



# S I R C

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



54<sup>th</sup> Regional Conference Inauguration at  
Hyderabad - 9<sup>th</sup> and 10<sup>th</sup> December 2022

**SIRC of ICAI  
Wishes Happy and  
Prosperous New Year  
2023**

**NEWSLETTER**

JANUARY 2023,  
VOLUME - 48,  
PART - 07.



## Recent Developments in RERA - 16th December 2022



Resource Person CA. Vinay Thiagarajan, Bengaluru

## GST Annual Returns - Detailed Analysis with emphasis on Recent changes - 21st December 2022



Resource Person CA. Mohd. Irshad Ahmed, Hyderabad seen along with CA. Subbarao Muppala, Regional Council Member, SIRC of ICAI

## Code of Ethics – 22nd December 2022



Resource Person CA Janardanan R Pai, Ernakulam seen along with CA. R. Sundararajan, Treasurer, SIRC of ICAI

## Issues in GST relating to Real Estate Industry – 23rd December 2022



Resource Person CA. Shankara Narayanan V, seen along with CA. Rekha Uma Shiv, Regional Council Member, SIRC of ICAI

## GST Input Tax Credit Recent Amendments and Implications – 27th December 2022



Resource Person CA K Balasubramanian, Chennai seen along with CA Subbarao Muppala, Regional Council Member, SIRC of ICAI

## “WE CARE” Initiative



CA. Rekha Uma Shiv, Regional Council Member, SIRC of ICAI honouring a Senior Member CA. Venkata Krishnan, as part of “We Care” initiative.

### Exposure Drafts of Amendments to Ind AS 1 and Ind AS 116 for comments

As you are kindly aware that the Indian Accounting Standards (Ind AS) are based on the IFRS Standards issued by the International Accounting Standards Board (IASB). In this regard, it may be noted that IFRS Standards are being issued/revised by the IASB from time to time. As a part of convergence with IFRS Standards, the Ind AS may be issued/revised corresponding to the IFRS Standards. Accordingly, whenever any amendments are made or new IFRS Standard/IFRIC is issued by the IASB, the Accounting Standards Board (ASB) of the ICAI considers those amendments and other related aspects for amending the corresponding Ind AS. In this regard, the Accounting Standards Board has issued the following Exposure Drafts for public comments **with the last date of comments being January 30, 2023:**

- [Classification of Liabilities as Current or Non-current and Non-current Liabilities with Covenants - Amendments to Ind AS 1, Presentation of Financial Statements](#)

The downloadable version of the Exposure Draft is available at:

<https://resource.cdn.icai.org/72564asb58459-indas1.pdf>

- [Lease Liability in a Sale and Leaseback – Amendments to Ind AS 116, Leases](#)

The downloadable version of the Exposure Draft is available at:

<https://resource.cdn.icai.org/72565asb58459-indas116.pdf>

Comments on the abovementioned Exposure Drafts may be submitted through any of the following modes:

- 1. Electronically:** Click on <http://www.icai.org/comments/asb/> to submit comment online (Preferred method)
- 2. Email:** Comments can be sent to: [commentsasb@icai.in](mailto:commentsasb@icai.in)
- 3. Postal:** Secretary, Accounting Standards Board,  
The Institute of Chartered Accountants of India,  
ICAI Bhawan, Post Box No. 7100,  
Indraprastha Marg, New Delhi 110 002

Further clarifications on the Exposure Draft may be sought by e-mail to [asb@icai.in](mailto:asb@icai.in).



## **CHAIRMAN'S COMMUNIQUE**

My Dear and Esteemed Members,

### **New Year Greetings from SIRC:**

The Members of SIRC and I join together to happily convey our warm greetings to the members and students and their families a Very Happy, Healthy, Enlightening and most satisfying year 2023. Let the New Year bring with it prosperity and productivity in our household and in our professional field.



### **54th Regional Conference - A Grand Success: Thanks Giving:**

It is with immense happiness and genuine gratitude that I acknowledge the exceptional support received from all quarters for making the SIRC's 54th Regional Conference held at Hyderabad on 9th and 10th December 2022 a remarkable success in all respects. SIRC records its gratitude to –

- CA. (Dr.) Debashis Mitra, President, ICAI – Chief Guest at the Inaugural Session.
- CA. Aniket Talati, Vice-President, ICAI – Guest of Honour at the Inaugural Session.
- CA. M. Devaraja Reddy, Past President, ICAI- Chief Guest at the Valedictory Session.
- All the Delegates.
- Dignitaries who sent their Message of Greetings.
- All the Resource Persons.
- All the Chairmen of Technical Sessions.
- Central Council Members of ICAI from Southern Region and the Members of SIRC.
- Past Presidents of ICAI, Past Chairmen of SIRC, Past Central and Regional Council Members,
- Past Chairmen and Members of all the 45 Branches of SIRC.
- All Members of the Conference Committee.
- Chairmen and Members of Hyderabad Branch of SIRC – Host Branch of the Conference.
- Chairmen and Members of Managing committees of other 44 Branches of SIRC.
- Convenor and Deputy Convenor of CPE Study Circles, CPE Chapters, CPE Study Groups and CPE Study Circles for Members in Industry.
- Members who have facilitated various sponsorships.
- Masters of Ceremony.
- Event Sponsors Nalsoft private limited and GSR Infra group private limited
- Other Sponsors and Advertisers in Souvenir.
- Management of Shilpakala Vedika, the venue of the Conference.
- Senior Officials of Central and State Governments.
- All Service Providers.
- Student Volunteers.
- Print and Electronic Media.
- Officers and Staff of SIRC, SRO-Chennai and Hyderabad Branch of SIRC.

It is not an exaggeration but a matter of fact that the concrete and constructive coordination by all connected with the conference was the cornerstone for the stupendous success of the Conference.

### **MoU between ICAI and Govt. of Tamil Nadu:**

I am happy to share that ICAI had entered into a Memorandum of Understanding with the Government of Tamil Nadu on 20th December 2022 for imparting training to the officers of the Treasury and Finance Department of Government of Tamil Nadu. The MoU was signed between the Commissioner of Treasuries and Accounts of Government of Tamil Nadu Thiru K. Vijayendra Pandian, IAS and Secretary of ICAI CA. (Dr.) Jai Kumar Batra in the presence of Dr. Palanivel Thiaga Rajan, Hon'ble Minister for Finance and Human Resources Management, Government of Tamil Nadu, Thiru N. Muruganandam, IAS, Additional Chief Secretary to Government of Tamil Nadu, Finance Department, Central Council Members of ICAI CA. Rajendra Kumar P. and CA. Sripriya Kumar, Treasurer of SIRC CA. R. Sundararajan and Members of SIRC CA. Revathi S. Raghunathan and CA. Rekha Uma Shiv were also present on the occasion. The initiative of ICAI is yet another role as "Partner in Nation Building".



## **Looking Forward – Future Programmes:**

### **Metro Conference of SIRC:**

As a policy adopted by SIRC that whenever the Regional Conference is held outside Chennai a Metro Conference will be held at Chennai on a grand scale. We are working on the dates, topics and speakers for the Conference, the details of which will be hosted and also communicated through mails in due course.

I solicit the support of members, as always before, to make this event of SIRC with your participation a great success.

### **Republic Day Celebrations:**

On 26th January 2023 SIRC will be celebrating Republic Day at SIRC premises to mark the date on which our Indian Constitution came into effect on 26th January 1950. It will be a great honour for me to unfurl our National Flag on the day at our SIRC Premises. Let us on the occasion take pledge to rededicate ourselves to uphold the sanity of our Constitution. I extend to all our members and students our warm welcome and to join on this joyous occasion.

### **Train the Trainer Programme at Chennai**

CPE Committee of ICAI and Committee on Economic, Commercial Laws and Economic Advisory are organising 10th (TTT) (8th Physical) Two Days Intensive Train the Trainer Programme on "How to be a Global Speaker in One's Chosen Area" at Chennai on 20th and 21st January, 2023 hosted by SIRC of ICAI.

Members are invited to get benefit of this Train the Trainer programme. Details for the Non-Residential Participants and Registration and Payment link has been created at <https://bit.ly/3HZXTsN>. Complete details of the programme are given elsewhere in this Newsletter.

### **Union Budget – 2023:**

By the time the next month's SIRC Newsletter is in your hands, the Union Budget - 2023 would have been presented in the Parliament on 1st February 2023 by the Hon'ble Union Finance Minister. ICAI had submitted its Pre-Budget Memorandum to the Ministry of Finance offering suggestions on the proposed budget. In the past our experience is that many of the suggestions were considered while tabling the budget proposals.

SIRC will be, as in the past, organizing programmes on the budget proposals the details of which will be communicated to the members through SIRC Website and other channels of communications.

SIRC will be having many CPE Programmes during the month of January / February 2023 and the same is published in the Calendar of Events in Page No 6 of this Newsletter.

### **An Overview of Programmes in December 2022:**

#### **GST Symposium:**

The GST and Indirect Taxes Committee of ICAI under the Chairmanship of CA. Rajendra Kumar P conducted a Symposium on GST exclusively for the officials of the Central Tax, State Tax and Union Territory Tax Officers at Chennai on 15th and 16th December 2022. Senior officials from the respective departments attended the Symposium.

#### **D. Rangaswamy Memorial Lecture:**

The D. Rangaswamy Memorial Lecture was held on 19th December 2022 at SIRC Premises jointly by SIRC of ICAI, Society of Auditors and D. Rangaswamy Academy for Fiscal Research.



CA. V. Annapoorna, Head – Corporate Sales – India, Standard Chartered Bank delivered the memorial lecture on “Trends in Financial Markets Risk Management”.

Besides SIRC organized regular evening CPE Programmes. All the Branches of SIRC have also conducted many programmes to benefit the members with updates on topics of our professional interest as well as to facilitate them to comply with the minimum CPE requirements for the block of three years (01.01.2020 - 31.12.2022).

#### **Udyati-4 – Conference at Visakhapatnam:**

The Professional Development Committee of ICAI organized a Conference titled “Udyati-4” on 22nd December 2022 at Visakhapatnam which was hosted by Visakhapatnam Branch of SIRC. I had the pleasure of sharing the dais with our beloved Vice-President CA. Aniket Talati, the Chairman of Professional Development Committee of ICAI CA. Kemisha Soni and Vice-Chairman of Professional Development Committee of ICAI CA. D. Prasanna Kumar.

#### **Student Related Programmes:**

##### **International Students’ Conference:**

I had the privilege to participate in the International Students’ Conference at Hyderabad on 2nd and 3rd December with the theme “Facing the Future – Innovate, Integrate, Motivate”. The Conference was organized by the Students Skill Enrichment Board (BOS-Operations).

Hon’ble Dr. (Smt.) Tamilisai Soundararajan, Governor of Telangana and Hon’ble Lieutenant Governor of Union Territory of Puducherry inaugurated the Conference in the gracious presence of our beloved President of ICAI CA. (Dr.) Debashis Mitra and Vice-President of ICAI CA. Aniket Talati, Chairman, Students Skill Enrichment Board (Board of Studies - Operations) CA. Sushil Kumar Goyal, Chairman, Board of Studies (Academic) CA. Dayaniwas Sharma, Vice-Chairman of Board of Studies (Operations), CA. Sridhar Muppala. Large number of students across the country and abroad attended the Conference. Sri Konidela Pawan Kalyan, Popular Cine actor from Southern India was also present at the valedictory session and students are amazed with his presence and his inspirational speech.

It was one of the wonderful programmes hosted by the Hyderabad Branch of SIRC and Hyderabad Branch of SICASA.

Students Skill Enrichment Board (BOS-Operations) also organized Conferences for Students at Bengaluru, Madurai and Coimbatore.

#### **Announcements in ICAI Website:**

ICAI has been coming out with various announcements which are directly related to our members and students through its Website. SIRC requests members to access our ICAI Website at regular intervals for updates.

Greetings:

SIRC wishes all the members and students a very happy and joyful Pongal (Mahara Sankaranthi and Vishu).

With warm regards,

**CA. China Masthan Talakayala**  
Chairman - SIRC of ICAI



# CPE PROGRAMMES – JANUARY 2023

Regn: <https://bit.ly/sirclogin>

Forthcoming CPE Meeting JANUARY 2023

Date	Timings	Mode	Topic	Resource Persons	Fees Exclusive of GST Rs.	CPE
3rd January 2023 Tuesday	11 AM - 1 PM	Physical	“ e-Verification Scheme, 2021 & Compliance Management - Interaction with DIT, I&CI “	1. Dr. P.V. Pradeep Kumar, IRS, DIT (I & CI). 2. Smt. Pavuna Sundari. E, IRS, Addl.DIT (I & CI). 3. Smt. S. Aruna, IRS, DDIT (I & CI)	118	2
6th January 2023 Friday	5 PM - 7 PM	Physical	Practical issues in e-assessment and e-appeal (Income Tax)	CA Petchi Kannan	118	2
9th January 2023 Monday	5 PM - 7 PM	Virtual	Audit documentation for Corporates - FY 23-24	CA. ADITHYA R	118	2
11th January 2023 Wednesday	5 PM - 7 PM	Virtual	Applicability of FCRA to CSR funding	CA. Murali Krishana	118	2
12th January 2023 Thursday	5 PM - 7 PM	Virtual	Cyber Security in an IT Driven World	CA. Uday Kumar D. V. N	118	2
13th January 2023 Friday	5 PM - 7 PM	Virtual	Standards on Auditing relevant to Small Practitioners	CA.BADRI NARAYANAN K	118	2
18th January 2023 Wednesday	5 PM - 7 PM	Virtual	“Expanding Your Business to the United States from India”	Mr. Vinay Navani, CPA, New York	118	2
20th & 21st January 2023 Friday & Saturday	10AM - 5 PM	Physical	Two Days Intensive Train the Trainer (TTT Programme) Physical CPE Meeting on How to be a Global Speaker in One's Chosen Area "	Full details inside	1180	12
25th January 2023 Wednesday	6PM - 8PM	Virtual	Recent GST Updates and Judgements	CA. Deepika Ganesan	118	2
26th January 2023 Thursday	9AM	Physical	Republic Day Celebrations	-	-	-

CPE Credit on attending full programme only Prior Registration Complusory : <https://bit.ly/sirclogin>

## REPUBLIC DAY CELEBRATIONS

Thursday, 26<sup>th</sup> January 2023

Time: 9.00 am.

Venue: SIRC of ICAI No.122,  
Mahatma Gandhi Road,  
Nungambakkam , Chennai- 600034

*National Flag Unfurling*

at the lawns of the Institute's Premises  
( Covid 19 Protocol will be maintained)

## OBITUARY



SIRC records its heartfelt condolences to the bereaved family of Mr. N. Srinivasan who passed away in Chennai on 16th December 2022. Mr. N. Srinivsan was a Member of SIRC

for two terms between 1967-1970 and 1970-1973. He was Chairman of SIRC in the year 1969-1970.

