/2019-RB |
| Contravention | Delay in filing of Form ARF towards intimation of foreign inward remittances Delay in filing of Form FCGPR towards allotment of equity shares to non-residents Receipt of consideration in other than permitted mode. Delay in filing of Form FLA |
| Date of Order | 10-07-2023 |
| Compounding Fee | ₹ 9,79,846 |

b. IIFL Seed Ventures Fund 1

| | |
|-----------------|--|
| Regulation | Regulation 13.1(11) of Notification No. FEMA 20(R)/2017-RB |
| Contravention | Non-reporting of downstream investment within due date to DIPP (DPIIT) |
| Date of Order | 06-07-2023 |
| Compounding Fee | ₹ 53,00,000 |

c. Godrej Investment Advisers Private Limited

| | |
|-----------------|--|
| Regulation | Regulation 3.1(i)(A) of Notification No. FEMA. 395/2019-RB |
| Contravention | Receipt of consideration in other than permitted modes |
| Date of Order | 17-07-2023 |
| Compounding Fee | ₹ 51,003 |

GOODS & SERVICES TAX

Contributed by: **CA. G. Saravana Kumar, Madurai**

CIRCULAR UPDATES

1. Clarification on TCS liability under Sec 52 of the CGST Act, 2017 in case of multiple E-commerce Operators in one transaction - Circular No. 194/06/2023-GST dated 17.07.2023

In the case of the ONDC Network or similar other arrangements, there can be multiple ECOs in a single transaction - one providing an interface to the buyer and the other providing an interface to the seller. In this setup, buyer-side ECO could collect consideration, deduct their commission and pass on the consideration to the seller-side ECO. In this context, clarity has been given by this circular as to which ECO should deduct TCS and make other compliances under section 52 of CGST Act.

In such a situation where multiple ECOs are involved in a single transaction of supply of goods or services or both through ECO platform and where the supplier-side ECO himself is not the supplier of the said goods or services, the compliances under section 52 of CGST Act, including collection of TCS, is to be done by the supplier-side ECO who finally releases the payment to the supplier for a particular supply made by the said supplier through him.

e.g.: Buyer-side ECO collects payment from the buyer, deducts its fees/commissions and remits the balance to Seller-side ECO. Here, the Seller-side ECO will release the payment to the supplier after deduction of his fees/commissions and therefore will also be required to collect TCS, as applicable and pay the same to the Government in accordance with section 52 of CGST Act and also make other compliances under section 52 of CGST Act.

In this case, the Buyer-side ECO will neither be required to collect TCS nor will be required to make other compliances in accordance with section 52 of CGST Act with respect to this particular supply.

2. Clarification on availability of ITC in respect of warranty replacement of parts and repair services during warranty period - Circular No. 195/07/2023-GST dated 17.07.2023

During the warranty period, replacement goods /services are supplied to customers free of charge and as such no separate consideration is charged and received at the time of replacement. In order to avoid unnecessary litigation due to contrary interpretations, the board gives following clarifications through this circular.

Where the manufacturer offers warranty for the goods supplied by providing replacement of parts / repair services to the customer without charging separate consideration at the time of such replacement of parts or repair services, whether GST is payable?

No GST is payable since no consideration exist for such supply and the likely cost of such replacement or repair services are already included in the original sale price. However, if additional consideration is charged then GST is payable.

Whether ITC is to be reversed by the manufacturer in the above case?

ITC is not required to be reversed since it is not an exempt supply. Also, GST has already been paid on the cost of replacement or repair service at the time of original supply itself.

Where the distributor offers warranty for the goods supplied by providing replacement of parts / repair services to the customer without charging separate consideration at the time of such replacement of parts or repair services, whether GST is payable?

No GST is payable since no separate consideration exists and the likely cost of such replacement or repair services are already included in the original sale price. However, if additional consideration is charged then GST is payable.

Whether GST is payable by the distributor for the supply to the manufacturer?

Where the distributor charges consideration for the parts so replaced or services so rendered from the manufacturer then GST is payable by the distributor and the manufacturer is eligible to take ITC.

Sometimes companies provide offers of Extended warranty to the customers which can be availed at the time of original supply or just before the expiry of the standard warranty period. Whether GST would be payable in both the cases?

Extended warranty entered at the time of original supply, then the consideration for such extended warranty is a composite supply, the principal supply being the supply of goods and GST would be payable accordingly.

If separate contract is entered at any time after original supply, then GST would be payable by the service provider whether manufacturer or distributor or any third party depending on the nature of the contract.

3. Clarification on taxability of shares held in a subsidiary company by the holding company – GST – Circular No. 196/08/2023–GST dated 17.07.2023

The circular clarifies whether the holding of shares in a subsidiary company by the holding company will be treated as 'supply of service' under GST and will be taxed accordingly or whether such transaction is not a supply.

For a transaction/activity to be treated as supply of services, there must be a supply as defined under section 7 of CGST Act. It cannot be said that a service is being provided by the holding company to the subsidiary company, solely on the basis that there is a SAC entry '997171' in the scheme of classification of services mentioning; "the services provided by holding companies, i.e. holding securities of (or other equity interests in) companies and enterprises for the purpose of owning a controlling interest.", unless there is a supply of services by the holding company to the subsidiary company in accordance with section 7 of CGST Act.

4. Clarification on refund related issues – Circular No. 197/09/2023– GST dated 17.07.2023

Following clarifications are given by the Board vide the above circular relating to refunds:

Any refund to be processed on or after 01.01.2022 shall consider ITC auto-populated in GSTR 2B and not in GSTR 2A. In case any refund has already been processed considering GSTR 2A then such refunds shall not be reopened based on the clarification given by this circular.

Old undertaking with respect to compliance with provisional refund requirement is done away with. Instead undertaking for section 16(2)(c) shall be given.

While taking adjusted total turnover as per Rule 89(4) value of zero rated supply as amended vide Notification No 14/2022–CT dated 05.07.2022

In case tax has been paid as a result of non export of goods or non-realization of export proceeds for export of services within the time limit specified in Rule 96A, later if export is made or service export consideration is received then refund may be applied under the category of "Excess payment of tax"

5. Clarification on issue pertaining to e-invoice – Circular No. 198/10/2023 – GST dated 17.07.2023:

The registered person whose turnover has exceeded threshold limit for raising e-invoice is required to generate e-invoice when the supply is made to Government departments or establishments or Government agencies / local authorities etc., under Rule 48(4) of CGST Rules.

6. Clarification regarding taxability of services provided by an office of an organisation in one State to the office of that organisation in another State, both being distinct persons. – Circular No. 199/11/2023 GST – dated 17.07.2023

HO can avail ITC on common input services applicable to HO and BO, procured from third parties. However, HO has to either cross charge or through ISD mechanism distribute the credit attributable to BO.

In respect of internally generated services from HO to BO or vice versa, where full input tax credit is available to the recipient distinct party, if no invoice has been issued, it shall be deemed that the open market value shall be nil.

In respect of internally generated services from HO to BO or vice versa, where full input tax credit is not available to the recipient distinct party, it is not required to include the cost of salary of employees of the HO or BO need not be included while determining the open market value.

7. Clarifications regarding applicability of GST on certain services – Circular No. 201/13/2023–GST dated 01st August, 2023

Clarifications were issued by the board though above circular in respect of following two issues

1. Applicability of RCM on the services supplied by a director of a company in his personal capacity.

It is clarified that services supplied by a director of a company or body corporate to the company or body corporate in his private or personal capacity such as services supplied by way of renting of immovable property to the company or body corporate are not taxable under RCM. Only those services supplied by director of company or body corporate, which are supplied by him as or in the capacity of director of that company or body corporate shall be taxable under RCM in the hands of the company or body corporate under notification No. 13/2017–CTR (Sl. No. 6) dated 28.06.2017.

2. Whether supply of food or beverages in cinema hall is taxable as restaurant service.

The cinema operator may run this refreshment or eating stalls/ kiosks/ counters or restaurant themselves or they may give it on contract to a third party. The customer may like to avail the services supplied by these refreshment/snack counters or choose not to avail these services. Further, the cinema operator can also install vending machines, or supply any other recreational service such as through coin-operated machines etc. which a customer may or may not avail.

It is hereby clarified that supply of food or beverages in a cinema hall is taxable as 'restaurant service' as long as:

- a) the food or beverages are supplied by way of or as part of a service, and
- b) supplied independent of the cinema exhibition service.

It is further clarified that where the sale of cinema ticket and supply of food and beverages are clubbed together, and such bundled supply satisfies the test of composite supply, the entire supply will attract GST at the rate applicable to service of exhibition of cinema, the principal supply.

(Remaining circulars issued pursuant to 50th GST council recommendations shall be covered in next issue)

Income Tax

Contributed by: **CA.V.K. Subramani, Erode**

- 1. Change in valuation of accommodation provided to employees by employer:** The CBDT has amended rule 3(1) of the Income-tax Rules, 1962 through Income-tax (Eighteenth Amendment) Rules, 2023 vide Notification G.S.R. 615 (E) dated 18th August, 2023 for perquisite valuation in respect of accommodation. It is applicable w.e.f. 1st September, 2023. Sub-rule (1) of rule 3 shall be substituted, namely:-

The value of residential accommodation provided by the employer, for the purpose of sub-clauses (i) and (ii) of sub-section (2) of section 17, during the previous year shall be determined on the basis provided below:

- a. *Where the accommodation is provided by the Central Government or any State Government to the employees either holding office or post in connection with the affairs of the Union or of such State:*
 - (i) Where accommodation is unfurnished- License fee determined by the Central Government or any State Government in respect of accommodation in accordance with the rules framed by such Government as reduced by the rent actually paid by the employee; (ii) Where accommodation is furnished- The value of perquisite as determined shall be increased by 10% per annum of the cost of furniture (including television sets, radio sets, refrigerators, other household appliances, air-conditioning plant or equipment) or if such furniture is hired from a third party, the actual hire charges payable for the same as reduced by any charges paid or payable for the same by the employee during the previous year.
- b. *Where the accommodation is provided by any other employer:*
 - (a) where the accommodation is owned by the employer - being unfurnished: (i) 10% of salary in cities having population exceeding 40 lakhs as per 2011 census; (ii) 7.5% of salary in cities having population exceeding 15 lakhs but not exceeding 40 lakhs as per 2011 census; (iii) 5% of salary in other areas, in respect of the period during which the said accommodation was occupied by the employee during the previous year as reduced by the rent, if any, actually paid by the employee.
 - (b) Where the accommodation is owned by employer and it is furnished: The value of perquisite as determined above shall be increased by 10% per annum of the cost of furniture (including television sets, radio sets, refrigerators, other household appliances, air-conditioning plant or equipment or other similar appliances or gadgets) or if such furniture is hired from a third party, by the actual hire charges payable for the same as reduced by any charges paid or payable for the same by the employee during the previous year.