He was also the Central Council Member of ICAI between 1976-1979.

May His soul rest in peace.



## Understanding the Difference: Hoisting and Unfurling

On 15th August, Prime Minister Narendra Modi will hoist the National flag to honour the historical event of India's Independence. On Republic Day, the President of India unfurls the flag on Rajpath before presiding over a parade. While both the events honour and pay respect to the national flag and might look the same in one way or another, but there are some differences in the ceremonies.

1. On Independence Day, the hoisting of the flag signifies the rise of a new nation, free from colonial domination. On Republic Day, the country celebrates the day when the Constitution was adopted.
2. The positioning of the flag matters a lot! One can spot the difference in unfurling and hoisting in the positioning of the flag. When the national flag hoists, it is tied and sits at the bottom of the pole. It is the Prime Minister who raises the national flag up and hoists it with the aim to honour the historical event of the day. Whereas, when the flag is unfurled on Republic Day, it is closed and tied at the top of the pole. The President unfurls it without pulling the flag up as it takes place on Independence Day.
3. The difference between the two ceremonies is that when India became Republic, it was already Independent.

## Draft Bank Branch Auditors' Panel (MEF) for the year 2022-23

We are pleased to inform that the Draft Bank Branch Auditors' Panel (MEF) of Chartered Accountants/firms for the year 2022-23 has been hosted at [www.meficai.org](http://www.meficai.org). Kindly note that it is a Draft Panel and the category of the applicants of Multipurpose Empanelment Form for the year 2022-23 is subject to verification of Financial Documents of the applicants. Changes or inconsistencies if any, will be communicated separately to the applicants.

The following details can be viewed by the applicants by giving MEF No./FRN or MRN in case of individual:

MEF No.

FRN No.

Name of the Applicant

Unique Code Number

Category

District

Reason for ineligibility, if any

The applicants would also be able to view the reasoning for change in their category, wherever applicable, in the Draft Panel itself. However, in case of any observations/complaints the applicants may raise the query with details at <https://app.meficai.org/complaints> which will be suitably addressed and replied individually.

The Draft Panel will be available up to Friday, 6th January, 2023. Complaints if any have to be lodged by then. After suitable addressal of the queries, the final panel will be sent to RBI for their consideration.

With kind regards,  
Professional Development Committee

## OBITUARY

Sl.No.	MRN	Name	Status	Place	Date of Death
01	012938	PANTULU PATTAPURATI CHENCHIAIAH	FCA	SECUNDERABAD	27/Nov/2022
02	231770	MADHUSUDHANA REDDY K S	FCA	HYDERABAD	05/Dec/2022

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



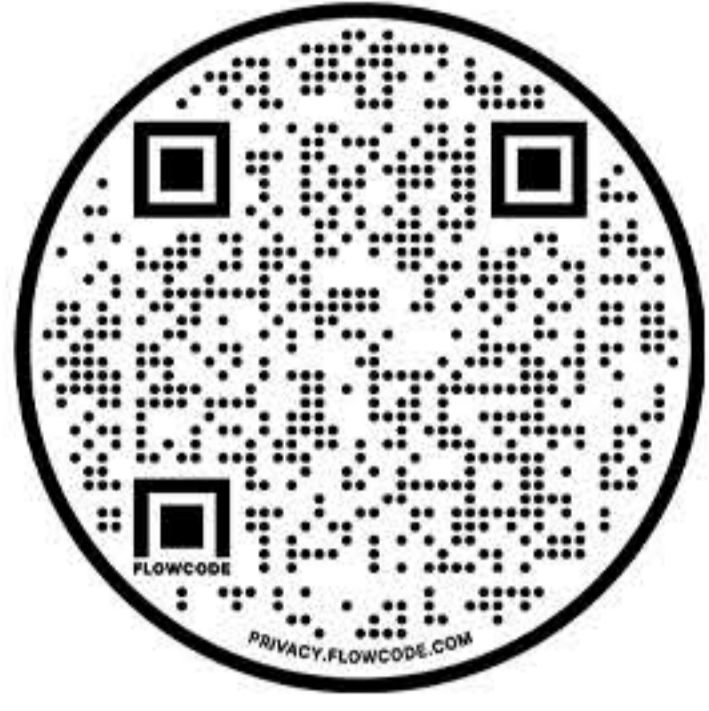
## CPE programmes conducted by SIRC of ICAI

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

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

## UPDATES

### Corporate Law



Contributed by:

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Chennai

asir.cs@gmail.com  
9500003636

### FEMA

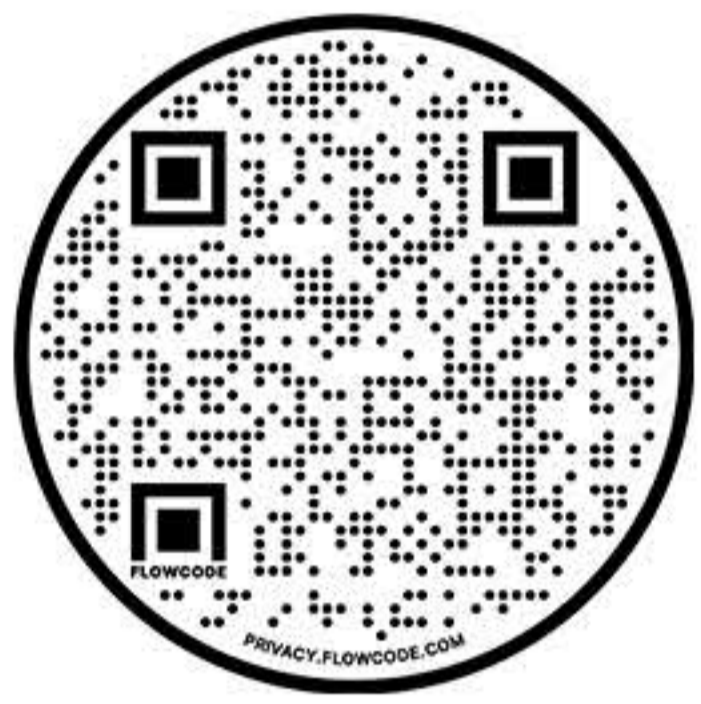


Contributed by:

CA. G. Murali Krishna,  
Hyderabad

gmk@grandhiandassociates.in  
9849992493

### Goods and Services Tax

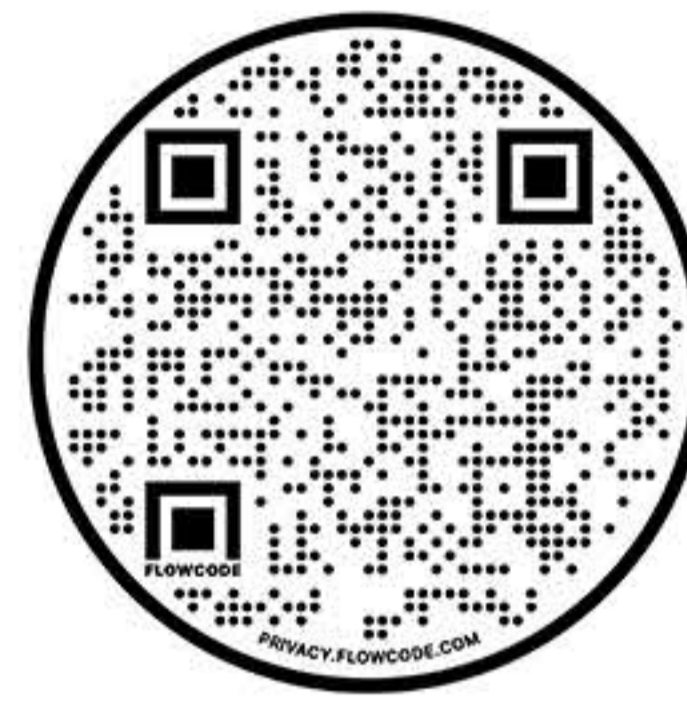


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99945346441

### Information Technology

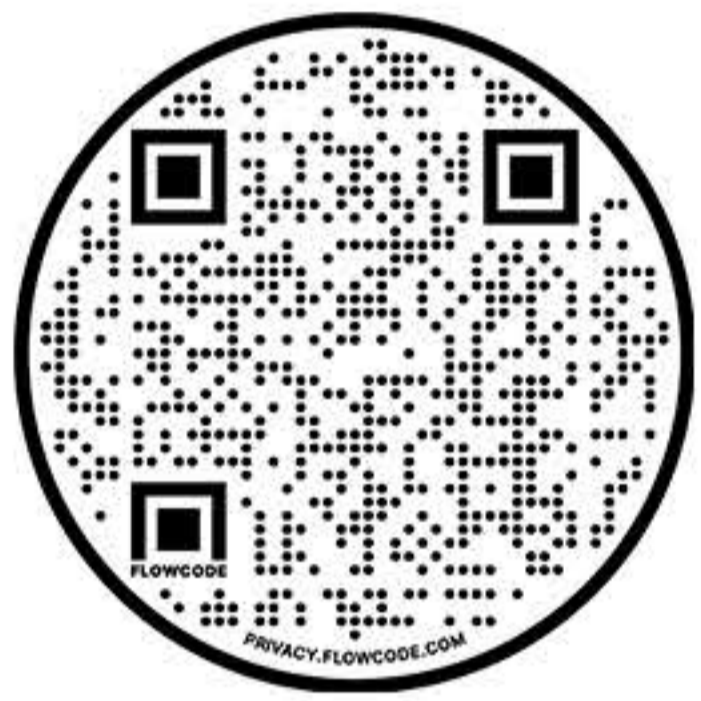


Contributed by:

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9500026130

### INCOME TAX



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CA.V.K. Subramani,  
Erode

vksintax@gmail.com  
9944394495

### Karnataka VAT-GST

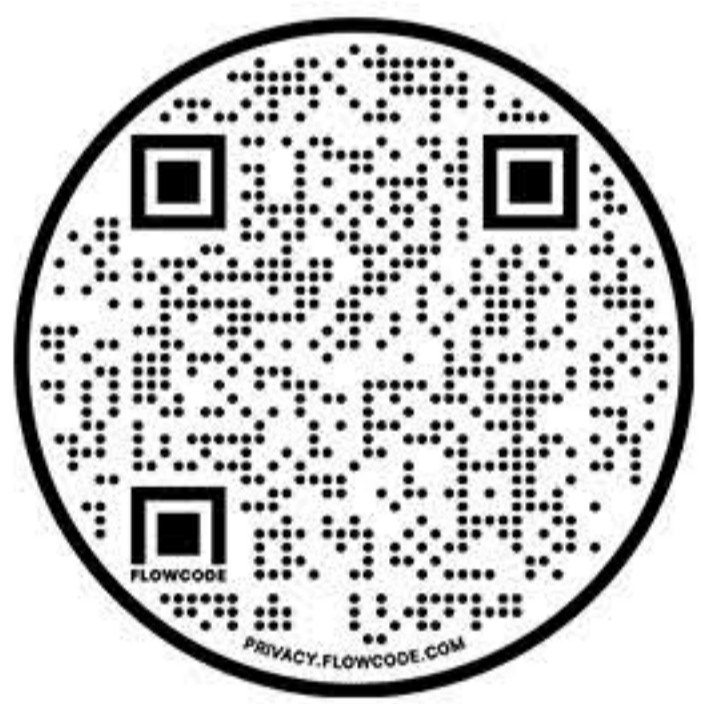


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9972077441

### SEBI

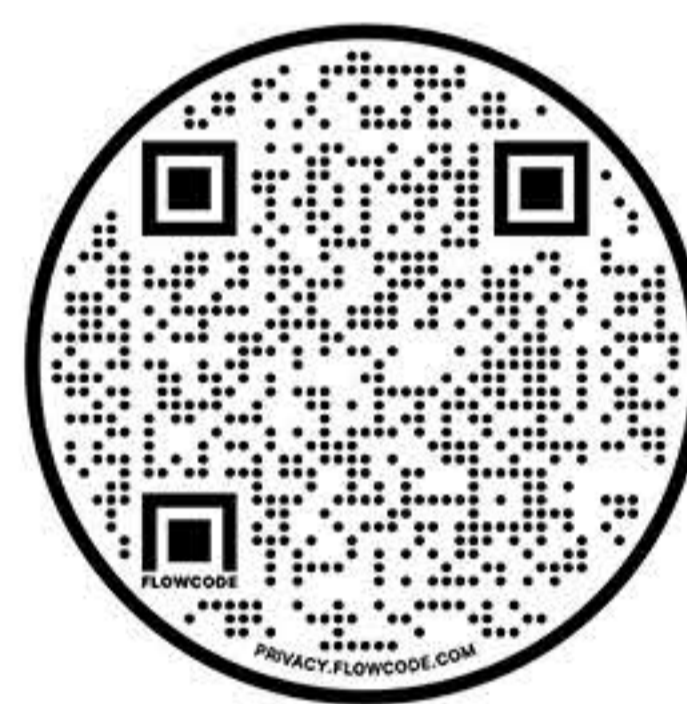


Contributed by:

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Nellore.

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9390221100

### Tamil Nadu VAT



Contributed by:

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Chennai

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6382977630

## IMPORTANT ANNOUNCEMENT

### VRIDDHI - 54<sup>TH</sup> REGIONAL CONFERENCE OF SIRC OF ICAI - CONFERENCE KITS TO THOSE REGISTERED FOR PHYSICAL PROGRAMME BUT COULD NOT ATTEND THE CONFERENCE

Delegates of the 54<sup>th</sup> Regional Conference of SIRC of ICAI who have registered for physical participation but could not attend the conference and those who have not collected the kit, can collect the conference kits from Hyderabad Branch of SIRC of ICAI, 11-5-398/C, near Niloufer Hospital, Red Hills, Lakdikapul, Hyderabad, Telangana 500004.

Contact Official at Hyderabad Office: Ms. Uma Suresh, Sr. Executive Officer: 9290791701

Last date for collecting the kits: 31<sup>st</sup> January 2023.

Chairman

SIRC of ICAI

### Disclaimer

The SIRC/ICAI does not accept any responsibility for the views expressed in different contributions/ advertisements published in this Newsletter.





Greetings to you

It is a great Privilege and opportunity to address you through this LEADERS THOUGHT message by each of the Regional Council Member and Central Council Member

During this year as Secretary of SIRC of ICAI, I have observed various Initiatives of ICAI which are very necessary for the enrichment of the member which in turn will culminate to the profession.

As our profession demands that **LEARNING IS NEVER ENDING** for a professional and in this context, we at SIRC ensured that we have large number of events, seminars, conferences all across **SOUTH INDIA** on regular basis both Physical and Virtual. We have conducted number of programs at SIRC office in Chennai and encouraged and supported all branches to perform their best by arranging maximum events for the enrichment of members. The Pinnacle of this programs was the **54th REGIONAL CONFERENCE** held at **HYDERABAD** on 9th & 10th December 2022. It was a **MEGA** event and we had devoted around 3 months for the **GRAND SUCCESS** of the Conference.

For a Professional in terms of **LEARNING**, there is only **COMMA**, but not **FULL STOP**. As the client, compliance requirements have to be met and in that sense we have to be **UPDATED** otherwise, we will be **OUTDATED**. The changes in law or compliance are happening at very fast pace and to catch-up, we need large number of events and CPE seminar, Conferences. Technological up-gradation is a very important requirement for all members, so long they are in active role either in practice or in employment. There are also lot of changes which will impact the profession in form of **AQMM, DCMM, NOCLAR** etc. Members have to ensure they meet the requirements to be able to comply the standards.

The opportunities in **NON CORE** areas are every increasing and all the members should plan to expand their horizons beyond the **TRADITIONAL** works. This will increase our revenues and reduce the under-cutting of fee. I strongly suggest that we show the ICAI's - **MINIMUM RECOMMENDED FEE STRUCTURE** to every client and make them understand, to meet the expectations of clients, our services have to be remunerated properly. The future belongs to the **NETWORKING, MERGING** and **LARGE FIRMS**. Small firms will find it difficult to sustain the pressure of clients as the expectations will ever increase wrt to various advises or activities which a Propreitor or small firm may not be able to serve. I request small firms either to merge or network for a long term benefit.

I am sure **MEMBERS** would use all the opportunities which come to our profession with open arms and widen their skills and horizons for providing excellent service to the client.  
**WISHING YOU & ALL YOUR FAMILY MEMBERS A HAPPY NEW YEAR 2023**

CA. Naresh Chandra Gelli  
Secretary  
SIRC of ICAI



## Glimpses of 54th Regional Conference at Hyderabad on 9<sup>th</sup> and 10<sup>th</sup> December 2022



## 54<sup>th</sup> Regional Conference - Resource Persons



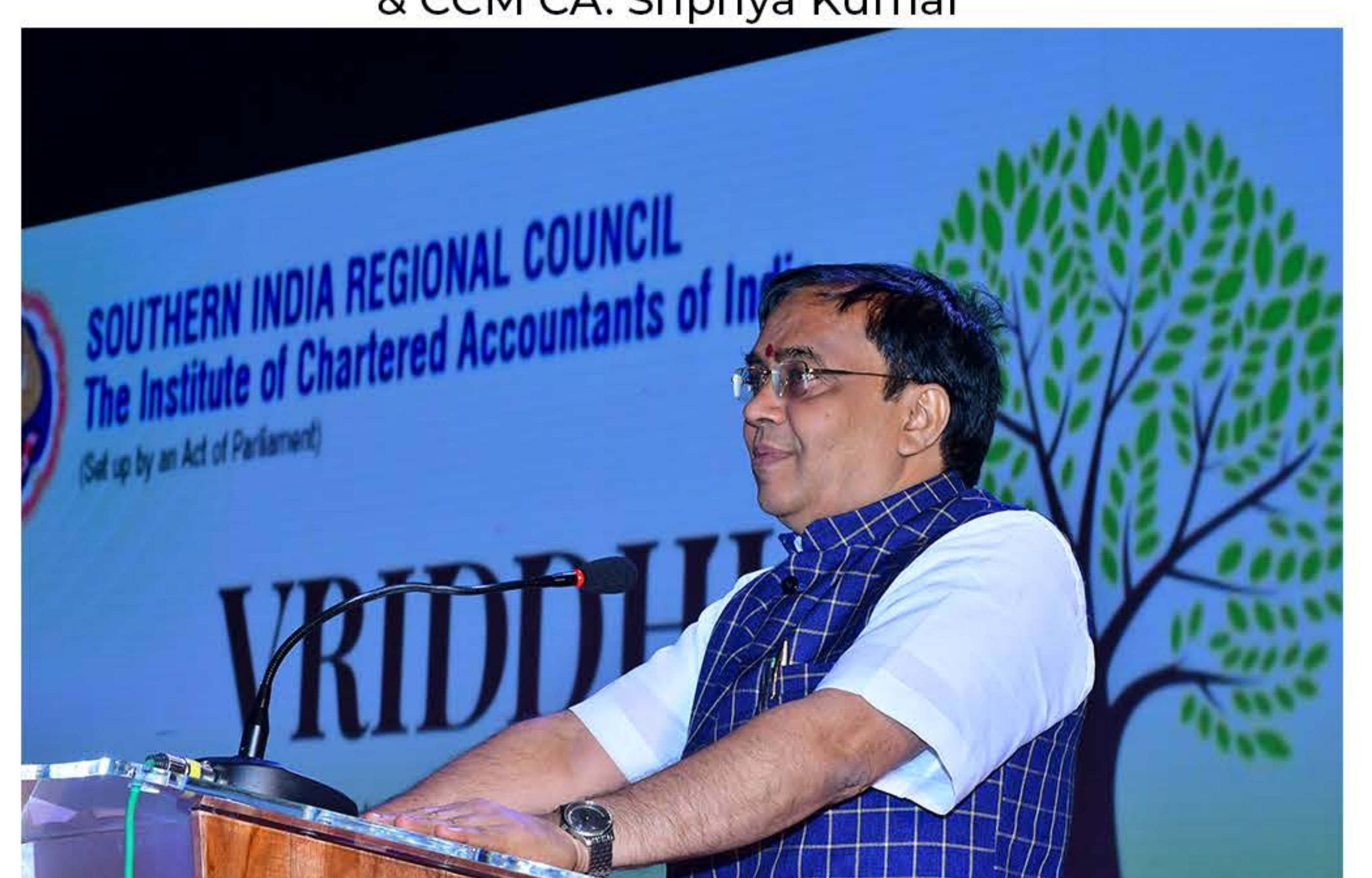
CA. Ganesh Balakrishnan



CA. P.R. Ramesh, CA. Murali Krishna C., CA. M.P. Vijay Kumar & CCM CA. Sripriya Kumar



Mr. Dhiraj Kumar Sinha



CA. G. Sekar





CA. Venkata Seshiah Nalluri



CA. T.N. Manoharan



CA. Paras Savla



Swami Bodhamayananda



CA. Amit Dubey



CA. Girish Vanvari



CA. Mithilesh Sai



CA. Hemanth Gupta



CA. Guru Prasad M



CA. Brijeshh Verma



CA. Debmalya Maitra



CA. Premnath



CA. Anand Prakash Jangid





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

# FOUR WEEKS RESIDENTIAL PROGRAMME ON PROFESSIONAL SKILLS DEVELOPMENT

Organised by  
**SSEB, Board of Studies (Operations)**

**Hyderabad COE for Boys**

**The Assam Royal Global University,  
Guwahati campus for Girls**

**AVAIL AN OPPORTUNITY** To Register With  
**75% DISCOUNTED FEES LIMITED SEATS**



**Venue** : Centre of Excellence, Hyderabad  
**Participants** : Boys (CA Students)  
**Fees** : ~~Rs. 48,000/-~~ Rs. 12,000  
**Date (From & To)** : 2<sup>nd</sup> Jan to 28<sup>th</sup> Jan, 2023

**Venue** : Royal Global University, Guwahati  
**Participants** : Girls (CA Students)  
**Fees** : ~~Rs. 48,000/-~~ Rs. 12,000  
**Date (From & To)** : 2<sup>nd</sup> Jan to 28<sup>th</sup> Jan, 2023



**Registration on First come First basis and batches will be allotted as per eligibility.**

**Eligibility- CA students who have completed one year of articleship are eligible to join the course.**

For further assistance please contact : **+91 9958121521 | Email id - smita.taneja@icai.in**

Disclaimer - The scheme of Four weeks Residential Program may be modified or altered at any time. All decisions about the aforesaid scheme shall be at the sole discretion of ICAI and binding on all. ICAI reserves the right to change the dates and other modalities as per the requirement.

For Registration : <https://www.icai.org/category/four-weeks-residential-programme>





**Southern India Regional Council of  
The Institute of Chartered Accountants of India**  
(Set up by an Act of Parliament)

**HYBRID  
MODE**

**Morning Batch**

# Are you writing your May 2023 CA Foundation Examinations?

**LEARN FROM THE BEST - YOUR ALMAMATER**

## SIRC - CA FOUNDATION Classes

**Course Dates**  
From: 27/01/2023 To: End of Apr 2023

**Timing: 6.30 A.M. to 12.30 P.M.**  
**Duration: 5 Hours (All Days)**

**Last Date of Registration:**  
25/01/2023

**FEES:** Physical : Rs.15,000/- only  
Virtual : Rs.11,000/- only

## FREE RAPID REVISION CLASSES - 15 DAYS

**Recorded sessions will be available for Fixed period in ICAI DLH website  
till completion of June 2023 Examination**

**SUNDAY TEST SERIES : 8 TESTS**

**MOCK TESTS : 1 TEST**

Refer Link for details : <http://bitly.ws/xhsN>

Paper	Subject	Hours	Self Assessment MCQ No. of Tests
Paper -1	Principles & Practice of Accounting	120 Hrs	20
Paper -2A Paper -2B	Business Law Business Correspondance & Reporting	120 Hrs	10 10
Paper -3	Business Mathematics Logical Reasoning Statistics	120 Hrs	10 5 5
Paper -4	Business Economics Business and Commercial Knowledge	120 Hrs	10 10

**Link for Registration: <https://www.sirc-icai.org/view-batches.php>**

**NO FEE**

**For Govt. & Govt. Aided School Students of Southern Region States**  
(Tamil Nadu, Kerala, Karnataka, Andhra, Telangana and Union Territory of Pondicherry)  
(10th/11th/12th Mark Sheet - Attach Proof of Govt. Aided School)

**CA. China Masthan Thalakyala**  
Chairman, SIRC of ICAI

**HELPLINE**

Mobile: 96771 26011, 73585 06400, 82205 22669  
Phone: 044-3021 0323 / 300 / 370 / 379 / 359  
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**Invitation to participate in 10th (TTT) (8th Physical) Two Days Intensive Train the Trainer Programme on "How to be a Global Speaker in One's Chosen Area" organized by CPEC & CECLEA on 20th & 21st Jan 2023 at ICAI Bhawan, P.Brahmayya Memorial Hall, Chennai**

Dear Member,

CPE Committee of ICAI and Committee on Economic, Commercial Laws and Economic Advisory are organising 10th (TTT) (8th Physical) Two Days Intensive Train the Trainer Programme on "How to be a Global Speaker in One's Chosen Area" at P. Brahmayya Memorial Hall, ICAI Bhawan, Mahatma Gandhi Road, Nungambakkam, Chennai on 20th and 21st January, 2023 hosted by SIRC of ICAI.

Members are invited to get benefit of this Train the Trainer programme.

Details for the Non-Residential Participants

Registration and Payment link (Rs 1000+GST) (i.e. Non-Residential Participants):  
<https://bit.ly/3HZXTsN>

Google form required to be filled in by participants after paying the registration fee for evaluation and shortlisting by the Committee (2-5 minutes video/ presentation on the subject). Filling of google form is mandatory for confirmation of registration even after paying the registration fee: <https://forms.gle/dfNMqfMHHLttzR4i9>

After registration, please join WhatsApp group for 10th (8th Physical) Two Days Intensive Train the Trainer (TTT) Programme at

\*<https://chat.whatsapp.com/Gnqt15T1p4ZKjBle36biUb>

for last Date of Registration: 18.01.2023

With warm Regards,

CA. (Dr.) Rajkumar S. Adukia

Chairman, CPE Committee & Committee on Economic, Commercial Laws and Economic Advisory (CECLEA)

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**The Institute of Chartered Accountants of India**  
(Setup by an Act of Parliament)  
New Delhi

# **10<sup>th</sup> (8<sup>th</sup> Physical) Two Days Intensive Train the Trainer (TTT) Programme**

*“How to be a Global Speaker in One's Chosen Area”*

**20<sup>th</sup> - 21<sup>st</sup> January, 2022**

***Physical Mode Only***



Organized by **CPE Committee** Jointly with **Committee on  
Economic Commercial Laws & Economic Advisory of ICAI**

Hosted by **SIRC of ICAI**

Venue : **P. Brahmaya Memorial Hall, “ICAI Bhawan”,  
No. 122, Mahatma Gandhi Road, Nungambakkam, Chennai – 600 034**





### About the Continuing Professional Education Committee:

The profession of Chartered Accountancy has always been recognized for the quality of education, training and strong grip over technical standards. With globalization and increasing business complexities, it is essential that Chartered Accountants equip themselves with the changes occurring and stand out to the expectations of the society. The Committee is constantly working and contributing to cater the needs and requirements of our members and has taken various initiatives for them from time to time in this direction.

### About the Committee on Economic, Commercial Laws & Economic Advisory:

The Committee in line with one of the Institute's objectives "Partners in Nation Building" and with a vision to contribute to economic development of India, aims to undertake such activities to technically equip/broaden the scope of expertise of the members to enable them to derive advantages in the rapidly changing scenario and to enable the members to render various business advisory and support services. The Committee's mandate inter alia includes serving the multi-functional task of Analysis, Knowledge dissemination, inputs to regulators on policy formulation, organization of various programs on contemporary issues and certificate courses in the fields of Economic & Commercial Laws.



### Why Train the Trainer Programme

Training the trainers is important as it helps them impart their respective trainings more efficiently and effectively. It gives them an opportunity to work on their skills and core competencies and come out with something more exciting, innovative and unique, eventually benefitting the end – users. It is necessary for the trainers to keep themselves abreast with the changes or latest developments in their respective genres. Trainers need to keep pace with the ever-changing technology and thus it is crucial for them to sit and incorporate necessary changes in their training style or course module under the expert guidance of an individual.



#### Eligibility to Participate

- Members of ICAI from All over India.
- Having good command over subject area.
- Google form <https://forms.gle/dfNMqfMHHLtzR4i9> required to be filled in by participants after paying the registration fee for evaluation and shortlisting by the Committee (2-5 minutes video/ presentation on the subject). Filling of google form is mandatory for confirmation of registration even after paying the registration fee.
- Members who have already participated in any Physical Train the Trainer Programme during the current Council year organised by CPEC and/or CECLEA are not eligible.
- Attendance twice in a day and for whole programme is mandatory to get participation certificate and CPE Credit.