- c. *Where the accommodation is taken on lease or rent by the employer:* **Being unfurnished:** Actual amount of lease rental paid or payable by the employer or 10% of salary, whichever is lower, as reduced by the rent, if any, actually paid by the employee. **Being furnished:** The value of perquisite as determined above shall be increased by 10% per annum of the cost of furniture (including television sets, radio sets, refrigerators, other household appliances, air-conditioning plant or equipment or other similar appliances or gadgets) or if such furniture is hired from a third party, by the actual hire charges payable for the same as reduced by any charges paid or payable for the same by the employee during the previous year.
- d. Where the accommodation is provided by the employer specified in serial number (b) or (c) in a hotel (except where the employee is provided such accommodation for a period not exceeding in aggregate fifteen days on his transfer from one place to another) 24% of salary paid or payable for the previous year or the actual charges paid or payable to such hotel, which is lower, for the period during which such accommodation is provided as reduced by the rent, if any, actually paid or payable by the employee.

Provided that nothing contained in this sub-rule shall apply to any accommodation temporarily provided to an employee working at a mining site or an on-shore oil exploration site or a project execution site, or a dam site or a power generation site or an off-shore site:-

- (i) which, having plinth area not exceeding 1000 square feet, is located not less than eight kilometres away from the local limits of any municipality or a cantonment board; or
- (ii) which is located in a remote area:

Provided further that where on account of his transfer from one place to another, the employee is provided with accommodation at the new place of posting while retaining the accommodation at the other place, the value of perquisite shall be determined with reference to only one such accommodation which has the lower value with reference to the Table above for a period not exceeding ninety days and thereafter the value of perquisite shall be charged for both such accommodations in accordance with the Table:

Provided also that where the accommodation is owned by the employer and the same accommodation is continued to be provided to the same employee for more than one previous year, the amount calculated in accordance with Sl. No. (b) or (c) shall not exceed the amount so calculated for the first previous year, as multiplied by the amount which is a ratio of the Cost Inflation Index for the previous year for which the amount is calculated and the Cost Inflation Index for the previous year in which the accommodation was initially provided to the employee.

Explanation 1 to rule 3(1) says that where the accommodation is provided by the Central Government or any State Government to an employee who is serving on deputation with any body or undertaking under the control of such Government, –(i) the employer of such an employee shall be deemed to be that body or undertaking where the employee is serving on deputation; and (ii) the value of perquisite of such an accommodation shall be the amount calculated in accordance with Sl. No. (2) (a) of Table- I, as if the accommodation is owned by the employer.

Explanation 2 says that for the purposes of third proviso (i) "Cost Inflation Index" means the index notified by the Central Government in Official Gazette under clause (v) of Explanation to section 48; (ii) "first previous year" means the previous year 2023-2024, or the previous year in which the accommodation was provided to the employee, whichever is later;

"remote area", for purposes of proviso to sub-rule (1) means any area other than an area which is located- (a) within the local limits of; or (ii) within a distance, measured aerially, of 30 kilometers from the local limits of, any municipality or a cantonment board having a population of 1,00,000 or more based on the 2011 census'

2. **Rule 26 of the income-tax rules substituted for calculating rate of exchange for TDS on income payable in foreign currency:** The CBDT has amended rule 26 of the Income-tax Rules (Seventeenth Amendment) Rules, 2023 dated 17th August, 2023 vide Notification G.S.R. 607 (E). For the purpose of deduction of tax at source on any income payable in foreign currency, the rate of exchange for the calculation of the value in INR of such income payable--(i) to an assessee outside India; (ii) to a Unit located in an International Financial Services Centre; (iii) by a Unit located in an International Financial Services Centre to an assessee in India, **shall be the telegraphic transfer buying rate of such currency as on the date on which the tax is required to be deducted at source under the provisions of Chapter XVII B by the person responsible for paying such income.**

Explanation. -- For the purposes of this rule, --(i) "International Financial Services Centre" shall have the meaning assigned to it in clause (q) of section 2 of the Special Economic Zones Act, 2005 (28 of 2005); (ii) "telegraphic transfer buying rate", in relation to a foreign currency, means the rate or rates of exchange adopted by the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955), for buying such currency, having regard to the guidelines specified from time to time by the Reserve Bank of India for buying such currency, where such currency is made available to that bank through a telegraphic transfer; (iii) "Unit" shall have the meaning assigned to it in clause (zc) of section 2 of the Special Economic Zones Act, 2005 (28 of 2005)."

3. Rule 11 UACA to Income-tax Rules, 1962 inserted to provide computation of amounts taxable under section 56(2) (xiii): The CBDT has inserted rule 11 UAC of the Income-tax Rules vide Income tax (Sixteenth amendment) Rules dated 16th August, 2023 in Notification G.S.R. 604 (E).

11UACA Computation of income chargeable to tax under clause (xiii) of sub-section (2) of section 56.
 – For the purpose of clause (xiii) of sub-section (2) of section 56, where any person receives at any time during any previous year any sum under a life insurance policy, then, the income chargeable to tax under the said clause during the previous year in which such sum is received shall be computed in the following manner, namely:-

- i. where the sum is received for the first time under the life insurance policy during the previous year (hereinafter referred to as first previous year), the income chargeable to tax in the first previous year shall be computed in accordance with the formula, A-B

where, -

A = the sum or aggregate of sum received under the life insurance policy during the first previous year; and

B = the aggregate of the premium paid during the term of the life insurance policy till the date of receipt of the sum in the first previous year that has not been claimed as deduction under any other provision of the Act;

- ii. where the sum is received under the life insurance policy during the previous year subsequent to the first previous year (hereinafter referred to as subsequent previous year), the income chargeable to tax in the subsequent previous year shall be computed in accordance to the formula, – C-D

where, -

C = the sum or aggregate of sum received under the life insurance policy during the subsequent previous year; and

D = the aggregate of the premium paid during the term of the life insurance policy till the date of receipt of the sum in the subsequent previous year not being premium which –

- a. has been claimed as deduction under any other provision of the Act; or
- b. is included in amount 'B' or amount 'D' of this rule in any of the previous year or years.

Explanation. –For the removal of doubts, it is clarified that the sum received under a life insurance policy would mean any amount, by whatever name called, received under such policy which is not to be excluded from the total income of the previous year in accordance with the provisions of clause (10D) of section 10, other than the sum–

- a. received under a unit linked insurance policy; or
- b. being the income referred to in clause (iv) of sub-section (2) of section 56.

4. Guidelines issued for section 10(10D) of the Income tax Act, 1961: CBDT vide Circular No. 15 of 2023 dated 16th August, 2023 has given guidelines as regards section 10(10D) as under. Clause (10D) of section 10 of the Income-tax Act, 1961 (the Act) provides for income-tax exemption on any sum received under a life insurance policy, including the sum allocated by way of bonus on such policy subject to certain exclusions.

2. The Finance Act, 2023 (Finance Act), *inter-alia*, –

- I. amended clause (10D) of section 10 of the Act by substituting the existing sixth proviso with the new sixth, seventh and eighth provisos to, *inter-alia*, provide that –
 - i. with effect from assessment year 2024-25, the sum received under a life insurance policy, other than a unit linked insurance policy, issued on or after the 1st day of April, 2023, shall not be exempt under the said clause if the amount of premium payable for any of the previous years during the term of such policy exceeds Rs. 5,00,000 [sixth proviso];

- ii. if premium is payable for more than one life insurance policy, other than a unit linked insurance policy, issued on or after 01.04.2023, the exemption under the said clause shall be available only with respect to such policies where the aggregate premium does not exceed Rs. 5,00,000 for any of the previous years during the term of any of those policies [seventh proviso];
 - iii. the sixth and seventh provisos shall not apply in case of any sum received on the death of a person [eighth proviso]
- II. inserted a new clause (xiii) in sub-section (2) of section 56 to provide that where any sum is received, including the amount allocated by way of bonus, at any time during a previous year, under a life insurance policy, other than the sum, –
- a. received under a unit linked insurance policy, or
 - b. being the income referred to in clause (iv) of sub-section 2,

which is not to be excluded from the total income of the previous year in accordance with the provisions of clause (10D) of section 10, the sum so received as exceeds the aggregate of the premium paid, during the term of such life insurance policy, and not claimed as deduction in any other provision of the Act, computed in the manner as may be prescribed shall be chargeable to income-tax under the head "Income from other sources";

III. inserted a sub-clause (xviid) in clause (24) of section 2 to provide that income shall include any sum referred to in clause (xiii) of sub-section (2) of section 56.