#### Stay & Travel Cost

To and Fro travel from residence to venue and stay cost if any will be borne by the Participant.



#### Note for Participants

Kindly note that **Train The Trainer Programmes** are designed keeping in mind that participants are having good command and knowledge about the subject. Objective of programme is to make understand how to structure the session on a specific subject/what are the key areas which should be covered. In the programme participants will acquire and sharpen their presentation and delivery skills.



#### Number of Seats

30 to 50 Participants (First Cum first serve basis).



#### Incentive

- Participants will get chance in upcoming VCM / Webinars of committees to become moderator/ faculties.
- Participation Certificate may be given after successful participation in programme (subject to 100% attendance on all days and participating in MCQ based Evaluation Test which will be conducted during/at the end of programme).



#### Disclaimer

CPE Committee/ CECL & EA reserve the right to amend any or all of the criteria for selection of participants, venue, fee or any condition as mentioned above. Also, Committee(s) reserves the right to change/cancel the event without any prior notice/giving the reason and participants will have no right to claim for expenditure/ loss incurred by them towards participation in this programme.





# PROGRAMME STRUCTURE

12 CPE HRS  
STRUCTURED

Day 1		
Time	Topic	Speaker
9:30 AM - 10:00 AM	<b>Registration and Networking</b>	
10:00 AM - 10:30 AM	<b>Inaugural Address &amp; Welcome Address</b>	
10:30 AM - 01:30 PM	<b>Creating Impactful Sessions</b> <ul style="list-style-type: none"> <li>• Design a training course targeted for learners and Trainers</li> <li>• Learn how to communicate one's message effectively</li> <li>• Develop techniques to overcome barriers to learning</li> <li>• Gain techniques for providing encouragement and coaching during the training process</li> </ul>	<b>Eminent Speaker</b>
01.30 PM – 02.30 PM	<b>Lunch &amp; Networking Break</b>	
02.30 PM – 4.30 PM	<b>Creating Impactful Sessions and Activities</b>	<b>Eminent Speaker</b>
04.30 PM – 4.45 PM	<b>Tea Break</b>	
04.45 PM – 5.45 PM	<b>Activities, Mock Presentations by Participants</b> {Kindly Note: Participants need to prepare small PPTs of their interest area of 4-5 mins to present before faculties for their feedback and to suggest area of improvement}	<b>Eminent Speaker</b>
Day 2		
9:30 AM - 10:00 AM	<b>Registration and Networking</b>	
10.00 AM - 11.00 AM	<b>Welcome Address and Technical Session</b> <ul style="list-style-type: none"> <li>• How to master a subject</li> <li>• How to do Research</li> <li>• How to Prepare Speech</li> <li>• How to Write book</li> </ul>	<b>Eminent Speaker</b>
11.00 AM - 01.00 PM	<b>Sub Conscious mind based public speaking</b>	<b>Eminent Speaker</b>
01.00 PM – 02.00 PM	<b>Lunch &amp; Networking Break</b>	
02.00 PM - 05.00 PM	<b>Activities, Mock Presentations by participants</b> {Kindly Note: Participants need to prepare small PPTs of their interest area of 4-5 mins to present before faculties for their feedback and to suggest area of improvement}	<b>Eminent Speaker</b>
05.00 PM - 05.05 PM	<b>Valedictory Session</b>	

Organized by **CPE Committee** Jointly with **Committee on Economic Commercial Laws & Economic Advisory of ICAI**

Hosted by **SIRC of ICAI**

Venue : **P. Brahmayya Memorial Hall, "ICAI Bhawan",  
No. 122, Mahatma Gandhi Road, Nungambakkam, Chennai – 600 034**





**The Institute of Chartered Accountants of India**  
(Setup by an Act of Parliament)  
New Delhi

# 10<sup>th</sup> (8<sup>th</sup> Physical) Two Days Intensive Train the Trainer (TTT) Programme

*“How to be a Global Speaker in One's Chosen Area”*

**20<sup>th</sup> - 21<sup>st</sup> January, 2022**

**Physical Mode Only**

## Who is the Trainer?

- |               |            |                    |
|---------------|------------|--------------------|
| 1. Coach      | 5. Speaker | 9. Counselor       |
| 2. Instructor | 6. Faculty | 10. Guide          |
| 3. Teacher    | 7. Mentor  | 11. Mother/ Father |
| 4. Guru       | 8. Advisor |                    |

## Advantages of becoming Trainer

### A. Benefits to self-

1. Self-actualization- self actualisation need being fulfilled/spiritual development
2. Self-realization-our mistakes and its corrective ways
3. Understanding our Passionate area
4. Clear vision, deep understanding
5. Unlimited happiness. Success comes with happiness, not with money
6. Increasing creativity-innovative ideas
7. Curiosity to learn
8. Meeting new people and strengthening network : network is net worth
9. Making money- Time and money freedom (with patience and practise) there is unlimited potential to earn money when giving training to one to one and in groups (money is by product)- it comes automatically  
By way of royalty income Books publishing  
Articles/newsletter addressing state - national - international conferences  
Online courses
10. Becoming lifelong learner L3

### 11. Understanding subject as toddler

12. Widening general knowledge
13. Collect unbelievable blessings
14. Realizing our true potential
15. Becoming an expert
16. Single teaching is double learning (unbelievable discoveries through training)
17. To leverage precious asset: Time
18. Exploring new places
19. Become our own boss
20. Train our subconscious mind to get success

### B. Benefits to Family/Friends/ Relatives-

1. Making children leader
2. Example for children
3. Imparting knowledge to our own children/ friends and relatives
4. Guide them in career establishment

### C. Benefits to organization

1. Making team members leader-Mastermind
2. More and more clients through networking and knowledge sharing
3. More opportunities for speaking, writing

### 4. More revenue generation

5. Knowledge upgradation of team members

### D. Benefits to Professionals-

1. Professional members leader
2. Most noble profession
3. Chance to change other's lives
4. Institute promotion

### E. Benefits to others- Institute/ Govt./ Society

1. Making society leader
2. Be a change agent
3. Serve the humanity
4. Creating legacy
5. Make nation superpower
6. Positive Environment-To make a world better place to live in
7. Huge significance in society
8. Economy of the nation-strong
9. Reputation at Global level

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Venue : **P. Brahmaya Memorial Hall, "ICAI Bhawan",  
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Commencing from 04.01.2023 to 24.01.2023

BATCH NO	TIMINGS
ICITSSITT_CHENNAI_5	07.30 A.M TO 01.30 P.M
ICITSSITT_CHENNAI_6	01:45 P. M To 07:45 P.M.
ICITSSITT_CHENNAI_7	07.30 A.M TO 01.30 P.M
ICITSSITT_CHENNAI_8	01:45 P. M To 07:45 P.M.

**Orientation Course (ICITSS-OC)**

Commencing from 03.01.2023 to 20.01.2023

BATCH NO	TIMINGS
ICITSSOC_CHENNAI_5	07.00 A.M TO 01.30 P.M
ICITSSOC_CHENNAI_6	01.45 P.M TO 08.15 P.M
ICITSSOC_CHENNAI_7	07.00 A.M TO 01.30 P.M
ICITSSOC_CHENNAI_8	01.45 P.M TO 08.15 P.M

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

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Commencing from 03.01.2023 to 20.01.2023

BATCH NO	TIMINGS
AdvICITSSMCS_CHENNAI_5	07.00 A.M TO 01.30 P.M
AdvICITSSMCS_CHENNAI_6	01.45 P.M TO 08.15 P.M
AdvICITSSMCS_CHENNAI_7	07.00 A.M TO 01.30 P.M

**Advanced Information Technology Training (AICITSS- AIT)**

Commencing from 04.01.2023 to 24.01.2023

AICITSSAdvITT_CHENNAI_3	07.30 A.M TO 01.30 P.M
AICITSSAdvITT_CHENNAI_4	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](https://www.icaionlineregistration.org/Admin_Module/login.aspx)**NEW TECHNICAL PUBLICATION OF ICAI****1. Implementation Guide to Standard on Auditing (SA) 230 Audit Documentation (Revised 2022 Edition)**<https://resource.cdn.icaai.org/72414aasb58321.pdf>**Next Batch of SIRC Coaching Classes -2023**

COURSE & EXAM	COMMENCE ON	DURATION	LAST DATE FOR REGN.
Foundation (Morning Batch) – May 23	27.01.2023	3 Months	26.01.2023
Intermediate – November 23	24.03.2023	6 Months	23.03.2023
Intermediate (RRC)–May 23	10.03.2023	1.5 Months	09.03.2023
Final – November 23	24.03.2023	6 Months	23.03.2023
Final (RRC) – May 23	10.03.2023	1.5 Months	09.03.2023

For Reg: [www.sirc-icai.org/view-batches.php](http://www.sirc-icai.org/view-batches.php)**SIRC Sunday Practice Test Series for May 2023 exams - Commences on 4<sup>th</sup> Feb. 2023**For Reg: [www.sirc-icai.org/view\\_cevent\\_batches.php](http://www.sirc-icai.org/view_cevent_batches.php)



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## Corporate Law Update

Since there is no recent notifications / circulars / amendments with regard to Companies Act, 2013, Let us discuss the provisions related to the Registered office.

### Sec 12 - Registered Office of Company

(1) A company shall, within 30 days of its incorporation and at all times thereafter, have a registered office capable of receiving and acknowledging all communications and notices as may be addressed to it.

(2) The company shall furnish to the Registrar verification of its registered office within a period of 30 days of its incorporation in such manner as may be prescribed.

Rule - 25 Verification of Registered Office of The Companies (Incorporation) Rules, 2014

(1) The verification of the registered office shall be filed in Form No.INC.22 along with the fee, and

(2) There shall be attached to said Form, any of the following documents, namely :-

(a) the registered document of the title of the premises of the registered office in the name of the company; or

(b) the notarized copy of lease or rent agreement in the name of the company along with a copy of rent paid receipt not older than one month;

(c) the authorization from the owner or authorized occupant of the premises along with proof of ownership or occupancy authorization, to use the premises by the company as its registered office; and

(d) the proof of evidence of any utility service like telephone, gas, electricity, etc. depicting the address of the premises in the name of the owner or document, as the case may be, which is not older than two months.

(3) Every company shall :-

(a) paint or affix its name, and the address of its registered office, and keep the same painted or affixed, on the outside of every office or place in which its business is carried on, in a conspicuous position, in legible letters, and if the characters employed therefor are not those of the language or of one of the languages in general use in that locality, also in the characters of that language or of one of those languages;

(b) have its name engraved in legible characters on its seal, if any;

(c) get its name, address of its registered office and the Corporate Identity Number along with telephone number, fax number, if any, e-mail and website addresses, if any, printed in all its business letters, billheads, letter papers and in all its notices and other official publications; and

(d) have its name printed on hundies, promissory notes, bills of exchange and such other documents as may be prescribed:



Provided that where a company has changed its name or names during the last two years, it shall paint or affix or print, as the case may be, along with its name, the former name or names so changed during the last two years as required under clauses (a) and (c):

Provided further that the words "One Person Company" shall be mentioned in brackets below the name of such company, wherever its name is printed, affixed or engraved.

(4) Notice of every change of the situation of the registered office, verified in the manner prescribed, after the date of incorporation of the company, shall be given to the Registrar within 15 days of the change, who shall record the same.

(5) Except on the authority of a special resolution passed by a company, the registered office of the company shall not be changed :-

(a) in the case of an existing company, outside the local limits of any city, town or village where such office is situated at the commencement of this Act or where it may be situated later by virtue of a special resolution passed by the company; and

(b) in the case of any other company, outside the local limits of any city, town or village where such office is first situated or where it may be situated later by virtue of a special resolution passed by the company:

Provided that no company shall change the place of its registered office from the jurisdiction of one Registrar to the jurisdiction of another Registrar within the same State unless such change is confirmed by the Regional Director on an application made in this behalf by the company in the prescribed manner.

(6) The confirmation referred to in sub-section (5) shall be communicated within a period of thirty days from the date of receipt of application by the Regional Director to the company and the company shall file the confirmation with the Registrar within a period of sixty days of the date of confirmation who shall register the same and certify the registration within a period of thirty days from the date of filing of such confirmation.

(7) The certificate referred to in sub-section (6) shall be conclusive evidence that all the requirements of this Act with respect to change of registered office in pursuance of sub-section (5) have been complied with and the change shall take effect from the date of the certificate.

(8) If any default is made in complying with the requirements of this section, the company and every officer who is in default shall be liable to a penalty of Rs.1000/- for every day during which the default continues but not exceeding Rs.1 Lakh.

(9) If the Registrar has reasonable cause to believe that the company is not carrying on any business or operations, he may cause a physical verification of the registered office of the company in such manner as may be prescribed and if any default is found to be made in complying with the requirements of sub-section (1), he may without prejudice to the provisions of sub-section (8), initiate action for the removal of the name of the company from the register of companies under Chapter XVIII.

Points to Remember

Details of Registered office intimation to be done to the Registrar

- within 30 days of its incorporation
- within 15 days after incorporation

Wish all the members a Happy & Prosperous New Year 2023.



## **I. Hedging of Foreign Exchange Risk in Commodities**

RBI issued A. P. (DIR Series) Circular No. 21, dated December 12, 2022 for making significant changes in the regulations pertaining to Hedging of Foreign Exchange Risk related to commodities and related freight.

Vide the said amendment the previous circulars viz., (i) A. P. (DIR Series) Circular No. 19 dated March 12, 2018 on Hedging of Commodity Price Risk and Freight Risk in Overseas Markets and ii) A. P. (DIR Series) Circular No. 16 dated January 15, 2020 on Hedging of Commodity Price Risk and Freight Risk in Overseas Markets – Amendment, stands repealed

### **Summary of the amendments are provided herein below:**

1. Eligible Entities - Residents other than Individuals
  2. These derivative transactions are to reduce an identifiable and measurable risks pertaining to commodity price risk and freight risk
  3. Direct Exposure to Commodity Price Risk – An eligible entity will be said to have direct exposure to commodity price risk if
    - (a) It purchases/sells a commodity (in India or abroad) whose price is fixed by reference to an international benchmark; or
    - (b) It purchases/sells a product (in India or abroad) which contains a commodity and the price of the product is linked to an international benchmark of the commodity.
  4. Indirect Exposure to Commodity Price Risk – An eligible entity will be said to have indirect exposure to commodity price risk if it purchases/sells a product (in India or abroad) which contains the commodity and the price of the product is not linked to an international benchmark of the commodity.
  5. Exposure to Freight Risk – An eligible entity will be said to have exposure to freight risk if it is engaged in the business of refining oil or is engaged in the business of shipping.
  6. In case of direct exposures to commodity price risk: All commodities (except Gems and Precious stones). Price risk of gold may only be hedged as provided at Para 5 (ii) of these directions.
  7. In case of indirect exposures to commodity price risk: Aluminium, Copper, Lead, Zinc, Nickel, and Tin. This list of eligible commodities would be reviewed annually.
  8. Permitted Hedging methods: (i) Generic Products (a) Futures and forwards, (b) Vanilla options (call option and put option), (c) Swaps. (ii) Structured Products: (a) Products which are combination of either cash instrument and one or more generic products and (b) Products which are combination of two or more generic products
- For further details please refer to the aforesaid Circular/ Master Direction. The direction shall be effective from 12/12/2022.