2.1 It may be noted that Finance Act, 2021 had earlier inserted, fourth to seventh provisos in clause (10D) of section 10 to provide that the sum received under any unit linked insurance policy [ULIP] (except any such sum received on the death of a person), issued on or after the 01.02.2021 shall not be exempt under said clause, if the amount of premium payable for any of the previous years during the term of such policy exceeds Rs. 2,50,000 (fourth proviso). It was also provided that if the premium is payable for more than one ULIPs, issued on or after the 01.02.2021, the exemption under the said clause shall be available only with respect to such policies where the aggregate premium does not exceed Rs. 2,50,000 for any of the previous years during the term of any of the policies (fifth proviso).

Issuance of Guidelines for removal of difficulties

3. Ninth proviso to clause (10D) of section 10 of the Act also empowers the Central Board of Direct Taxes (Board) to issue guidelines, with the previous approval of the Central Government, in order to remove any difficulty which arises while giving effect to the provisions of the said clause. In exercise of the powers under this proviso, Board, with the previous approval of the Central Government, hereby issues the following guidelines.

Guidelines

4. *In these guidelines:* – (i) "eligible life insurance policy" means any life insurance policy (other than unit linked insurance policy) issued on or after 01.04.2023; (ii) "consideration" means sum received (of any nature including bonus) under an eligible life insurance policy; (iii) "current previous year" means the previous year in which consideration is received and its taxability is being examined.

4.1 Consideration received during the previous year under an eligible life insurance policy shall be exempt or not exempt under clause (10D) of section 10 of the Act, subject to the satisfaction of other provisions of said clause. The same are explained by way of examples of different situations: –

4.2 Situation 1: No consideration is received by the assessee on any eligible life insurance policies during any previous year preceding the current previous year or consideration has been received on such eligible life insurance policies but has not been claimed exempt. The exemption under clause (10D) of section 10 of the Act shall be determined as under:

- i. If the assessee has received consideration, during the current previous year, under one eligible life insurance policy only and the amount of premium payable on such eligible life insurance policy does not exceed Rs. 5,00,000 for any of the previous years during the term of such eligible life insurance policy, such consideration shall be eligible for exemption under the said clause (10D) subject to fulfilment of other conditions;
- ii. If the assessee has received consideration, during the current previous year, under one eligible life insurance policy only and the amount of premium payable on such eligible life insurance policy exceeds Rs. 5,00,000 for any of the previous years during the term of such eligible life insurance policy, such consideration shall not be eligible for exemption under the said clause (10D);
- iii. If the assessee has received consideration, during the current previous year, under more than one eligible life insurance policies and the aggregate of the amount of premium payable on such eligible life insurance policies does not exceed Rs. 5,00,000 for any of the previous years during the term of such eligible life insurance policies, such consideration shall be eligible for exemption under the said clause (10D) subject to fulfilment of other conditions;

- iv. If the assessee has received consideration, during the current previous year, under more than one eligible life insurance policies and the aggregate of the amount of premium payable on such eligible life insurance policies exceeds Rs. 5,00,000 for any of the previous years during the term of such eligible life insurance policies, the consideration under only such eligible life insurance policies shall be eligible for exemption under the said clause (10D) where aggregate of the amount of the premium payable does not exceed Rs. 5,00,000 for any of the previous years during their term (Refer Examples) subject to fulfilment of other conditions.

4.3 Situation 2: Consideration has been received by the assessee under any one or more eligible life insurance policies during any previous year preceding the current previous year and it has been claimed exempt under clause (10D) of section 10 of the Act. Such eligible life insurance policies are referred as “old eligible life insurance policies” in this paragraph and corresponding examples and reference to eligible life insurance policies in this paragraph and corresponding examples shall not include old eligible life insurance policies. The exemption under clause (10D) of section 10 of the Act shall be determined as under:

- i. If the assessee has received consideration, during the current previous year, under one eligible life insurance policy only and aggregate amount of premium payable on such eligible life insurance policy and old eligible life insurance policies does not exceed Rs. 5,00,000 for any of the previous year during the term of such eligible life insurance policy, the consideration under such eligible life insurance policy shall be eligible for exemption under the said clause (10D) provided it is not excluded under sub-clauses (a) to (d) of said clause (10D);
- ii. If the assessee has received consideration, during the current previous year, under one eligible life insurance policy only and aggregate amount of premium payable on such eligible life insurance policy and old eligible life insurance policies exceeds Rs. 5,00,000 for any of the previous year during the term of such eligible life insurance policy, the consideration under such eligible life insurance policy shall not be eligible for exemption under the said clause (10D);
- iii. If the assessee has received consideration, during the current previous year, under more than one eligible life insurance policies and aggregate of the amount of premium payable on such eligible life insurance policies and old eligible life insurance policies does not exceeds Rs. 5,00,000 for any of the previous years during the term of such eligible life insurance policies, such consideration shall be eligible for exemption under the said clause (10D) provided it is not excluded under sub clauses (a) to (d) of said clause (10D);
- iv. If the assessee has received consideration, during the current previous year, under more than one eligible life insurance policies and aggregate of the amount of premium payable on such eligible life insurance policies and old eligible life insurance policies exceeds Rs. 5,00,000 for any of the previous years during the term of such eligible life insurance policies, consideration under only such eligible life insurance policies shall be eligible for exemption under the said clause (10D) where aggregate amount of premium along with the aggregate amount of premium of old eligible life insurance policies does not exceed Rs. 5,00,000 for any of the previous years during the term of any of such eligible life insurance policies (Refer examples) provided it is not excluded under sub-clauses (a) to (d) of said clause (10D).

4.4 The above guidelines are explained with the help of the following examples:

Example 1:

The assessee has the following policy which satisfies all the conditions laid down in clause (10D) of section 10 of the Act (other than the conditions provided under the sixth and seventh proviso of the said clause, applicability whereof is being explained in the example).

| Life Insurance Policy | A |
|---|-------------------|
| Date of issue | 01.04.2013 |
| Annual premium (Rs) | 6,00,000 |
| Sum assured (Rs) | 60,00,000 |
| Consideration received as on 01.11.2023 on maturity | 70,00,000 |

Taxability as per sixth proviso to clause (10D) of section 10 of the Act:

The sum received on maturity will be exempt under clause (10D) of section 10 of the Act as the policy has been issued before 01.04.2023 and accordingly not covered by the 6th to 8th provisos to the said clause (10) of section 10 of the Act, as substituted by Finance Act, 2023.

Example 2:

The assessee has the following policy which satisfies all the conditions laid down in clause (10D) of section 10 of the Act (other than the conditions provided under the sixth and seventh proviso of the said clause, applicability whereof is being explained in the example). The assessee did not receive any consideration under any other eligible life insurance policy in earlier previous years preceding the previous year 2033-34.

| | |
|---|-------------------|
| Life Insurance Policy | A |
| Date of issue | 01.04.2023 |
| Annual premium (Rs) | 6,00,000 |
| Sum assured (Rs) | 60,00,000 |
| Consideration received as on 01.11.2033 on maturity | 70,00,000 |

Taxability as per sixth proviso to clause (10D) of section 10 of the Act:

The consideration received will not be exempt under clause (10D) of section 10 of the Act as per the provisions of sixth proviso since the annual premium payable on the policy exceeded Rs. 5,00,000.

Example 3:

The assessee has the following policy which satisfies all the conditions laid down in clause (10D) of section 10 of the Act (other than the conditions provided under the sixth and seventh proviso of the said clause, applicability whereof is being explained in the example). The assessee did not receive any consideration under any other eligible life insurance policy in earlier previous years preceding the previous year 2033-34.

| | |
|---|-------------------|
| Life Insurance Policy | A |
| Date of issue | 01.04.2023 |
| Annual premium (Rs) | 5,00,000 |
| Sum assured (Rs) | 50,00,000 |
| Consideration received as on 01.11.2033 on maturity | 52,00,000 |

Taxability as per sixth proviso to clause (10D) of section 10 of the Act:

The consideration received will be exempt under clause (10D) of section 10 of the Act as the provisions of sixth proviso will not apply since the annual premium payable on the policy **does not exceed Rs. 5,00,000 in any of the previous years during the term of the policy.**

Example 4:

The assessee has the following policies all of which satisfy all the conditions laid down in clause (10D) of section 10 of the Act (other than the conditions provided under the sixth and seventh proviso of the said clause, applicability whereof is being explained in the example). The assessee did not receive any consideration under any other eligible life insurance policy in earlier previous years preceding the previous year 2033-34.

| | | |
|---|-------------------|-------------------|
| Life Insurance Policy | A | B |
| Date of issue | 01.04.2023 | 01.04.2023 |
| Annual premium (Rs) | 4,50,000 | 5,50,000 |
| Sum assured (Rs) | 45,00,000 | 55,00,000 |
| Consideration received as on 01.11.2033 on maturity | 52,00,000 | 60,00,000 |

Taxability as per seventh proviso to clause (10D) of section 10 of the Act:

The consideration received under **life insurance policy "B" will not be exempt** under clause (10D) of section 10 of the Act as per the provisions of seventh proviso, since aggregate of the annual premium payable for life insurance policy "A" and life insurance policy "B" exceeds Rs. 5,00,000 during the term of these policies. However, the consideration received under **life insurance policy "A" shall be exempt** under clause (10D) of section 10 of the Act since its annual premium does not exceed Rs. 5,00,000 in any of the previous years during the term of the policy.