## **II. Case Law:**

### **KRISHNA MURARAI PODDAR VERSUS THE STATE OF WEST BENGAL**

#### **Facts of the case:**

1. The petitioner was a Director of the Company on which allegations were raised towards non-compliances under erstwhile FERA. The petitioner filed a writ petition **before**



Honourable High Court of Calcutta against the proceedings raised by respondent, Enforcement Directorate (ED).

2. As per ED, the company made a violation under FERA wherein the export proceeds were not realized as per the extant timeline of six months from the date of export.

3. ED alleged that the petitioner is equally responsible, along with the company, for non-realization of export proceeds. As per ED, section 68 of FERA makes the persons, who were in-charge of and responsible for the affairs of the company, are also liable for the contraventions.

4. The petitioner claimed that he was only a Director, and he was not part of day-to-day affairs of the company at that time. Also, he claimed that he resigned from the post of Director after four months of relevant export transaction under reference and that 'contravention' comes into picture only after the completion of six months' time period legally provided. Accordingly, he claimed that he was not a Director at the time of contravention and so he is not liable therefor.

5. ED did not object the facts of petitioner's resignation and dates of export and realization due date. However, ED claimed that a Board of Directors is in-charge for management of the affairs of the company and accordingly, a director, by whatever name called, is a person responsible for the affairs of the company for general public.

6. ED further alleged that the petitioner has not taken any action towards recovery of export dues during so-called four months period during which he was director of the company post export. As per ED, law mandates the task of recovery on directors and exoneration of the petitioner from the current proceedings would amount to miscarriage of justice and jeopardises the object of law in safeguarding the foreign exchange reserves of the country.

**Held that:**

a. A 'Director' is part of management of the company and accordingly responsible for the affairs of the company.

b. The petitioner was in-charge of the affairs of the company based on certain documents submitted by ED.

c. According to the scheme of the Act, the petitioner cannot relinquish his liability as regards the alleged contravention for this period at the time of and after export of the goods, till the time he remained as company's 'Director' taking part in the affairs thereof.

d. Though there is no mala fide intention on part of petitioner as per the materials available, it should not happen that the quashing of proceedings impact the acts initiated to unearth the truth.

e. Based on the facts of the case and material available, the current case does not fall within the category of cases u/s 482 of Cr. P.C for the court to involve. Accordingly, the petition was dismissed.



### III. Update on Compounding Orders issued under FEMA Regulations:

#### a. Seethayya Kadimcherla

Regulation	Rule 5 read with Para 1 of Schedule III of Foreign Exchange Management (Current Account Transactions) Rules, 2000 dated May 03, 2000
Contravention	Failure to obtain prior approval of the RBI before undertaking the transactions specified in Schedule III (Transactions which require prior approval of RBI)
Date of Order	27-10-2022
Compounding Fee	₹ 122

#### b. IWire Global IOT Communication Private Limited

Regulation	Regulation 6.B(i) read with Para 11 further read with Para 12 of Schedule I of Foreign Exchange Management (Borrowing and Lending) Regulations, 2018 notified vide Notification No. FEMA 3(R)/2018-RB dated December 17, 2018
Contravention	Failure to obtain the loan registration number (LRN) from the Reserve Bank or from the AD Bank and failure to comply with the reporting requirements as specified by the Reserve Bank from time to time by resident entities who have raised Rupee denominated ECB from outside India
Date of Order	23-09-2022
Compounding Fee	₹ 23,667

#### c. Ness Technologies (India) Private Limited

Regulation	Paragraph 3 of Schedule I read with Regulation 4(A) and 4(D) of Foreign Exchange Management (Foreign Currency Accounts by a Person Resident in India) Regulations, 2015 notified vide Notification No. FEMA 10(R)/2015-RB dated January 21, 2016
Contravention	Failure to comply with the provisions of permissible debits to the Exchange Earners' Foreign Currency (EEFC) Account by a Unit in a Special Economic Zone (SEZ)
Date of Order	09-02-2022
Compounding Fee	₹ 24,80,877



## GST UPDATES

### Recommendations of 48th GST Council Meeting held on 17th December, 2022

#### **1. Clarification to be issued for RCM on residential dwelling:**

With effect from 18th July, 2022, the exemption relating to renting of residential dwelling was withdrawn where the dwelling is rented to a registered person. There was a confusion as to whether GST was payable where the house is taken on rent by a registered person for his own residential purpose. Now the council has recommended to issue a circular to clarify that no GST would be payable where the residential dwelling is rented to a registered person for his own dwelling purpose and not for his business purpose.

#### **2. Decriminalization under GST:**

The present limit for launching prosecution against a person for tax evasion is Rs. 1 crore. The said limit is proposed to be increased to Rs. 2 Crore except for the offence of issuance of invoices without supply of goods or services or both;

GST law has provided that in respect of certain offences, where the person pays compounding amount as determined by the commissioner, no further proceedings would be initiated against the person for the said offences. Presently, the quantum of compounding ranges from 50% to 150% of tax amount. The council has recommended to reduce this limit to 25% to 100% of tax amount.

The council has also recommended to decriminalize certain offences specified under clause (g), (j) and (k) of sub-section (1) of section 132 of CGST Act, 2017, viz.- obstruction or preventing any officer in discharge of his duties; deliberate tempering of material evidence; failure to supply the information

#### **3. Refund to unregistered persons:**

Where the time limit to issue credit note is expired under GST, there is no mechanism to get the refund of taxes already paid in case the recipient is unregistered person. Now, it is proposed to provide a mechanism whereby an unregistered recipient would be able to get the refund of taxes paid in cases where the contract/ agreement for supply of services, like construction of flat/house and long-term insurance policy, is cancelled and the time period of issuance of credit note by the concerned supplier is over.

#### **4. Facilitation of trade by micro enterprises through E-commerce operator:**

Presently unregistered persons and composition persons are not allowed to make any supplies through e-commerce operator. The 47th GST council meeting has proposed to allow these persons to make supplies through E-commerce operator. However, considering the time for development of portal, this date of implementation has been extended to 01st October, 2023.

#### **5. No levy for High-sea sales to be effective from 01st July, 2017:**

The law was amended from 01st Feb, 2019 to provide that no levy was applicable in respect of High Sea sales covered under Schedule III. Now it is proposed that this position would be made applicable from 01st July, 2017 onwards. However, no refund of tax would



be made applicable from 01st July, 2017 onwards. However, no refund of tax would be applicable in case any person has paid tax on the same.

**6. Reversal of credit only to the extent of amount unpaid to the vendors within 180 days:**

The Council has recommended to amend sub-rule (1) of rule 37 of CGST Rules, 2017 retrospectively with effect from 01.10.2022 to provide for reversal of input tax credit, in terms of second proviso to section 16 of CGST Act, only proportionate to the amount not paid to the supplier vis a vis the value of the supply, including tax payable.

**7. Prescribing of Rules to provide for reversal of ITC in case of non-payment of tax by the supplier:**

Finance Act 2022 has amended section 41 to provide for reversal of ITC where the supplier has not paid the collected taxes to the Government. Also, it is provided that, where the supplier subsequently pays the same the recipient would be able to re-claim the credit reversed. For this purpose, Rule 37A is proposed to be notified.

**8. Clarity to be provided on the requirement of submission of Certified copy of the order appealed:**

Sub-rule (3) of rule 108 and rule 109 of the CGST Rules, 2017 to be amended to provide clarity on the requirement of submission of certified copy of the order appealed against and the issuance of final acknowledgment by the appellate authority. This would facilitate timely processing of appeals and ease the compliance burden for the appellants.

**9. Provision for withdrawal of appeal:**

Presently there is no prescribed process to the withdraw the appeal already filed. Now, it is proposed to provide the form GST APL-01/03W for the purpose of withdrawal of appeal filed.

**10. No claim bonus to be treated as an admissible deduction in valuation of insurance services:**

Circular to be issued to clarify that No Claim Bonus offered by the insurance companies to the insured is an admissible deduction for valuation of insurance services.

**11. Treatment of statutory dues in case proceedings are finalized under IBC**

Circular to be issued for clarifying the issue of treatment of statutory dues under GST law in respect of the taxpayers for whom the proceedings have been finalised under Insolvency and Bankruptcy Code, 2016. Rule 161 of CGST Rules, 2017 and FORM GST DRC-25 also to be amended for facilitating the same.

**12. Cancellation option to be made available for persons registered for the purpose of TDS/TCS:**

Rule 12(3) of CGST Rules, 2017 to be amended to provide for facility to the registered persons, who are required to collect tax at source under section 52 or deduct tax at source under section 51 of CGST Act, 2017, for cancellation of their registration on their request.

**13. Various circulars to be issued for clarifying following issues:**

i. Clarification for GST applicability where destination of goods is outside India:

Circular to be issued for clarifying the issues pertaining to the place of supply of services of



transportation of goods in terms of the proviso to sub-section (8) of section 12 of the IGST Act, 2017 and availability of input tax credit to the recipient of such supply. It has also been recommended that proviso to sub-section (8) of section 12 of the IGST Act, 2017 may be omitted

ii. Clarifications for ITC mismatch between 3B and 2A for 2017-18 and 2018-19:

Many notices are being issued by the department for mis-match between ITC taken in 3B with entries in GSTR 2A for FY 2017-18 and 2018-19. Tax payers' contention is that the law relating to matching concept was made effective only from 09th October, 2019 by insertion of Rule 36(4). Now it is proposed to issue a circular prescribing the procedure for verification of input tax credit in cases involving difference in input tax credit availed in FORM GSTR-3B vis a vis that available as per FORM GSTR-2A during FY 2017-18 and 2018-19.

iii. Clarifications for redetermining the demand u/s 73 where the original demand was u/s 74:

Section 75(2) prescribes that Where any Appellate Authority or Appellate Tribunal or court concludes that the notice issued under section 74 (1) is not sustainable, the proper officer shall determine the tax payable by such person, deeming as if the notice were issued under sub-section (1) of section 73. Now it is proposed that a clarification would be issued as to the manner of re-determination of demand in terms of sub-section (2) of section 75 of CGST Act, 2017.

iv. Clarification would be issued with respect to applicability of e-invoicing with respect to an entity.

#### **14. Proposal for provision of Bio-metric based aadhaar authentication and risk based physical verification for Registration:**

It is proposed to conduct a pilot in State of Gujarat for Biometric-based Aadhaar authentication and risk-based physical verification of registration applicants. Amendment in rule 8 and rule 9 of CGST Rules, 2017 to be made to facilitate the same. This will help in tackling the menace of fake and fraudulent registrations.

#### **15. PAN linked mobile number and e-mail to be fetched from CBDT portal for new registrations:**

PAN-linked mobile number and e-mail address (fetched from CBDT database) to be captured and recorded in FORM GST REG-01 and OTP-based verification to be conducted at the time of registration on such PAN-linked mobile number and email address to restrict misuse of PAN of a person by unscrupulous elements without knowledge of the said PAN-holder.

#### **16. Fixing statutory time limit of 3 years for filing GST returns:**

GSTR 1, 3B, 9, 9C and 8 shall be allowed to be filed only for a maximum period of 3 years from the due date of filing relevant forms.

#### **17. Restricting filing of GSTR 1 of a tax period where mis-match between GSTR 1 and 3B is not settled for past period:**

Where there is a difference between GSTR 1 and 3B beyond a prescribed percentage, the tax payer shall have to pay the differential amount or the same is to be explained in the



prescribed manner. Failing which the tax payer would not be allowed to file GSTR 1 of subsequent period would be restricted. For this purpose, it is proposed to insert Rule 88C and Form DRC-01B.

### **18. Amendment of OIDAR and Non-taxable online recipient definitions:**

Amendment in definition of “non-taxable online recipient” under section 2(16) of IGST Act, 2017 and definition of “Online Information and Database Access or Retrieval Services (OIDAR)” under section 2(17) of IGST Act, 2017 so as to reduce interpretation issues and litigation on taxation of OIDAR Services.

### **19. Incentives to banks by the Central Government to be treated as subsidy and thus not taxable:**

Incentive paid to banks by Central Government under the scheme for promotion of RuPay Debit Cards and low value BHIM-UPI transactions are in the nature of subsidy and thus not taxable.

**INFORMATION TECHNOLOGY**  
Contributed by: CA. S.Deephika, Chennai.

## **Technology**

### **Microsoft 365 - All your notifications in one place:**

Microsoft is implementing a centralized notification feed for its Microsoft 365 suite of office software that it says will provide a “mix of relevant content” for the content users have access to, or that gets shared with them. Quietly announced as part of the Microsoft 365 roadmap in December 2022 and slated for release in January 2023, the feature, dubbed Microsoft Feed, is no doubt part of an effort to make the collaboration software have a more, well, collaborative feel.

The news comes shortly after a separate announcement at the company's annual Ignite event in October 2022 that Microsoft 365 is being ported to a single desktop and mobile application, which will no doubt make the job of making the suite feel like an ecosystem much easier. Microsoft also used this year's Ignite event to announce that its My Content hub, which collates all of a user's documents under one tab regardless of which 365 application they were designed in, is now available to all of its users. Despite the fact that both Microsoft 365 and Google Workspace are the market leaders when it comes to workplace collaboration tools, an intuitive, centralised hub across the whole suite seems to be easier said than done for either company.

Even with the strides it is making, Microsoft, for its part, seems more committed to only offering true centralised tools and interfaces to company bosses and IT admins. Google itself appears focused on cleaning up the user interface of experience within its individual Workspace apps than a centralised experience. An update for Google Drive in June 2022, for instance, made it easier to share files by bringing options under one centralised panel. Microsoft may be looking to capitalise on Google's inaction, and court users still on the fence about workplace collaboration software with an offering that is simply easier to use. Its latest raft of announcements might certainly put them in the lead.



## 1. Microsoft Excel - Threats:

Microsoft may have blocked macros from running by default in its Office suite of programs, but there are workarounds, researchers are saying.