Example 5:

The assessee has the following policies all of which satisfy all the conditions laid down in clause (10D) of section 10 of the Act (other than the conditions provided under the sixth and seventh proviso of the said clause, applicability whereof is being explained in the example). The assessee did not receive any consideration under any other eligible life insurance policy in earlier previous years preceding the previous year 2033-34.

| Life Insurance Policy | A | B | C |
|---|-------------------|-------------------|-------------------|
| Date of issue | 01.04.2023 | 01.04.2023 | 01.04.2023 |
| Annual premium (Rs) | 1,00,000 | 3,50,000 | 6,00,000 |
| Sum assured (Rs) | 10,00,000 | 35,00,000 | 60,00,000 |
| Consideration received as on 01.11.2033 on maturity | 12,00,000 | 40,00,000 | 70,00,000 |

Taxability as per seventh proviso to clause (10D) of section 10 of the Act:

The consideration received under **life insurance policy "C" will not** be exempt under clause (10D) of section 10 of the Act as per the provisions of seventh proviso since aggregate of the annual premium payable for life insurance policy "A", life insurance policy "B" and life insurance policy "C exceeds Rs. 5,00,000 during the term of these policies. However, the consideration received under **life insurance policies "A" and "B" shall be exempt under clause (10D) of section 10 of the Act**, since aggregate of annual premium payable for these two policies does not exceed Rs. 5,00,000 for any previous year during the term of these two policies.

Example 6:

The assessee has the following policies all of which satisfy all the conditions laid down in clause (10D) of section 10 of the Act (other than the conditions provided under the sixth and seventh proviso of the said clause, applicability whereof is being explained in the example). The assessee did not receive any consideration under any other eligible life insurance policy in earlier previous years preceding the previous year 2033-34.

| Life Insurance Policy | X | A | B | C |
|---|-------------------|-------------------|-------------------|-------------------|
| Date of issue | 01.04.2022 | 01.04.2023 | 01.04.2023 | 01.04.2023 |
| Annual premium (Rs) | 5,00,000 | 1,00,000 | 3,50,000 | 6,00,000 |
| Sum assured (Rs) | 50,00,000 | 10,00,000 | 35,00,000 | 60,00,000 |
| Consideration received as on 01.11.2032 on maturity | 60,00,000 | | | |
| Consideration received as on 01.11.2033 on maturity | | 12,00,000 | 40,00,000 | 70,00,000 |

Taxability as per seventh proviso to clause (10D) of section 10 of the Act:

The consideration under life insurance policy **"X" will be exempt under clause (10D) of section 10 of the Act as the policy has been issued before 01.04.2023** and it is not covered by recently introduced provisions. The consideration received under **life insurance policy "C" will not be exempt** under clause (10D) of section 10 of the Act as per the provisions of seventh proviso since aggregate of the annual premium payable for life insurance policy "A", life insurance policy "B" and life insurance policy "C" exceeds Rs. 5,00,000 during the term of these policies. However, the consideration received under **life insurance policy "A" and "B" shall be exempt under clause (10D) of section 10 of the Act**, since aggregate of annual premium payable for these two policies does not exceed Rs. 5,00,000 for any previous year during the term of these two policies.

Example 7:

The assessee has the following policies all of which satisfy all the conditions laid down in clause (10D) of section 10 of the Act (other than the conditions provided under the sixth and seventh proviso of the said clause, applicability whereof is being explained in the example). The assessee did not receive any consideration under any other eligible life insurance policy in earlier previous years preceding the previous year 2033-34.

| Life Insurance Policy | X | A | B | C |
|---|-------------------|-------------------|-------------------|-------------------|
| Date of issue | 01.04.2023 | 01,04,2024 | 01,04,2024 | 01,04,2024 |
| Annual premium (Rs) | 4,50,000 | 1,00,000 | 1,50,000 | 6,00,000 |
| Sum assured (Rs) | 40,50,000 | 10,00,000 | 15,00,000 | 60,00,000 |
| Consideration received as on 01.11.2033 on maturity | 50,00,000 | | | |
| Consideration received as on 01.11.2034 on maturity | | 12,00,000 | 18,00,000 | 70,00,000 |

Taxability as per seventh proviso to clause (10D) of section 10 of the Act:

The consideration under life **insurance policy "X" will be exempt** for the previous year 2033-34 under clause (10D) of section 10 of the Act since the annual premium does not exceed Rs. 5,00,000.

The consideration received under **life insurance policies "A", "B" and "C" will not be exempt under clause (10D) of section 10 of the Act** as per the provisions of seventh proviso since aggregate of the annual premium payable for these three life insurance policies and life insurance policy "X" exceeds Rs. 5,00,000 for the previous year 2023-24 to 2033-34 which fall under the tenure of these policies. The consideration under life insurance policy "A" will also not be eligible for exemption under the said clause as the aggregate of annual premium of life insurance policies "X" and "A" exceeds Rs. 5,00,000.

Example 8:

The assessee has the following policies all of which satisfy all the conditions laid down in clause (10D) of section 10 of the Act (other than the conditions provided under the sixth and seventh proviso of the said clause, applicability whereof is being explained in the example). The assessee did not receive any consideration under any other eligible life insurance policy in earlier previous years preceding the previous year 2043-44.

| Life Insurance Policy | X | A |
|---|--------------------|--------------------|
| Date of issue | 01.04.2023 | 01.04.2034 |
| Annual premium (Rs) | 5,00,000 | 5,00,000 |
| Previous years for which premium is paid | 2023-24 to 2033-34 | 2034-35 to 2047-48 |
| Sum assured (Rs) | 50,00,000 | 50,00,000 |
| Consideration received as on 01.11.2043 on maturity | 52,00,000 | |
| Consideration received as on 01.11.2048 on maturity | | 52,00,000 |

Taxability as per seventh proviso to clause (3 01)) of section 10 of the Act:

The consideration under life insurance **policies "X" and "A" will be exempt for the previous year 2043-44 and previous year 2048-49 respectively, under clause (10D) of section 10 of the Act** since the aggregate of the annual premium payable for the life insurance policies "X" and "A" together did not exceed Rs. 5,00,000 for any of the previous years during the term of life insurance policies "X" and "A".

Example 9:

The assessee has the following policies all of which satisfy all the conditions laid down in clause (10D) of section 10 of the Act (other than the conditions provided under the sixth and seventh proviso of the said clause, applicability whereof is being explained in the example). The assessee did not receive any consideration under any other eligible life insurance policy in earlier previous years preceding the previous year 2033-34.

| Life Insurance Policy | X | A | B | C |
|---|-------------------|-------------------|-------------------|-------------------|
| Date of issue | 01.04.2023 | 01.04.2024 | 01.04.2024 | 01.04.2024 |
| Annual premium (Rs) | 2,50,000 | 2,00,000 | 2,50,000 | 6,00,000 |
| Sum assured (Rs) | 25,00,000 | 20,00,000 | 25,00,000 | 60,00,000 |
| Consideration received on maturity as on 01.11.2033 | 30,00,000 | | | |
| Consideration received as on 01.11.2034 on maturity | | 24,00,000 | 38,00,000 | 70,00,000 |

Taxability as per seventh proviso to clause (10D) of section 10 of the Act:

The consideration under life insurance policy "X" will be exempt under clause (10D) of section 10 of the Act for the previous year 2033-34 since the annual premium does not exceed Rs. 5,00,000.

The consideration received under life insurance policy "B" only will be exempt under clause (10D) of section 10 of the Act during the previous year 2034-35 while consideration received under life insurance policies "A" and "C" will be taxable as per the provisions of seventh proviso.

The exemption is restricted to consideration under life insurance policy "B" since aggregate of the annual premium payable for the life insurance policies "X" and "B" together did not exceed Rs. 5,00,000 for any of the previous years during the term of life insurance policies "X" and "B".

Here instead of life insurance policy "B", we could have taken life insurance policy "A" as the aggregate of annual premium payable for life insurance policies "X" and "A" is also less than Rs. 5,00,000 during the term of these life insurance policies. However, since including life insurance policy "B" instead of life insurance policy "A" is more beneficial to the assessee, life insurance policy "B" has been considered for exemption.

Example 10:

The assessee has the following policies all of which satisfy all the conditions laid down in clause (10D) of section 10 of the Act (other than the conditions provided under the sixth and seventh proviso of the said clause, applicability whereof is being explained in the example). The assessee did not receive any consideration under any other eligible life insurance policy in earlier previous years preceding the previous year 2033-34. (It needs to be specified that consideration under life insurance policy "X" has not been claimed exempt)

| Life Insurance Policy | X | A | B | C |
|---|-------------------|-------------------|-------------------|-------------------|
| Date of issue | 01.04.2023 | 01.04.2024 | 01.04.2024 | 01.04.2024 |
| Annual premium (Rs) | 1,00,000 | 1,00,000 | 1,50,000 | 3,00,000 |
| Sum assured (Rs) | 10,00,000 | 10,00,000 | 15,00,000 | 30,00,000 |
| Consideration received on maturity as on 01.05.2033 | 12,00,000 | | | |
| Consideration received as on 01.05.2034 on maturity | | 12,00,000 | 18,00,000 | 34,00,000 |

Taxability as per seventh proviso to clause (10D) of section 10 of the Act:

The consideration under life insurance policy "X" was not claimed to be exempt under clause (10D) of section 10 of the Act by the assessee therefore it is not covered within the definition of old eligible life insurance policies.

The consideration received under life insurance policies "B" and "C" will be exempt under clause (10D) of section 10 of the Act. However, since aggregate of the annual premium payable for the life insurance policies "B" and "C" together did not exceed Rs. 5,00,000 for any of the previous years during the term of any of these life insurance policies "B" or "C" and life insurance policy "X" was not claimed to be exempt under clause (10D) of section 10 of the Act, the consideration received under life insurance policy "A" will be taxable as per the provisions of seventh proviso to the said clause (10D) of section 10 of the Act. It may again be stated that life insurance policies "B" and "C" are considered for exemption instead of combination of policies "A" and "B" or policies "A" and "C" as this combination (i.e. life insurance policies "B" and "C") is more beneficial to the assessee.