Several months after the ban was introduced, one specific workaround is seeing an uptick in adoption in the cybercriminal community, according to a new report from Cisco Talos. The team claims cybercriminals are increasingly using XLL files (as opposed to XLS and XLSX) to deliver malicious code to target endpoints. XLL files are “a type of dynamic link library (DLL) file that can only be opened by Excel”, the researchers explain. In other words, with XLL files, Microsoft Excel spreadsheets can take advantage of additional functionality coming from third-party apps. While the weaponization of XLL files is nothing new (first samples have been reported as early as 2017, it was said), these files were rarely used until Microsoft decided to block the running of macros in files downloaded from the internet. Now, since 2021, more malware families started deploying the alternative solution.

## 2. Next generation of Microsoft Teams:

There's exciting news for anyone wanting more from their Microsoft Teams experience, after the company revealed its new "premium" offering is now available to try out. Officially called Microsoft Teams Premium, the new version of the video conferencing platform offers a range of upgraded features, alongside more customization and personalization options.

“Today, we are excited to share that we are making Microsoft Teams Premium broadly available for preview as a limited trial for our commercial customers through the Microsoft 365 admin center,” Margi Desai, a product manager for Microsoft Teams, wrote in a blog post. “The features under this offering began rolling out this December and will continue to roll out through January.”

First revealed at the company's Ignite event in October 2022, Microsoft Teams Premium has aroused curiosity across the technology space, promising to make meetings more personalized, intelligent, and secure.

The new launch will allow companies to add their own branding, customized backgrounds and Together Mode scenes to boost their presence in meetings. Setting them up will also be easier, with users able to choose from a range of meeting types that will be customizable by IT teams, to start with the right settings in place much faster. Among the other new features are “Intelligent recap”, which uses AI to transcribe meetings, and can even translate them in real time into 40 different languages, helping to make meetings more inclusive. The AI can also label important moments and add chapters to recorded meetings for easy playback of relevant sections.

Advanced security features, such as watermarking confidential documents and limiting recording permissions, will protect businesses from leaks. End-to-end encryption for meetings is also offered, as well as sensitivity labels to prevent unauthorized duplication of meeting chats. Webinars are also getting an overhaul, with Microsoft Teams Premium set to offer new host and event management controls, including a registration waitlist, manual approval, and custom registration start and end times alongside virtual green rooms and advanced virtual appointments.



Full guidance on how to enroll in the preview can be found in the Microsoft blog, with general availability scheduled for February 2023, when customers with existing Microsoft 365 or Office 365 licenses can purchase Teams Premium as an add-on to their existing Microsoft 365 services.

### **3. VMware - Managed cloud storage:**

VMware has announced that its own managed cloud storage service, VMware Cloud Flex Storage, is now generally available for VMware Cloud on AWS. The move will see the company drive consistency, security, and cost-efficiency as a core part of its cloud-smart approach, VMware CEO Raghuram Raghuram said in a post on the company's blog (opens in new tab).

With 175 zettabytes (175 billion terabytes) of data expected to be generated worldwide by 2025, VMware believes 2020-2030 will be the "decade of data", where the number of use cases will be larger than ever. "This 2-tier design helps us decouple storage capacity from storage performance and be able to dynamically scale them independently."

A TechTarget article details how customers will be able to buy additional storage without needing to install extra HCI modules. The managed cloud storage is set to be available in VMware's Q3 FY23, and pricing for VMware Cloud Flex Storage will be determined by users' per-GB consumption, which VMware Cloud Storage and Data CTO, Sazzala Reddy, says will help businesses to more accurately forecast and plan their spending. There will be on-demand, one-year, and three-year subscription models, and there is expected to be a minimum storage requirement, too.

### **5. Microsoft bans cryptomining:**

Microsoft has officially banned cryptomining within its Azure cloud services in a rather inconspicuous way.

An update to its Universal License Terms for Online Services, which mainly applies to its cloud platform, states that "mining cryptocurrency is prohibited without prior Microsoft approval." The post goes on to explain that written approval is needed for those looking to use the company's services for cryptomining, clarifying that "neither customer, nor those that access an online service through customer" are permitted to leverage them for this purpose.

The policy change was also posted in the Azure Solution Area of Microsoft's Partner Community webpage, under the heading "Important actions partners need to take to secure the partner ecosystem". Here, it was listed as among the changes to "minimize potential fraud damage to your customers' subscriptions". Again, it stressed the need for "written pre-approval... granted by Microsoft" to sanction the use of its servers for sourcing the digital tokens.

Microsoft is concerned about the dangers such activities present to their infrastructure. In responding to a query from the The Register (opens in new tab), the tech giant commented that mining for cryptocurrencies can "cause disruption or even impairment to online



online services and its users", adding that cryptomining "can often be linked to cyber fraud and abuse attacks such as unauthorized access to and use of customer resources."

They did add the caveat, however, that cryptomining "may be considered for testing and research for security detections." Microsoft isn't alone in restricting cryptomining on its cloud platforms. Google Cloud, Oracle and OHVcloud have all banned it from their services, and Amazon Web Services only allows it within its paid subscription tiers. Microsoft has prohibited mining for a while on its free tier, but has only now escalated its policy to its paid-for options as well.

## INCOME TAX

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

### Income tax Updates

CBDT vide circular No 23 of 2022 dated 3rd November, 2022 had explained various amendments made by the Finance Act, 2022 to the provisions of the Income-tax Act, 1961. Some of the significant amendments explained vide above circular are given below for the readers as a refresher.

#### 1. Definition of "books of account"

Section 2(12A) of the Income-tax Act defines "books or books of account" to include ledgers, day-books, cash books, account-books and other books, whether kept in the written form or as print-outs of data stored in a floppy, disc, tape or any other form of electro-magnetic data storage device. In order to align the definitions under the Act with the current practices, section 2 (12A) has been amended so as to provide that the definition of books or books of account would include books or books of account kept in electronic or in digital form or as print outs of data stored in such electronic or in digital form. Applicability: This amendment is effective from 1st April, 2022.

#### 2. Definition of the term "slump sale"

Slump sale is defined in section 2(42C) as the transfer of one or more undertaking, by any means, for a lump sum consideration without values being assigned to individual assets and liabilities in such sales. Vide Finance Act, 2021, the definition of "slump sale" was amended to expand its scope to cover all forms of transfer under slump sale. However, inadvertently, in the last sentence, there is reference to the word "sales" instead of "transfer".

Therefore, consequential amendment was carried out vide Finance Act, 2022 by amending section 2(42C) to substitute the word "sales" with the word "transfer". Applicability: This amendment is effective retrospectively from the 1st April, 2021 and accordingly applies to the assessment year 2021-22 and subsequent assessment years.

#### 3. Scheme for taxation of virtual digital assets

A new section 115BBH has been inserted in the Act to provide that where the total income of an assessee includes any income from transfer of any virtual digital asset notwithstanding anything contained in any other provision of the Act, the income-tax payable shall be the aggregate of- (a) the amount of income-tax calculated on the income from transfer of such virtual digital asset at the rate of 30%; and (b) the amount of income-tax with which the assessee would have been chargeable, had the total income of the assessee been reduced by the income referred to in clause (a).



However, no deduction in respect of any expenditure (other than cost of acquisition) or allowance or set off of any loss shall be allowed to the assessee under any provision of the Act while computing income from transfer of such virtual digital asset.

Further, no set off of any loss arising from transfer of virtual digital asset shall be allowed against any income computed under any provision of the Act and such loss shall not be allowed to be carried forward to subsequent assessment years. Therefore, the loss from transfer of virtual digital asset cannot be set off against any income (including income from the transfer of another virtual digital asset). The word "transfer" as defined in clause (47) of section 2 shall apply to any virtual digital asset, whether capital asset or not. Applicability: This amendment takes effect from 1st April, 2023 and will accordingly apply in relation to the assessment year 2023-24 and subsequent assessment years.

Further, in order to widen the tax base from the transactions so carried out in relation to these virtual digital assets, section 194S has been inserted in the Act. Any person responsible for paying to any resident any sum by way of consideration for transfer of a virtual digital asset, shall, at the time of credit of such sum to the account of the resident or at the time of payment of such sum by any mode, whichever is earlier, deduct an amount equal to 1%, of such sum as income-tax thereon.

In cases where the consideration for transfer of virtual digital asset is—(a) wholly in kind or in exchange of another virtual digital asset, where there is no part in cash; or (b) partly in cash and partly in kind but the part in cash is not sufficient to meet the liability of deduction of tax in respect of whole of such transfer, the person responsible for paying such consideration shall, before releasing the consideration, ensure that tax required to be deducted has been paid in respect of such consideration for the transfer of virtual digital asset.

In case of specified person, the provisions of sections 203A and 206AB are not applicable. Further, no tax is to be deducted in case the payer is the specified person and the value or the aggregate of such value of consideration to a resident is equal to or less than Rs. 50,000 during the financial year. In any other case, the said limit is Rs. 10,000 during the financial year.

It has been provided that in case of a transaction where tax is deductible under section 194-O along with section 194S, then the tax shall be deducted under section 194S and not section 194-O. Furthermore, where any sum paid for transfer of virtual digital asset is credited to any account, whether called "Suspense Account" or by any other name, in the books of account of the person liable to pay such sum, such credit of the sum shall be deemed to be the credit of such sum to the account of the payee and the provisions of section 194S shall apply accordingly.

For the purposes of the said section, it has been provided that 'specified person' means a person;-(i) being an individual or Hindu undivided family whose total sales, gross receipts or turnover from the business carried on by him or profession exercised by him does not exceed Rs.100 lakhs in case of business or Rs.50 lakhs in case of profession, during the financial year immediately preceding the financial year in which such virtual digital asset is transferred;(ii) being an individual or Hindu undivided family having income under any head



other than the head 'Profits and gains of business or profession'.

Further, in order to provide for taxing the gifting of virtual digital assets, Explanation to clause (x) of sub-section (2) of section 56 of the Act has been amended to inter alia, provide that for the purpose of the said clause, the expression "property" shall have the meaning assigned to it in Explanation to clause (vii) and shall include virtual digital asset. Applicability: This amendment takes effect from 1st April, 2023 and will accordingly apply in relation to the assessment year 2023-24 and subsequent assessment years.

To define the term "virtual digital asset", section 2(47A) has been inserted to the Act. A virtual digital asset has been defined as any Information or code or number or token (not being Indian currency or foreign currency), generated through cryptographic means or otherwise, by whatever name called, providing a digital representation of value exchanged with or without consideration, with the promise or representation of having inherent value, or functions as a store of value or a unit of account including its use in any financial transaction or investment, but not limited to investment scheme; and can be transferred, stored or traded electronically. Non-fungible token and any other token of similar nature are included in the definition.

#### **4. Clarifications on allowability of expenditure under section 37**

Section 37 of the Act provides for allowability of revenue and non-personal expenditure (other than those failing under sections 30 to 36) laid out or expended wholly and exclusively for the purposes of business or profession. Explanation 1 of sub-section (1) of section 37 of the Act provides that any expenditure incurred by an assessee for any purpose which is an offence or which is prohibited by law shall not be deemed to have been incurred for the purpose of business or profession and no deduction or allowance shall be made in respect of such expenditure.

In order to make the intention of the legislation clear and to make it free from any misinterpretation, another Explanation 3 has been inserted to sub-section (1) of section 37 of the Act to further clarify that the expression "expenditure incurred by an assessee for any purpose which is an offence or which is prohibited by law", under Explanation 1, shall include and shall be deemed to have always included the expenditure incurred by an assessee, –(i) for any purpose which is an offence under, or which is prohibited by, any law for the time being in force, in India or outside India; or (ii) to provide any benefit or perquisite, in whatever form, to a person, whether or not carrying on a business or exercising a profession, and acceptance of such benefit or perquisite by such person is in violation of any law or rule or regulation or guidelines, as the case may be, for the time being in force, governing the conduct of such person; or (iii) to compound an offence under any law for the time being in force, in India or outside India. Applicability: This amendment takes effect from 1st of April, 2022.

#### **5. Clarification regarding treatment of cess and surcharge**

Section 40 of the Act specifies the amounts which shall not be deducted in computing the income chargeable under the head "Profits and gains of business or profession". Sub-clause (ii) of clause (a) of section 40 of the Act provides that any sum paid on account of any rate or tax levied on the profits or gains of any business or profession or assessed at a proportion of, or otherwise on the basis of, any such profits or gains shall not be deducted



in computing the income chargeable under the head "Profits and gains of business or profession".

In order to make the intention of the legislation clear and to make it free from any misinterpretation. Explanation 3 has been inserted retrospectively in sub-clause (ii) of clause (a) of section 40 of the Act to clarify that for the purposes of this sub-clause, the term "tax" includes and shall be deemed to have always included any surcharge or cess, by whatever name called, on such tax. Amendment has been made retrospectively to make clear the position irrespective of the circular of the CBDT.

Enabling provisions have been made in the Act with the insertion of section 155(18) which provides that where any deduction in respect of any surcharge or cess, which is not allowable as a deduction under section 40 of the Act but which has been claimed and allowed, such claim shall be deemed to be under-reported income of the assessee. The Assessing Officer shall re-compute the total income of the Assessee. The provisions of section 154 will apply and the period of 4 years specified under sub-section (7) of section 154 is to be reckoned from the end of the previous year commencing on 1st April, 2021. It has also been provided that if assesseees apply for re-computation of their total income of previous years without allowing the claim of deduction of surcharge or cess within the prescribed form and prescribed time and pay the amount due within the specified time, such claim shall not be deemed to be under-reported income attracting penalty provisions under section 270A.

This is an opportunity given for taxpayers to acknowledge the mistake committed by them and pay taxes voluntarily and thus avoid facing penalty. Applicability: The amendment relating to section 40 takes effect retrospectively from 1st April, 2005 and accordingly applies in relation to the assessment year 2005-06 and subsequent assessment years. The amendment relating to section 155(18) is effective from 1st April, 2022.

## **6. Clarification regarding deduction on payment of interest only on actual payment**

Section 43B of the Act provides for certain deductions to be allowed only on actual payment. Explanations 3C, 3CA and 3D of this section provides that a deduction of any sum, being interest payable on loan or borrowing from specified financial institution/NBFC/scheduled bank or a co-operative bank under clause (d), clause (da), and clause (e) of this section respectively, shall be allowed if such interest has been actually paid and any interest referred to in these clauses which has been converted into a loan or borrowing or advance shall not be deemed to have been actually paid.