Example 11:

The assessee has the following policies all of which satisfy all the conditions laid down in clause (10D) of section 10 of the Act (other than the conditions provided under the sixth and seventh proviso of the said clause, applicability whereof is being explained in the example). The assessee did not receive any consideration under any other eligible life insurance policy in earlier previous years preceding the previous year 2035-36 other than under life insurance policies "X" and "Y".

| Life Insurance Policy | X | Y | A | B | C |
|--|-------------------|-------------------|-------------------|-------------------|-------------------|
| Date of issue | 01.04.2023 | 01.04.2023 | 01.04.2024 | 01.04.2024 | 01.04.2024 |
| Annual premium (Rs) | 2,00,000 | 2,00,000 | 2,00,000 | 3,00,000 | 6,00,000 |
| Sum assured (Rs) | 20,00,000 | 20,00,000 | 20,00,000 | 30,00,000 | 60,00,000 |
| Consideration received on surrender as on 01.07.2033 | 12,00,000 | | | | |
| Consideration received on maturity as on 01.11.2034 | | 24,00,000 | | | |
| Consideration received as on 01.11.2035 on maturity | | | 24,00,000 | 36,00,000 | 70,00,000 |

Taxability as per seventh proviso to clause (10D) of section 10 of the Act:

The surrender value of life insurance policy "X" and consideration received under life insurance policy "Y" on maturity will be exempt under clause (10D) of section 10 of the Act since the annual premium does not exceed Rs. 5,00,000 during the term of these policies.

The consideration received under life insurance policies "A", "B" and "C" will be taxable under clause (10D) of section 10 of the Act as per the provisions of seventh proviso to the said clause (10D) since aggregate of the annual premium payable for the life insurance policies "X" and "Y" for the previous year 2023-24 to 2033-34 was Rs. 4,00,000. If the annual premium of life insurance policies "A" or "B" or "C" is added then the aggregate of the premium will exceed Rs. 5,00,000 for the previous year 2024-25 to 2033-34.

As per the provisions of seventh proviso, in case of multiple life insurance policies, the aggregate of the premium payable for all the policies which are claimed to be exempt under clause (10D) of section 10 of the Act shall not exceed Rs. 5,00,000 For any previous year during the term of any of those policies.

Example 12: If in Example 11, the assessee does not claim exemption with respect to the surrender value of life insurance policy "X" then the consideration received under life insurance policy "Y" will be exempt for the previous year 2034-25 and the consideration received under life insurance policy "B" will be exempt for the previous year 2035-36 under clause (10D) of section 10 of the Act. The exemption is restricted to life insurance policy "B" since the aggregate of the annual premium payable for the life insurance policies "Y" and "B" together did not exceed Rs. 5,00,000 for any of the previous years during the term of life insurance policies "Y" or "B" and the assessee did not claim life insurance policy "X" as exempt. Life insurance policy "B" is preferred in place of life insurance policy "A" as it is more beneficial to the assessee.

Example 13: The assessee has the following life insurance policies and unit linked insurance policies (ULIPs) all of which satisfy all the conditions laid down in clause (10D) of section 10 of the Act (other than the conditions provided under the fourth, fifth, sixth and seventh provisos of the said clause, applicability whereof is being explained in the example). The assessee did not receive any consideration under any other eligible life insurance policies or unit linked insurance policies in earlier previous years preceding the previous year 2033-34 other than under unit linked insurance policy "X" and under life insurance policy "A".

| Life Insurance Policy | | | A | B | C |
|--|-------------------|-------------------|-------------------|-------------------|-------------------|
| Unit Linked Insurance Policy | X | Y | | | |
| Date of issue | 01.04.2021 | 01.04.2023 | 01.04.2023 | 01.04.2023 | 01.04.2024 |
| Annual premium (Rs) | 1,00,000 | 1,00,000 | 1,00,000 | 1,50,000 | 3,00,000 |
| Sum assured (Rs) | 10,00,000 | 10,00,000 | 10,00,000 | 15,00,000 | 30,00,000 |
| Consideration received on surrender as on 01.07.2033 | 6,00,000 | | 6,00,000 | | |
| Consideration received on maturity as on 01.11.2034 | | 12,00,000 | | 18,00,000 | 34,00,000 |

Taxability as per fifth and seventh proviso to clause (10D) of section 10 of the Act:

As per the fifth proviso, the surrender value of unit linked insurance policy "X" and consideration received under unit linked insurance policy "Y" on maturity will be exempt under clause (10D) of section 10 of the Act since the annual premium does not exceed Rs. 2,50,000 during the term of these policies.

Further, the consideration received under the life insurance policy "A" during the previous year 2033-34 shall be exempt under clause (10D) of section 10 of the Act and will become old eligible life insurance policy for which exemption has been claimed. Then, for the previous year 2034-35, the consideration for life insurance policy "C" only shall be exempt under clause (10D) of section 10 of the Act as the sum of premium of life insurance policies "A" and "C" does not exceed Rs. 5,00,000 in any of the previous years during the term of these policies. The consideration for life insurance policy "B" is not exempt since sum of premium of life insurance policies "A", "B" and "C" exceeds Rs. 5,00,000 during the term of these policies. Life insurance policy "C" is preferred over life insurance policy "B" being more beneficial to the assessee. However, if the consideration from life insurance policy "A" was not claimed as exempt in previous year 2033-34, then the consideration from both the life insurance policies "B" and "C" shall be exempt under clause (10D) of section 10 of the Act.

Clarification on GST Component

5. In addition to the above, it is also clarified that the premium payable/ aggregate premium payable for a life insurance policy/ policies, other than a unit linked insurance policy, issued on or after the 1st day of April, 2023, for any previous year, shall be exclusive of the amount of the Goods and Service Tax payable on such premium. This can be explained by the following example:

| Life Insurance Policy | A |
|---|-------------------|
| Date of issue | 01.04.2023 |
| Annual premium (Rs) | 5,00,000 |
| GST (@4.5% of premium) | 22,500 |
| Total Premium Payable | 5,22,500 |
| Sum assured (Rs) | 60,00,000 |
| Consideration received as on 01.11.2033 on maturity | 70,00,000 |

Clarity on premium of Term life insurance policy

It is further clarified that the provision of the sixth and seventh proviso of clause (10D) of section 10 shall not be applicable in case of a term life insurance policy i.e. where sum under a life insurance policy is only paid to the nominee in case of the death of the person insured during the term of the policy and no amount is paid to anyone if the insured person survives the policy tenure. Hence, any sum received under a term insurance policy shall continue to be exempt under clause (10D) of section 10 of the Act, irrespective of the amount of the premium payable in respect of such policy. Further the premium paid for such policies shall not be counted for checking Rs. 5,00,000 limit for the purposes of sixth and seventh proviso.

5. **Guidelines for compulsory selection of ITRs for complete scrutiny:** CBDT vide Circular F.No. 225/66/2023 dated 3rd August, 2023 made reference to its earlier guidelines dated 24-5-2023 issued from F.No. 225/66/2023 /ITA-II on the above subject. Based on these guidelines, various letters/queries have been received in the Board from DsGIT(Inv.) and CCsIT(Central) regarding centralization of cases u/s 127 of the Income-tax Act, 1961 ('the Act') subsequent to issuance of notices u/s 143(2)/142(1) of the Act in various category of cases. Parameter 4 of Para 2 of the above-referred to Guidelines dated 24-5-2023 reads as under: (4) Cases in which notices u/s 148 of the Act have been issued: Parameter: Cases where return is *either* furnished or not furnished in response to notice u/s 148 of the Act. Procedure for compulsory selection: (i) Cases, where notices u/s 148 of the Act have been issued pursuant to search & seizure / survey actions conducted on or after the 1st day of April, 2021:

These cases shall be selected for compulsory scrutiny with prior administrative approval of Pr.CIT/ Pr.DIT/ CIT/ DIT concerned who shall ensure that such cases, if lying outside Central Charges, are transferred to Central Charges u/s 127 of the Act within 15 days of service of notice u/s 143(2) / 142(1) of the Act calling for information by the Jurisdictional Assessing Officer concerned.

During the course of Search & Seizure action, information relating to some other persons, who may have one-off/very few or limited financial transaction(s) with the main assessee group covered in the search u/s 132/132A of the Act, may be found. Such persons are not integrally connected with the core business of the main assessee searched and do not belong to the same business group. Often such persons are also not residing in the same city as that of the main assessee. In such cases, the relevant information is generally passed on to the jurisdictional AO for assessing them u/s 148(for searches conducted/requisition made after 1-4-2021) of the Income-tax Act, 1961.

Accordingly, with reference to Parameter 4 of Para 2 of the above-referred to Guidelines dated 24-5-2023, **it is clarified that all such non-search cases selected are not required to be transferred to the Central Charges unless** covered by the Board's guidelines under F.No.299/107/2013-IT(Inv.III)/1568 dated 25-4-2014

6. No TDS under section 194I on payment of lease rent or supplemental lease rent to a unit of an International Financial Services Centre: In exercise of the powers conferred by sub-section (1F) of section 197A, read with clause (c) of sub-section (2) of section 80LA, of the Income-tax Act, 1961 the Central Government vide Notification S.O. 3451(E) dated 1st August,2023 has specified that no deduction of tax shall be made under section 194-I of the Income-tax Act on payment in the nature of lease rent or supplemental lease rent, as the case may be, made by a person (hereinafter referred as 'lessee') to a person being a Unit of an International Financial Services Centre (hereinafter referred as 'lessor') for lease of a ship subject to the following:-

a) The lessor shall:-

- i) furnish a statement-cum-declaration in Form No.1 to the lessee giving details of previous years relevant to the ten consecutive assessment years for which the lessor opts for claiming deduction under sub-sections (1A) and (2) of section 80LA of the Income-tax Act; and
- ii) such statement-cum-declaration shall be furnished and verified in the manner specified in Form No.1, for each previous year relevant to the ten consecutive assessment years for which the lessor opts for claiming deduction under sub-sections (1A) and (2) of section 80LA of the Income-tax Act.

b) The lessee shall,-

- i) not deduct tax on payment made or credited to lessor after the date of receipt of copy of statement- cum- declaration in Form No. 1 from the lessor; and
- ii) also furnish the particulars of all the payments made to lessor on which tax has not been deducted in view of this notification in the statement of deduction of tax referred to in sub-section (3) of section 200 of the Income-tax Act, read with rule 31A of the Income-tax Rules, 1962.

The above relaxation shall be available to the lessor only during the said previous years relevant to the ten consecutive assessment years as declared by the lessor in Form No. 1 for which deduction under section 80LA is being opted. The lessee shall be liable to deduct tax on payment of lease rent for any other year.

7. Standard Operating Procedure (SOP) for making application for recomputation of total income of a co-operative society engaged in manufacture of sugar as per section 155(19): Standard Operating Procedure has been prescribed for co-operative societies engaged in the business of manufacture of sugar vide CBDT Circular No.14 of 2023 dated 27th July,2023. Sugar factories operating in the co-operative sectors in certain States of India pay to sugarcane growers a final amount, often referred to as Final Cane Price (FCP) which is over and above the Statutory Minimum Price (SMP) fixed by the Central Government under the Sugarcane Control Order, 1996.

The payment of FCP by the co-operative sugar factories over and above the SMP for purchase of sugarcane had resulted into tax litigation. The co-operative sugar factories were claiming this excess payment as business expenditure whereas the same has been disallowed in the assessment on the ground that the excess price paid for purchase of sugar cane over and above SMP is in the nature of appropriation/distribution of profit and hence not allowable as deduction.

In order to provide certainty in this matter and to encourage co-operative movement in sugar sector, a new clause (xvii) was inserted to amend sub-section (1) of section 36 of the Income-tax Act (hereinafter referred to as 'Act') to provide that the amount paid for purchase of sugarcane by the co-operative societies engaged in the manufacture of sugar at a price which is equal to or less than the price fixed by or fixed with the approval of the Government shall be allowed as deduction for computing business income of the sugar co-operative factories. The said amendment came into force through the Finance Act 2015 w.e.f. 01.04.2016 and was applicable from A.Y. 2016-17 onwards. Pending demands and litigation still persisted in respect of AYs prior to 2016-17.

Therefore, to conclude the matter logically and to extend the benefit of the abovementioned relief to all the applicable years, section 155 of the Act has been amended to insert a new sub-section (19) *vide* Finance Act, 2023, w.e.f. 1st April, 2023. It provides that in the case of a sugar mill cooperative, where any deduction in respect of any expenditure incurred for the purchase of sugarcane has been claimed by an assessee and such deduction has been disallowed wholly or partly in any previous year commencing on or before the 1st day of April, 2014, the Assessing Officer shall, on the basis of an application made by such assessee in this regard, recompute the total income of such assessee for such previous year. The Assessing Officer shall allow such deduction to the extent such expenditure is incurred at a price which is equal to or less than the price fixed or approved by the Government for that previous year. Also, it provides that the provisions of section 154 of the Act shall, so far as may be, apply thereto, and the period of four years specified in sub-section (7) of said section 154 shall be reckoned from the end of previous year commencing on the 1st day of April, 2022.

In order to standardize the manner of filing application to the Jurisdictional Assessing Officer under sub-section (19) of section 155 of the Act and its disposal by the Jurisdictional Assessing Officer under the said section, following SOP has been outlined.

- a) The applicant must be a "co-operative society", as defined in sub-section (19) of section 2 of the Income-tax Act, engaged in the business of manufacturing of sugar. The co-operative society (referred to as "such co-operative society" hereinafter) seeking relief under sub-section (19) of section 155 of the Act should file an application to the Jurisdictional Assessing Officer.
- b) The application by such co-operative society can be filed for AY 2015-16 or any earlier assessment year (AY).
- c) The Jurisdictional Assessing Officer may seek the following documents for the purpose of recomputation under sub-section (19) of section 155 of the Act:
 - (i) Computation of tax, audit report u/s. 44AB of the Act, audited Profit & Loss Account and Balance Sheet.
 - (ii) Assessment Order/Appellate Order(s) of various appellate fora, as applicable, with respect to the disallowance made on account of excess price paid for purchase of sugarcane above the Statutory Minimum Price (SMP).
 - (iii) Notice of Demand issued under section 156 of the Act.
 - (iv) Challan of taxes paid, if any.
 - (v) Copy of Order(s)/Other legal instrument(s) regarding price fixation by Government based on which excess price was paid for purchase of sugarcane over and above Statutory Minimum Price (SMP).
 - (vi) Documentary evidence regarding registration of co-operative society under State/Central Act.
 - (vii) Any other document as considered necessary by the Jurisdictional Assessing Officer for the purposes of recomputation of total income under sub-section (19) of section 155 of the Act.
- d) The Jurisdictional Assessing Officer shall recompute the total income of such co-operative society under the provisions of sub-section (19) of section 155, read with section 154 of the Act. Further, the rectification under sub-section (19) of section 155 r.w.s. 154 of the Act can only be made till 31.03.2027.
- e) The Jurisdictional Assessing Officer shall pass an order under s. 155(19) r.w.s. 154 of the Act within a period of six months from the end of the month in which the application is received by him.

8. Condonation of delay under section 119(2)(b) for ITRs claiming deduction under section 80P from AY 2018-19 to AY 2022-23: CBDT vide Circular No. 13 of 2023 dated 26th July, 2023 has provided for condonation of delay in filing ITRs which resulted in denial of deduction under section 80P of the Act.

Section 80P of the Income-tax Act, 1961 (hereafter referred to as 'Act') provides for deduction in respect of income of co-operative societies under Chapter VIA-Part-C ("Deductions in respect of certain incomes") of the Act.

In so far as section 80P of the Act is concerned, Finance Act, 2018 substituted section 80AC of the Act w.e.f. 1-4-2018 which provides as under:-

Deduction not to be allowed unless return furnished.

80AC. Where in computing the total income of an assessee of any previous year relevant to the assessment year commencing on or after—(i) the 1st day of April, 2006 but before the 1st day of April, 2018, any deduction is admissible under section 80-1A or section 80-1AB or section 80-1B or section 80-1C or section 80-1D or section 80-1E; (ii) the 1st day of April, 2018, any deduction is admissible under any provision of this Chapter under the heading “C—Deductions in respect of certain incomes”, **no such deduction shall be allowed to him unless he furnishes a return of his income for such assessment year on or before the due date specified under sub-section (1) of section 139.**

Applications have been received in the Central Board of Direct Taxes (hereafter referred to as “the Board”) from co-operative societies claiming deduction u/s 80P of the Act for various assessment years from AY 2018-19 to AY 2022-23, regarding condonation of delay in furnishing return of income and to treat such returns as ‘returns furnished within the due date under sub-section (1) of section 139 of the Act stating that delay in furnishing return of income was caused due to delay in getting the accounts audited under respective State Laws.

In order to mitigate genuine hardship in cases referred to in para 3, the Board, in exercise of the powers conferred under section 119 of the Act, hereby directs that the Chief Commissioners of Income-tax (CCsIT)/Directors General of Income-tax (DGsIT) are authorised to deal with such applications of condonation of delay pending before the Board, upon transfer of such applications by the Board, and decide such applications on merits, in accordance with the law.

The Board hereby further directs that the CCsIT/DGsIT, henceforth, shall admit all pending as well as new applications for condonation of delay in furnishing returns of income claiming deduction u/s 80P of the Act, filed either in the Board or in field formation for the assessment years 2018-19 to 2022-23 and decide such applications on merits in accordance with the law where such person is required to get his accounts audited under respective State Laws.

In the context of para-above, the CCsIT/DGsIT while deciding such applications for condonation of delay in furnishing return of income, shall satisfy themselves that the applicant’s case is a fit case for condonation under the existing provisions of the Act. The CCsIT/DGsIT shall examine the following while deciding such applications:-

- i) the delay in furnishing the return of income within the due date under sub-section (1) of section 139 of the Act was caused due to circumstances beyond the control of the assessee with appropriate documentary evidence/s;
- ii) where delay in furnishing return of income was caused due to delay in getting the accounts audited by statutory auditors appointed under the respective State Law under which such person is required to get his accounts audited, the date of completion of audit vis-a-vis the due date of furnishing the return of income under sub-section (1) of section 139 of the Act; and
- iii) any other issue indicating towards tax avoidance or tax evasion specific to the case, which comes into the light in the course of verification and having bearing either in the relevant assessment year or establishing connection of relevant assessment year with other assessment year/s.

The cases falling under para (iii) above, would require further necessary action as per law.

The CCsIT/DGsIT shall preferably dispose the application within three months from the end of the month in which such application is received from the applicant or transferred by the Board. No order rejecting the application under section 119(2)(b) of the Act shall be passed without providing the applicant an opportunity of being heard.



Information Technology

Contributed by: CA. Deephika S, Madurai

Spatial Audio for Teams:

It's been a long time in the making, but Microsoft Teams is finally now available with spatial audio to help make calls more immersive and life-like. Microsoft announced in August that the feature is now generally available. For those with compatible hardware, voices will now be spatially separated to facilitate binaural hearing in relation to a participant's location on the screen, which Microsoft hopes will reduce fatigue and cognitive load.

Comparing separate channels to a single channel (if you've ever experienced a multi-channel home cinema setup or indeed one in a cinema, you'll recognize the difference), Microsoft's Hong Sodoma, who manages Teams audio experience, calls on the 'Cocktail Party Effect' study to explain the comprehension and memory benefits associated with multi-channel audio. Teams isn't the only video conferencing app to have implemented the revolutionary audio experience, though. Apple fans will boast that FaceTime has benefited from the tech since iOS 15 and macOS Monterey. Despite desktop general availability, there are some hardware limitations that mean some Teams users may not be able to jump into the immersive experience just yet, in addition to some software niggles such as conference calls with 100+ participants, whereby spatial audio may not work as expected. For those looking to listen via open speakers, they much support stereo audio, which for the most part, should not be a problem given this has been fairly standard for several years in all but the most basic hardware. Headphone users may be less satisfied - Microsoft only supports wired headphones at the moment, so unless you can plug in via USB or the audio jack, you won't be able to hear spatially separated voices. Some Bluetooth LE headphones may support spatial audio, but details are thin on the ground.