However, certain taxpayers were claiming deduction under section 43B on account of conversion of interest payable on an existing loan into a debenture on the ground that such conversion was a constructive discharge of interest liability and, therefore, amounted to actual payment which has been upheld by several Courts. Such interpretation is against the intent of legislation. The section was introduced to curb the mischief of claiming deduction by the assessee, without paying interest to financial institutions/NBFC/scheduled bank or a co-operative bank. Section 43B makes a departure from other sections in the Act, as indicated by its non-obstante clause. Under the provisions of this section conversion of the outstanding interest liability into debentures is not an actual payment and cannot be claimed as deduction. In other words, a mercantile system of accounting cannot be looked



at when a deduction is claimed under this section, as actual payment would have to be made.

In view of the above, Explanation 3C, Explanation 3CA and Explanation 3D of section 43B of the Act have been amended to provide that conversion of interest payable under clause (d), clause (da), and clause (e) of section 43B of the Act, into debenture or any other instrument by which liability to pay is deferred to a future date, shall also not be deemed to have been actually paid. Applicability: This amendment takes effect from 1st April, 2023 and will, accordingly apply in relation to the assessment year 2023-24 and subsequent assessment years.

## **7. Reduction of Goodwill from block of assets to be considered as 'transfer'**

From the assessment year 2021-2022, goodwill of a business or profession is not considered as a depreciable asset and there would not be any depreciation on goodwill of a business or profession in any situation. In case where goodwill is purchased by an assessee, the purchase price of the goodwill will continue to be considered as cost of acquisition for the purpose of computation of capital gains under section 48 of the Act subject to the condition that in case depreciation was obtained by the assessee in relation to such goodwill prior to the assessment year 2021-22, then the depreciation so obtained by the assessee shall be reduced from the amount of the purchase price of goodwill.

When the amendment was carried out through the Finance Act, 2021, consequential amendment was carried out in section 50 of the Act by insertion of a proviso to clause (2) of that section. A further consequential amendment has now been carried out.

Accordingly, it has been clarified that for the purposes of section 50 of the Act, reduction of the amount of goodwill of a business or profession, from the block of asset in accordance with sub-item (B) of item (ii) of sub-clause (c) of clause (6) of section 43, shall be deemed to be transfer. Applicability: Since the amendment to the effect that goodwill of a business or profession is not a depreciable asset has been made applicable from assessment year 2021-2022, the above amendment takes effect retrospectively from 1st April, 2021 and applies in relation to the assessment year 2021-22 and subsequent assessment years.

## **8. Cash credits under section 68**

Section 68 of the Act provides that where any sum is found to be credited in the books of an assessee maintained for any previous year, and the assessee offers no explanation about the nature and source thereof or the explanation offered by him is not, in the opinion of the Assessing Officer, satisfactory, the sum so credited may be charged to income-tax as the income of the assessee of that previous year.

The onus of satisfactorily explaining such credits remains on the person in whose books such sum is credited. If such person fails to offer an explanation or the explanation is not found to be satisfactory then the sum is added to the total income of the person. Certain judicial pronouncements have created doubts about the onus of proof and the requirements of this section, particularly, in cases where the sum which is credited is loan or borrowing. It is noticed that there is a pernicious practice of conversion of unaccounted money by crediting it to the books of assesseees through a masquerade of loan or borrowing.



Vide Finance Act, 2012, it was provided that the nature and source of any sum, in the nature of share application money, share capital, share premium or any such amount by whatever name called, credited in the books of a closely held company shall be treated as explained only if the source of funds is also explained in the hands of the shareholder. However, in case of loan or borrowing, courts have held that only identity and creditworthiness of creditor and genuineness of transactions for explaining the credit in the books of account is sufficient, and the onus does not extend to explaining the source of funds in the hands of the creditor. This has led to the provision becoming ineffective in handling evasion when routed through a layered credit claim.

Therefore, the provisions of section 68 of the Act have been amended so as to provide that the nature and source of any sum, whether in the form of loan or borrowing, or any other liability credited in the books of an assessee shall be treated as explained only if the source of funds is also explained in the hands of the creditor. However, this additional onus of proof of satisfactorily explaining the source in the hands of the creditor, would not apply if the creditor is a Venture Capital Fund, Venture Capital Company registered with SEBI. Applicability: This amendment is effective from the 1st April, 2023 and, accordingly applies in relation to the assessment year 2023-24 and subsequent assessment years.

### **9. Set off of loss in search cases**

Chapter VI of the Act deals with aggregation of income and set off or carry forward of loss. In Sections 70-80 of the Act, there are specific provisions relating to set off or carry forward and set off of losses while computing the income under various heads and with respect to different classes of persons.

It is noticed that in some cases, assessee claim set off of losses or unabsorbed depreciation, against undisclosed income corresponding to difference in stock, undervaluation of stock, unaccounted cash payment etc. which is detected during the course of search or survey proceedings. Prior to Finance Act, 2022, there was no provision in the Act to disallow such set-off and no distinction is made between undisclosed income which was detected owing to search & seizure or survey or requisition proceedings and income assessed in scrutiny assessment in the regular course of assessment, though for incomes falling under section 68, section 69, section 69B etc., such restriction is there.

The new section 79A which was inserted in the Act provides that notwithstanding anything contained in the Act, where consequent to a search initiated under section 132 or a requisition made under section 132A or a survey conducted under section 133A, other than under sub-section (2A) of section 133A, the total income of any previous year of an assessee includes any undisclosed income, no set off, against such undisclosed income, of any loss, whether brought forward or otherwise, or unabsorbed depreciation under sub-section (2) of section 32 shall be allowed to the assessee under any provision of this Act in computing his total income for such previous year. Applicability: This amendment is effective from the 1st day of April, 2022 and accordingly, applies in relation to the assessment year 2022-23 and subsequent assessment years.

### **10. Incentives to National Pension System (NPS) subscribers for State Government employees**

Presently, any contribution by the Central Government or any other employer to the



account referred to in section 80CCD of the Act (NPS account), shall be allowed as a deduction to the assessee in the computation of his total income, if it does not exceed 14% of his salary where such contribution is made by the Central Government. This limit is presently 10% of salary where such contribution is made by any other employer. The State Governments were given an option to raise the contribution to 14% w.e.f 1-4-2019 on their own volition, based on their own internal approvals and notifications, without seeking the approval of the Pension Fund Regulatory and Development Authority. The provisions of section 80CCD however resulted in the amount contributed in excess of 10% being taxed in the hands of the employee. In order to ensure that the State Government employees also get full deduction of the enhanced contribution by the State Government, the limit of deduction has been increased under section 80CCD of the Act from the existing 10% to 14% in respect of contribution made by the State Government to the account of its employee. Applicability: This amendment is effective retrospectively from the 1st April, 2020 and accordingly, applies in relation to the assessment year 2020-21 and subsequent assessment years.

### **11. Condition of releasing of annuity to a disabled person**

The existing provision of section 80DD, inter alia, provides for a deduction to an individual or HUF, who is a resident in India, in respect of (a) expenditure for the medical treatment (including nursing), training and rehabilitation of a dependent, being a person with disability; or (b) amount paid to LIC or any other insurer or administrator or specified company in respect of a scheme for the maintenance of a disabled dependent. Sub-section (2) of the aforesaid section provides that the deduction shall be allowed only if the payment of annuity or lump sum amount is made to the benefit of the dependent, in the event of the death of the individual or the member of the HUF in whose name subscription to the scheme has been made. Sub-section (3) of the aforesaid section provides that if the dependent with disability predeceases the individual or the member of the HUF, the amount deposited in such scheme shall be deemed to be the income of the assessee of the previous year in which such amount is received by the assessee and shall accordingly be chargeable to tax as the income of that previous year.

In the Writ Petition No. 1107 of 2017 Ravi Agrawal Vs. Union of India and Another, Hon'ble Supreme Court observed that there could be cases where handicapped dependents may need payment of annuity or lump sum amount even during lifetime of their parents/guardians. It was further observed that the Centre may take into consideration all the aspects, including those where a disabled dependent might need payment on annuity or lump sum amount even during the lifetime of the parents or guardians. Therefore, in order to remove this genuine hardship, the section has been amended to provide that deduction under the said section can also be allowed during the lifetime, i.e., upon attaining the age of sixty years or more of the individual or the member of the HUF, being the parent or the guardian, in whose name subscription to the scheme has been made and where payment or deposit has been discontinued. Further, the provisions of sub-section (3) have been amended such that they do not apply to the amount received by the dependent, before the death of the subscriber referred to above, by way of annuity or lump sum amount by application of the condition referred to in the amendment. Applicability: This amendment is effective from the 1st April, 2023 and accordingly, applies in relation to assessment year 2023-24 and subsequent assessment years.



## **12. Extension of date of incorporation for eligible start up for exemption**

The existing provisions of the section 80-IAC of the Act, inter alia, provide for a deduction of an amount equal to 100% of the profits and gains derived from an eligible business by an eligible start-up for 3 consecutive assessment years out of 10 years, beginning from the year of incorporation, at the option of the assessee subject to the condition that, -(i) the total turnover of its business does not exceed one hundred crore rupees, (ii) it is holding a certificate of eligible business from the Inter-Ministerial Board of Certification, and (iii) it is incorporated on or after 1st day of April, 2016 but before 1st day of April, 2022.

Due to COVID pandemic there have been delays in setting up of such units. In order to factor in such delays and promote such eligible start-ups, the provisions of section 80-IAC of the Act have been amended by the Finance Act, 2022 to extend the period of incorporation of eligible start-ups to 31st March, 2023. Applicability: This amendment is effective from 1st April, 2022.

## **13. Faceless Schemes under the Act**

The Central Government has undertaken a number of measures to make the processes under the Act electronic, by eliminating person to person interface between the taxpayer and the Department to the extent technologically feasible, and provide for optimal utilization of resources and a team-based assessment with dynamic jurisdiction. As part of this process of making the tax administration transparent and efficient, provisions for notifying faceless schemes under sections 92CA, 144C, 253 and 264A were introduced in the Act through Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 with effect from 01.11.2020 and under section 255, was inserted through Finance Act, 2021 with effect from 1-4-2021. The time limit for notification of faceless schemes is 31st day of March, 2022.

Section 92CA and section 144C are principally related to the transfer pricing functions and international taxation which are presently out of the regime of faceless assessment. New schemes for these two functions are a part of the assessment function and should follow the faceless assessment procedure, wherein certain modifications are proposed which will have an impact on the information technology structure. Therefore, notification at this time shall result in delay in stabilization of the systems.

As for notification of scheme under section 255, the Appellate Tribunal is deemed to be a civil court for all the purposes of section 195 of the Act and Chapter XXXV of the Code of Criminal Procedure, 1898. Therefore, a scheme governing the procedures to be followed by such a body needs to be formulated after due consultations with Ministry of Law & Justice. Similarly, the scheme under section 253 have to follow the scheme under section 255.

In light of the above limitations, the date for issuing directions for the purposes of sections 92CA, 144C, 253 and 255 has been extended till 31st March, 2024. Applicability: These amendments are effective from the 1st April, 2022.

## **14. Provisions to check bonus stripping and dividend stripping to be made applicable to securities and units**

Section 94 of the Act contains anti-avoidance provisions to deal with transactions in securities and units of mutual fund which, inter alia, include dividend stripping and bonus stripping. Prior to the amendments made by Finance Act, 2022, provisions of section 94(8)



94(8) of the Act did not apply to bonus stripping undertaken in case of securities. It was also not applicable to units of Infrastructure Investment Trust (InvIT) or Real Estate Investment Trust (REIT) or Alternative Investment Fund (AIF) as the definition of the term "unit" was not amended subsequent to introduction of provisions relating to REITs, InvITs etc. Further, provisions of section 94(7) of the Act, i.e. provisions pertaining to dividend stripping were not applicable to the units of new pooled investment vehicles such as InvIT or REIT or AIF.

In view of the above, Finance Act, 2022 has amended section 94(8), pertaining to the prevention of tax evasion through bonus stripping, so as to make the said provision applicable to securities as well. Further, Explanation to the said section has also been amended to amend the definition of unit, so as to include units of business trusts such as InvIT, REIT and AIF, within the definition of units. Applicability: These amendments are effective from 1st April, 2023 and accordingly apply to the assessment year 2023-24 and subsequent assessment years.

### **15. Extension of the last date for commencement of manufacturing or production, under section 115BAB, from 31-3-2023 to 31-3-2024**

Section 115BAB of the Act provides for an option of concessional rate of taxation at 15%, for new domestic manufacturing companies provided that they do not avail of any specified incentives or deductions and fulfil certain other conditions. Section 115BAB(2) of the Act contains the conditions required to be fulfilled by such companies. Prior to amendments made vide Finance Act, 2022, clause (a) of said sub-section (2) provided that the new domestic manufacturing company is required to be set up and registered on or after 01.10.2019, and is required to commence manufacturing or production of an article or thing on or before 31st March, 2023.

The intent of the introduction of section 115BAB was to attract investment, create jobs and trigger overall economic growth. However, the cumulative impact of the persistence of the COVID-19 pandemic resulted in some delay in setting up / registration of new domestic companies and the commencement of manufacturing or production by such companies, if they have been set up and registered. In order to provide relief to such companies, FA, 2022 has amended section 115BAB so as to extend the date of commencement of manufacturing or production of an article or thing, from 31st March, 2023 to 31st March, 2024. Applicability: This amendment is effective from the 1st April, 2022.

### **16. Withdrawal of concessional rate of taxation on dividend income under section 115BBD**

Prior to amendments made vide Finance Act, 2022, section 115BBD of the Act provided for a concessional rate of tax of 15 % on the dividend income received by an Indian company from a foreign company in which the said Indian company holds 26 % or more in nominal value of equity shares (specified foreign company). This rate was aligned to the rate of tax provided under section 115-O of the Act. Finance Act, 2020 abolished the dividend distribution tax provided in section 115-O to, inter-alia, provide that dividend shall be taxed in the hands of the shareholder at applicable rates plus surcharge and cess. In order to provide parity in the tax treatment in case of dividends received by Indian companies from specified foreign companies vis a vis dividend received from domestic



companies, Finance Act, 2022 has amended section 115BBD of the Act to provide that the provisions of this section shall not apply to any assessment year beginning on or after the 1st day of April, 2023. Applicability: This amendment is effective from the 1st day of April, 2023 and accordingly, applies in relation to the assessment year 2023-24 and subsequent assessment years.

### **17. Rationalization of provisions of the Act to promote the growth of co-operative societies**

Section 115JC of the Act, inter alia, provides for the alternate minimum tax (AMT) payable by co-operative societies, which is at the rate of 18.5%. However, vide the Taxation Laws (Amendment) Act, 2019, the Minimum Alternate Tax (MAT) rate for companies has been reduced to 15%. Therefore, in order to provide parity between cooperative societies and companies, sub-section (4) of section 115JC has been modified to reduce the AMT rate at which co-operative societies are liable to pay income-tax to 15%. Consequential amendment was also done in clause (b) of section 115JF in relation to the definition of "alternate minimum tax". Applicability: This amendment is effective from 1st April, 2023 and, accordingly applies in relation to the assessment year 2023-24 and subsequent assessment years.