AWS to start charging for public IPv4 addresses:

Amazon Web Services (AWS) will start charging customers to use public IPv4 addresses from February 2024 amid rising costs and resource scarcity. AWS Chief Evangelist Jeff Barr explained that IPv4 addresses are an "increasingly scarce resource" which has seen costs rise by 300% in the past five years. To that end, in-use public IPv4 addresses assigned to resources in customers' VPC, Amazon Global Accelerator, and AWS Site-to-site VPN tunnel will become chargeable products, at \$0.005 per IP per hour. A secondary Elastic IP Address and idle Elastic IP Addresses will remain unchanged, chargeable at the same rate of \$0.005 per hour.

Barr said that not only is this designed to reflect the company's own incurred costs, but also to "encourage [users] to be a bit more frugal with [their] use of public IPv4 addresses" in the hope that they modernize by adopting IPv6.

The change is set to come into play from February 1, 2024, at which point the AWS Free Tier for EC2 will include 750 hours of public IPv4 address usage per month for 12 months. Those using their own IP addresses via Amazon BYOIP will be excluded from the charge, too.

In an effort to push its customers toward IPv6, AWS has added a new 'Public IP Insights' area to the Amazon VPC IP Address Manager to help monitor, analyze, and audit public IPv4 address usage. Given that we are estimated to have long run out of IPv4 addresses, those who manage to get one today are relying on abandoned and sold addresses. On the other hand, the number of IPv6 addresses available is frankly incomprehensible by the human brain.

Additionally, there are security, performance, and efficiency benefits, however migrating from v4 to v6 addresses has so far been an unwelcome task for many. With the price rise, it is hoped that more customers make the move.

Mozilla VPN security flaw:

A cybersecurity researcher at SUSE has warned that the Mozilla VPN client for Linux holds a severe vulnerability that could allow threat actors to conduct a wide range of integrity violations. Matthias Gerstner published an article on the Openwall security mailing list, in which he details a broken authentication check in Mozilla VPN client v2.14.1, released on May 30.

Threat actors that discover the flaw can use it to set up their own arbitrary VPN, redirect network traffic to (potentially) malicious destinations, and break existing VPN setups. Detailing the flaw, Gerstner says that SUSE's engineers analyzed Mozilla's VPN client and found that it "contains a privileged D-Bus service running as root and a Polkit policy." Polkit is an authorization API for privileged programs, and as the program's written now, Polkit is checking if the privileged Mozilla VPN D-Bus service is authorized to perform certain actions, instead of the user.

"The impact is that arbitrary local users can configure arbitrary VPN setups using Mozilla VPN and thus possibly redirect network traffic to malicious parties, pretend that a secure VPN is present while it actually isn't, perform a denial-of-service against an existing VPN connection or other integrity violations," Gerstner said in his writeup. SUSE disclosed its findings to Mozilla on May 4, but didn't hear back from the company. Eight days later, on June 12, the company found the flaw disclosed in a GitHub pull request to the Mozilla VPN repository.

"We asked upstream once more what their intentions are regarding coordinated disclosure but did not get a proper response," Gerstner explained. Three months later, as is the usual practice, SUSE publicly disclosed the flaw. It is now being tracked as CVE-2023-4104. Mozilla is keeping quiet for now.

Karnataka VAT-GST

Contributed by: **CA Annapurna D Kabra, Bengaluru**

The pre-requirement to avail input tax credit is to be "**registered person**" under the GST law. The persons carrying the regular business cannot claim the input tax credit before the date of obtaining the registration. Section 16 state that every registered person is entitled to take the credit of input tax charged on any inward supply of goods or services or both subject to the conditions.... The Author considers in the following paras, the impact on input tax credit in case of cancellation of registration under section 29(2) of registered person or the impact of input tax credit to the recipient in case of cancellation of registration of supplier under the GST law.

- **Section 29(2)** of the CGST Act, 2017 prescribes the circumstances for cancellation of registration of a registered person by the proper officer which are as follows:
 - Where the registered person has contravened such provisions of the Act, or the rules made thereunder as may be prescribed or
 - A person paying tax under composition has not furnished the return for a financial year beyond three months from the due date of furnishing the said return or
 - Any registered person has not furnished returns for such continuous tax period as may be prescribed or
 - Any person who has taken voluntary registration has not commenced business within six months from the date of registration or
 - Registration has been obtained by means of fraud, wilful misstatement, or suppression of facts.
- **Rule 21. Registration to be cancelled in certain cases** – The registration granted to a person is liable to be cancelled, if the said person, -
 - a) does not conduct any business from the declared place of business; or
 - b) issues invoice or bill without supply of goods or services 2[or both] in violation of the provisions of this Act, or the rules made thereunder; or
 - c) violates the provisions of [section 171](#) of the Act or the rules made thereunder].
 - d) violates the provision of [rule 10A](#)
 - e) avails input tax credit in violation of the provisions of [section 16](#) of the Act or the rules made thereunder; or
 - f) furnishes the details of outward supplies in [FORM GSTR-1](#) under [section 37](#) for one or more tax periods which is in excess of the outward supplies declared by him in his valid return under [section 39](#) for the said tax periods; or

- g) violates the provision of [rule 86B](#).
 - h) being a registered person required to file return under subsection (1) of [section 39](#) for each month or part thereof, has not furnished returns for a continuous period of six months;
 - (i) being a registered person required to file return under proviso to subsection (1) of [section 39](#) for each quarter or part thereof, has not furnished returns for a continuous period of two tax periods.
- The proper officer shall not cancel the registration without giving the person an opportunity of being heard. The registered person, whose registration is cancelled by the proper officer on his own motion, may apply to such officer for revocation of cancellation of the registration in the prescribed manner within ninety days (including extended days) from the date of service of the cancellation order (Section 30). Therefore, unless the registration is restored, the taxable person will not be able to collect the taxes nor will be able to claim the input tax credit during such changeover period.
 - If the registration is cancelled for non-filing of returns under section 29(2) ..., then the taxable person should file the pending returns to avail the opportunity of revocation of registration where registration is cancelled from the retrospective date and the input tax credit can be claimed by the taxable person (the time limit may be beyond the time specified under section 16(4)).
 - The Hon'ble Rajasthan High Court in M/s R.K. Jewellers v. Union of India [D.B. CWP No. 4236 of 2023 dated April 26, 2023, has held that when the cancellation of registration is affected for non-filing of GST return, the registration can be revoked, and the taxpayer can claim input tax credit. The taxpayer is entitled to lodge its claim for availment of Input tax credit in respect of period from cancellation till the GST registration is revoked. Therefore, the taxpayer can claim the credit once the registration is restored under the GST law.
 - In case when the registration is cancelled under section 29(2), the taxable persons may not be able to charge the taxes from the buyer even though there is supply of goods or services. The proper officer may reject the revocation application against which the matter may be appealed to the higher authority. Therefore, till the matter attains the finality, the taxpayers are not able to collect the taxes from the buyers nor they are eligible for input tax credit till the registration is revoked of such taxable person.
 - Even in case when supplier registration is cancelled, the restrictions are imposed on the recipients for availment of input tax credit by the assessing authorities. It is held in case of Gargo Traders Vs Joint Commissioner, Commercial Taxes (WPA No 1009 of 2022 dated June 12, 2023) that the input tax credit to the recipient cannot be denied if the supplier becomes non-existent or their registration is retrospectively cancelled.
 - In case of Sanchit Kundu and Anr Vs Assistant Commissioner of state taxes (Calcutta High Court) WPA 7232 of 2022 wherein it is held that if the recipient has paid the payment before the supplier GST registration got cancelled, then the benefit of input tax credit should be given to the recipient. Therefore, when the supplier had a valid registration at the time of transaction, the recipient could not be blamed for any discrepancy on the part of the supplier.
 - In case of Brighter star plastics industries Vs Additional commissioner of sales tax (Appeal) 2022 (57) G.S.T.L. 226 (Ori.) wherein the recipient neither had knowledge of non-existence of selling dealer or neither had intention to defraud revenue by availing Input tax credit wrongfully. It was directed to restore the registration of the recipient and benefit of input tax credit can be availed accordingly.
 - The amnesty scheme may get extended for revocation of registration till 31st August 2023 subject to conditions as specified and taxpayers can undertake advantage of such extension. And the buyers/recipients whose input tax credit is under litigation due to cancellation of the supplier's registration with retrospective effect must follow with the suppliers to avail the input tax credit. The input tax credit cannot be denied to genuine buyer in case GST registration of supplier is cancelled retrospectively.

SEBI

Contributed by: **V M V Subba Rao, Nellore**

1. All Intermediaries registered with SEBI under Section 12 of the Securities and Exchange Board of India Act, 1992
2. Stock Exchanges
3. Association of Mutual Funds in India (AMFI)
4. Association of Portfolio Managers (APMI)
5. BSE Administration & Supervision Ltd (BASL)

Dear Sir/Madam,

Subject: Simplification of KYC process and rationalisation of Risk Management Framework at KYC (Know Your Client) Registration Agencies (KRAs)

1. SEBI vide circular SEBI/HQ/MIRSD/DoP/P/CIR/2022/46 dated April 06, 2022 has specified the framework for validation of records by KRAs in securities market. Based on the feedback received from the stakeholders in securities market and for ease of onboarding of clients for dealing in securities market, the provisions of the circular have been reviewed and it has been decided to simplify the KYC process and rationalise the risk management framework as follows.
2. The KYC process shall mean obtaining the proof of identity (PoI) and proof of address (PoA) of the client.
3. Further, PAN is the unique identification number of all participants transacting in the securities market.
4. In the interest of investors and for ease of transacting in securities market, the client shall be allowed to open an account with intermediaries and transact in securities market as soon as the KYC process is completed.
5. Thereafter, as a part of risk management framework, the KRAs shall verify the following attributes of records of all clients within 2 days of receipt of KYC records:
 - 5.1. PAN (including PAN Aadhaar linkage, as referred to in rule 114 AAA of the Income-tax Rules, 1962)
 - 5.2. Name
 - 5.3. Address
6. Additionally, the KRAs shall verify the client's mobile number and email id.
7. In case of PAN exempt records, the other attributes i.e. name, address, mobile number and email id shall be verified by the KRAs.
8. Clients in whose case, attributes of records as mentioned in para 5/6 above cannot be verified, shall not be allowed to transact further in securities market until the attributes are verified.
9. The records of those clients in respect of which all attributes mentioned in para 5/6 above are verified by KRAs with official databases (such as Income Tax Department database on PAN, Aadhaar XML/ Digilocker/ M-Aadhaar) shall be considered as Validated Records.
10. The validated records shall be allowed portability i.e. the client need not undergo the KYC process again when he approaches different intermediary in securities market and the intermediary shall fetch the validated records from the KRA database.
11. The KRAs shall develop systems/mechanism, in co-ordination with each other, and shall follow uniform internal guidelines/standards detailing aspects of identification of attributes and procedures for verification/ validation, in consultation with SEBI.
12. Further, the systems of intermediaries and the KRAs shall be integrated to facilitate seamless movement of documents/information to and from the intermediary to the KRAs for verification/validation of attributes under risk management framework.

13. The SEBI circular SEBI/HO/MIRSD/DoP/P/CIR/ 2022/46 dated April 06, 2022 shall be rescinded from the effective date of this circular i.e. September 01, 2023.
14. The records of all existing clients whose KYC has been completed based on OVDs other than Aadhaar, shall be verified within a period of 90 days from September 01,2023.
15. This circular is issued in exercise of powers conferred under Section 11(1) of the Securities and Exchange Board of India Act, 1992 and Regulation 17 of the SEBI {KYC (Know Your Client) Registration Agency} Regulations, 2011 to protect the interests of investors in securities and to promote the development of, and to regulate the securities markets.
16. This circular is available at www.sebi.gov.in under the link "Legal – Circulars".

TAMIL NADU VAT

Contributed by: **CA. V.V. Sampath Kumar, Chennai**

Madras High Court Judgments in VAT CST GST

Natural Justice : As can be seen from the reference in the impugned orders, the exchange of notices and replies have commenced effectively in 2019 and there has been no communication after the petitioner's letter dated 18.10.2019. The impugned orders have been passed in July, 2022, after a gap of nearly 3 years, without even affording an opportunity of personal hearing to the petitioner. In view of this factual position, the impugned orders of assessment are set aside in order to enable the proceedings to be conducted in line with the principles of natural justice and in accordance with law. **M/s.KK Granite Marketing Vs AC (ST), RS Puram Assessment Circle, Coimbatore. W.P.Nos. 12992, 12994 & 12996 of 2023 DATED: 20.06.2023**

Opportunity of personal hearing: As opportunity of personal hearing has not been granted to the petitioner, the impugned orders are thus set aside with directions. **HDFC Bank Ltd, Vs 1.DC (ST)-II, LTU, Chennai. 2.DC (ST)-IV, LTU, Chennai. W.P.Nos.17989, 17992 & 17996 of 2023**

Delay: Ld Additional Government Pleader, who accepts notice for the respondents fairly does not raise any strenuous objection to the suggestion of the Court that, having regard to the explanation tendered, the delay of 10 days may be condoned and the appeals restored to the file of the appellate authority. In view of this, the Hon'ble Court, while rejecting the challenge to the orders of assessment, acceded to the request for condonation of delay of 10 days with directions. **M/s. Sri Mutharamman Traders., Vs 1. STO, Madipakkam Assessment Circle, Chennai-35. 2.DC (ST),GST, Appeal Chennai-II, Chennai-6. W.P.No.18890 of 2023 Dated: 27.06.2023**

Technical Glitches : Petitioner has challenged a refund rejection order dated 30.09.2022. Ld AGP pointed out that the refund order dated 06.10.2022 has been clearly passed in error and on account of certain technical glitches. The reason for the petitioner approaching this Court is its inability to challenge order dated 30.09.2022 by way of statutory appeal, since the system does not accept the appeal in light of the order granting refund. As the process for correction of the glitches is on-going and may take some time, the petitioner is permitted to file an appeal challenging order dated 30.09.2022 manually before the first appellate authority within 2 weeks from date of receipt of a copy of this order. Appeal, if filed as aforesaid, shall be taken on file without reference to limitation, but ensuring compliance with all other statutory conditions. **M/s.IFFCO Limited, Puducherry-9.Vs CTO, GD-II,Puducherry-5. W.P.No.18849 of 2023 Dated: 26.06.2023**

Refund: WP filed praying to to direct the Respondent to sanction the refund of pre-deposit of Rs.4,11,181/- paid on Appeal filed against Assessment Order No.33913203501/2007-2008, along with interest. Against the order in first appeal, the State had filed an appeal before the Sales Tax Appellate Tribunal, that was disposed on 04.01.2022. Ld Government Advocate states that a Tax Case (Revision) has been filed, albeit, belatedly, pending in SR stage (SR.No.74673 of 2022) before this Court challenging order dated 04.01.2022. The claim for refund can be considered only upon conclusion of the litigation. **M/s.Hariharan Spinners (I) Pvt Ltd Vs AC (ST),Pallipalayam Circle, Tiruchengode W.P.No.19008 of 2023 Dated: 27.06.2023**

Statutory appeal: The reason for approaching this Court by way of WP is that as on date of institution of the WP, being 26.06.2023, the appeal was time barred by a little over one month from the last date provided under the Statute for condonation of delay. As no serious objection is placed in this regard by the Ld Government Advocate, while sustaining the impugned order of assessment, liberty is granted to the petitioner to challenge the same by way of statutory appeal before the first appellate authority. **Shree Agencies Vs 1.Assistant Commissioner (ST),Peddunaickenpet Assessment Circle, 2. Kotak Mahindra Bank Limited, Mint Street,Chennai – 79.W.P.No.19103 of 2023 Dated: 27.06.2023**

Tax Recovery: In respect of a recovery actions, the Ld Government Advocate is unable to provide a copy of the revision order and is also unaware of the statutory provision to what that revision order relates. She has also not been in a position to provide any notice for revision or SCN issued prior to the passing of the mysterious revision order. R1 in proceedings in R.O.C.No.1376/2020/A3 dated 26.06.2023, a copy of which has been handed over to the learned counsel for petitioner, confirms that the amounts recovered from Karur Vysya Bank of Rs.3,24,466/- will be refunded. This refund is directed to be made within 48 hours from today. With these the matter was closed by the Court. **M.Kandhavel Vs 1.AC, Thindal Assessment Circle, Erode-1. 2.The Manager, Karur Vysya Bank, Erode-1.W.P.No.34184 of 2022 DATED: 28.06.2023**

Maintainability - Appeals: Writ petitions seeking mandamus directing the second respondent being the JC(ST) (GST–Appeals) to decide the question of maintainability of the statutory appeals pending before him (filed on 11.05.2023). On instructions from the officer who is present in the Court, Ld Government Advocate, assured the Court that the petitioner would be heard and a decision taken with regard to maintainability or otherwise of the appeals within 4 weeks from today. In light of the assurances as recorded aforesaid, which would achieve the purpose of mandamus sought for by the petitioners, the court directed that no further directions are required. **M/s.Sundaram Clayton Ltd Vs 1.DC (ST)–II, LTU, Chennai–35. 2.JC (ST) (GST–Appeals), Nandanam–35. W.P.No.18770 of 2023 etc DATED: 27.06.2023**

bank account unfreezing: WP filed praying to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the cancellation order vide reference No.ZA330221025608Z dated 05.02.2021 passed by the 3rd Respondent and quash the same and consequently allow the petitioner to file pay the remaining dues and file all pending return and consequently direct the respondents to unfreeze petitioner-s abovementioned bank accounts. At the time of hearing, Petitioner is absent. In any event, the impugned order is dated 05.02.2021 and hence this WP instituted on 20.06.2023 is far beyond the statutory period provided for revision/appeal. Hence, this WP stands dismissed. However, the petitioner is at liberty to approach the competent authority in the CT Dept to seek benefit of the presently on-going amnesty scheme for restoration of registration. Such application, if and when filed, shall be considered by the competent authority in accordance with law. **S.A.Umayaal Devi Vs 1.Commissioner of CT, 2.DC (State) Inspection – I, Intelligence – I, Chennai – 6. 3.AC (Circle) Royapuram, Zone-II, Chennai North, Tamil Nadu. W.P.No.18906 of 2023 Dated: 27.06.2023**

Writ: In respect of a writ of mandamus for pending refund of tax, Ld AGP clarified that the refund order has already been passed and what is awaited is the Government]s sanction to transfer the amount to the credit of the assessee/petitioner. This was recorded and mandamus was issued to the respondent to credit the amount determined under refund order dated 05.12.2022 for the periods 2012-13 and 2013-14 along with interest in line with the applicable provisions, within 12 weeks from today. **Siemens Ltd. Vs The Addl DCTO – IAC, Pudhucherry–5 W.P.Nos.19190 and 19192 of 2023 Dated: 28.06.2023.**