### **18. Amendment in the provisions of section 119 of the Act**

Section 119 of the Act empowers the Board to issue orders, instructions and directions to other income-tax authorities for proper administration of the Act. Clause (a) of sub-section (2) of the said section gives powers to the Board to provide relaxation of provisions of certain sections of the Act such as sections 115P, 115S, 115WD, 139, 211, 234A, 234B, 234C, 234E etc. by way of general or special orders, in respect of any class of incomes or class of cases, for the purpose of proper administration of the work of assessment or collection of revenue or initiation of proceedings for the imposition of penalties and such other issues, in public interest.

Therefore, considering the genuine hardships faced by certain classes of persons in filing return of income and not to impose a fee for a default which is beyond their control, section 119 has been amended to include section 234F to the list of sections mentioned in clause (a) of sub-section (2), so as to enable the Board to issue such orders or instructions, as deemed fit. Applicability: This amendment is effective from 1st April, 2022.

### **19. Provisions for filing of updated return**

A new provision is introduced in section 139 for filing an updated return of income by any person, whether he has filed a return previously for the relevant assessment year, or not. This provision for updated return over a period longer than that is provided in the existing provisions of the Act would on the one hand bring use of huge data with the IT Department to a logical conclusion resulting in additional revenue realization and on the other hand, it will facilitate ease of compliance to the taxpayer in a litigation-free environment.

Through this provision, taxpayers are given some more time under the Act to file particulars of their income for a previous year in an updated return. A payment of additional tax by persons opting to furnish their returns in the newly provided timelines is also required. An amount equal to 25% or 50% as additional tax on the tax and interest due on the additional income furnished would be required to be paid. Where no earlier return has been furnished, the interest payable under section 234A shall be computed on the amount



furnished, shall be computed after taking into account the income furnished in the return under sub-section (8A) of section 139 as the returned income. At the same time, for the computation of additional tax above, the interest payable shall be interest chargeable under any provision of the Act, on the income as per return furnished under sub-section (8A) of section 139, as reduced by interest paid in the earlier return, if any. However, the interest paid in the earlier return shall be considered to be nil if no earlier return has been furnished. In view of the introduction of section 139(8A) and new section 140B, consequential amendments in section 144, section 153, section 234A, section 234B and 276CC have also been made. Applicability: These amendments are effective from the 1st day of April, 2022.

## **20. Income-tax authorities for the purposes of section 133A of the Act**

Section 133A of the Act enables an income-tax authority to enter any place of business or profession or any other place where charitable activity is carried on within his jurisdiction to verify the books of account or other documents, cash, stock or other valuable article or thing, which may be useful for or relevant to any proceeding under this Act. Explanation to section 133A provides the definition of an income tax authority for the purposes of this section.

Explanation to section 133A of the Act is amended to provide that “income tax authority” shall be sub-ordinate to Principal Director General or Director General or Principal Chief Commissioner or Chief Commissioner, as the case may be, specified by the Board. Applicability: This amendment is effective from 1st April, 2022.

## **21. Amendment in Faceless Assessment under section 144B**

The Central Government has undertaken a number of measures to make the processes under the Act electronic, by eliminating person to person interface between the taxpayer and the Department to the extent technologically feasible, and provide for optimal utilisation of resources and a team-based assessment with dynamic jurisdiction. As part of this policy, vide Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020, section 144B was inserted in the Act to provide for the procedure for faceless assessment with effect from 1-4-2021 and the Faceless Assessment Scheme, 2019 ceased to operate from that date. However, various difficulties are being faced by the administration and the taxpayers in the operation of the faceless assessment procedure.

In view of the above, the existing provisions of the section 144B of the Act are amended to streamline the process of faceless assessment in order to address the various legal and procedural problems being faced in the implementation of the said section. Finance Act, 2022 has substituted section 144B w.e.f.1.4.2022.

## **22. Rationalization of provisions relating to assessment and reassessment**

The Finance Act, 2021 amended the procedure for assessment or reassessment of income in the Act with effect from the 1st April, 2021. The said amendment modified, inter alia, sections 147, section 148, section 149 and also introduced a new section 148A in the Act. In cases where search is initiated under section 132 of the Act or books of account, other documents or any assets are requisitioned under section 132A of the Act, on or after 1st April, 2021 assessment or reassessment is now made under sections 143 or 144 or 147 of the Act after the amendment of the Act by Finance Act, 2021. As a part of the government's policy related to simplification of procedures under the Act, amendments from 1st April, 2022.



### **23. Amendment of section 153 to extend time barring date in assessment**

Sub-section (1) of the section 153 of the Act provides the time-line for completion of assessment proceedings under sections 143 and 144 of the Act. As per the provisions of the said section the time-limit for completion for assessment for A.Y. 2020-21 is 12 months from the end of the relevant A.Y., that is 31st March, 2022. The assessment is now being conducted in a faceless manner as per the provisions of section 144B of the Act. The proceedings are carried out on the ITBA and the shift to faceless assessment has mandated new functionalities in the ITBA. The development as well as implementation of these functionalities has been delayed which has resulted in loss of time for completion of assessment proceedings.

Therefore, second proviso of sub-section (1) of section 153 of the Act has been amended to further provide that no order of assessment shall be made under section 143 or section 144 at any time after the expiry of 18 months from the end the relevant assessment year i.e., AY 2020-21, commencing on the 1st day of April, 2020. Applicability: This amendment is effective retrospectively from 1st April 2021.

### **24. Amendments related to successor entity subsequent to business re-organisation**

Chapter XV of the Act refers to liability in certain special cases. Section 170, inter alia, governs the procedure of taxation in case of succession to business in the event of re-organisation or restructuring of the business.

Though section 170 provides for assessment in cases of succession otherwise than by death, in practice once an entity starts the process of re-organisation by filing an application with the adjudicating authority or tribunal or any High Court, the period of time involved in coming to a conclusion with respect to such re-organisation is found to be a long-drawn process and is not time-bound. The effective date of re-organisation often is from an earlier date. During the pendency of the court proceedings, the income tax proceedings and assessments are carried on and are often completed on the predecessor entities only. Courts have held such proceedings and consequent assessments illegal as the predecessor assessee ceases to exist in the midst of a perfectly valid and legal proceeding.

Hence, till the decision of the court is received, the proceedings of the Act have to be continued in the case of the predecessor only and such proceedings once completed, cannot become illegal as a result of subsequent order of any court. Therefore, with a view to clarify that such proceedings under the Act are valid, a new sub-section (2A) is inserted in section 170, to provide that the assessment or other proceedings pending or completed on the predecessor in the event of a succession, shall be deemed to have been made on the successor.

Further, it is seen that post such re-organisation, the affairs of the successor entity go through a complete change with effect from the date from which such re-organisation takes place. However, due to the indefinite timeline involved in issuing such orders, there is a gap between the effectivity of such order and the date on which such order is issued by the competent authority. This also affects the final accounts of such entities as they are unable to modify their already filed returns in accordance with the re-organisation. Hence, in order to remove this anomaly, a new section 170A has been inserted in the Act, to enable for the entities going through such business re-organisation, for filing of modified returns for the period between the date of effectivity of the re-organisation and the date



of issuance of final order of the competent authority, in the form and manner as may be prescribed. Accordingly, vide Notification no. 110/2022 (GSR 709E), dated 19-9-2022. Rule 12AD has been inserted in the Income-tax Rules prescribing the form ITR-A and the manner for furnishing such return and this would come into effect from 01.11.2022. Further, in order to address genuine hardship and provide adequate time to taxpayers for furnishing of such return, an order under section 119 was Issued by CBDT on 26-9-2022 to provide that where the order of business re-organisation was issued between 1-4-2022 and 30-9-2022, the time available to furnish modified returns under this section shall stand extended to 31-3-2023. Further, it has been noted that in the cases of business re-organisation, instances have been found where the Adjudicating Authority, as defined in clause (1) of section (5) of the Insolvency and Bankruptcy Code, 2016, as a part of the restructuring process, recast the entire liability to ensure future viability of such sick entities and in the process, modify the demand created vide various proceedings in the past, by the Income Tax department as well, amongst other things.

However, it is observed that there is no procedure or mechanism provided in the Act to reduce such demands from the outstanding demand register. Hence, in order to remove this anomaly, a new section 156A is inserted in the Act to give effect to the orders of the competent authority and to modify such demands in accordance with such directions. Applicability: These amendments are effective from 1st April, 2022.

in the Act with effect from the 1st April, 2021. The said amendment modified, inter alia, sections 147, section 148, section 149 and also introduced a new section 148A in the Act. In cases where search is initiated under section 132 of the Act or books of account, other documents or any assets are requisitioned under section 132A of the Act, on or after 1st April, 2021 assessment or reassessment is now made under sections 143 or 144 or 147 of the Act after the amendment of the Act by Finance Act, 2021. As a part of the government's policy related to simplification of procedures under the Act, amendments have now been brought in through Finance Act, 2022 to—(i) insert a new proviso in section 148 of the Act to the effect that approval to issue notice under that section shall not be required to be taken by the Assessing Officer if he has passed an order under section 148A(d) with the prior approval of the specified authority in that case stating that the income is escaping assessment; (ii) to omit the requirement of approval of specified authority in clause (b) of section 148A. Applicability: These amendments are effective from 1st April, 2022.

## **25. Amendment in the provisions of section 179**

Section 179 of the Act contains provisions which enables income-tax authorities to recover tax due from a private company from its directors, under certain circumstances where such tax cannot be recovered from the company itself. The section makes each director of the private company jointly and severally liable for the payment of such tax with certain conditions. However, the title of the section inadvertently refers to the liability of directors of private company in liquidation. The liability of directors of a private company under this section is not conditional upon the company being in liquidation and the section makes no reference to liquidation. Therefore, to make the title of the section uniform with its provisions, the title of the section is amended to "Liability of directors of private company". Further, Explanation to the section clarifies that the expression "tax due" in the section includes penalty, interest or any other sum payable under the Act. In order to avoid



unnecessary litigation and to provide further clarity, the word "fees" is inserted in the scope of the expression "tax due" under Explanation to the section. Applicability: These amendments are effective from 1st April, 2022.

## **26. Consequence for failure to deduct/collect or payment of tax**

Computation of interest under section 201 of the Act deals with the consequences of persons who fail to deduct tax or after deducting, fail to deposit the same to the credit of the Central Government. In order to make the intention of the legislature clear and to make it free from any misinterpretation, the following amendments have been made: (i) sub-section (1A) of section 201 of the Act has been amended to provide that where any order is made by the Assessing Officer for the default under sub-section (1) of the said section, the interest shall be paid by the person in accordance with the order made by the Assessing Officer in this regard; (ii) sub-section (7) of section 206C of the Act has been amended to provide that where any order is made by the Assessing Officer for the default under sub-section (6A) of the said section, the interest shall be paid by the person in accordance with the order made by the Assessing Officer in this regard. Applicability: These amendments take effect from 1st April, 2022.

## **27. Rationalization of provisions of sections 206AB and 206CCA to widen and deepen tax-base**

In order to widen and deepen the tax-base and to nudge taxpayers to furnish their return of income, Finance Act, 2021 inserted sections 206AB and 206CCA in the Act. The said sections provide for special provision for deduction and collection of tax at source respectively, in case of specified persons at higher rates specified therein.

"Specified person" was defined to mean a person who has not filed the returns of income for both the two assessment years relevant to the two previous years immediately preceding the financial year in which tax is required to be deducted or collected, for which the time limit for filing return of income under sub-section (1) of section 139 of the Act has expired; and the aggregate of tax deducted at source and tax collected at source in his case is rupees fifty thousand or more in each of these two previous years. Government has provided online utility to taxpayers to check whether the person is specified person or not.

Further, the provisions of section 206AB of the Act were not applicable in relation to transactions on which tax is to be deducted under section 192, 192A, 194B, 194BB, 194LBC or 194N of the Act. In order to ensure that all the persons in whose case significant amount of tax has been deducted do furnish their return of income, the two years requirement has been reduced to one year by amending sections 206AB and 206CCA of the Act.

It has been provided that "specified person" means a person who has not filed its return of income for the assessment year relevant to the previous year immediately preceding the financial year in which tax is to be deducted or collected, as the case may be, and the amount of tax collected and deducted at source is Rs. 50,000 or more in the said previous year. However, in order to reduce the additional burden on individual and Hindu undivided family (HUF) taxpayers covered under sections 194-1A, 194-1B and 194M of the Act for whom simplified tax deduction system has been provided without requirement of TAN, it has been provided that the provisions of section 206AB will not apply in relation to transactions on which tax is to be deducted under the said sections of the Act. In addition



to above, a drafting error in sections 206AB and 206CCA has been rectified wherein the terms "deductor" and "collectee" respectively were used incorrectly. Further, since the returns are now being furnished electronically, in place of filing 'of return, the term 'furnishing' of return has been substituted. Further, as a consequential amendment in section 194-IB, the reference of section 206AB from sub-section (4) of the said section has been omitted. Subsequently Circular No. 10/2022, dated 17-5-2022 regarding use of functionality under sections 206AB and 206CCA of the Act has been issued to provide clarity to deduction about these principles and the departmental utility has been developed to ease compliance. Applicability: These amendments take effect from 1st April, 2022.

## **28. Rationalization of provisions of TDS on sale of immovable property**

As per the provisions of section 194-IA, TDS is to be deducted on the amount of consideration paid by the transferee to the transferor where the consideration for the transfer of an immovable property is Rs.50 lakhs or more. This section did not take into account the stamp duty value of the immovable property, whereas, as the provisions of sections per 43CA and 50C of the Act, For the computation of income under the head "Profits and gains of business or profession" and "capital gains" respectively, the stamp duty value is also to be considered. Thus, there was inconsistency in the provisions of section 194-IA and sections 43CA and 50C of the Act. In order to remove inconsistency, section 194-IA of the Act has been amended to provide that in case of transfer of an immovable property (other than agricultural land), tax is to be deducted at source at the rate of one per cent, of such sum paid or credited to the resident or the stamp duty value of such property, whichever is higher. In case the consideration paid for the transfer of immovable property and the stamp duty value of such property are both less than fifty lakh rupees, then no tax is to be deducted under section 194-IA. Stamp duty value shall have the meaning assigned to it in clause (f) of the Explanation to clause (vii) of sub-section (2) of section 56 of the Act. Form 26QB (challan-cum-statement) of deduction of tax under section 194-1A has been updated vide Notification no. 67/2022 (GSR 453E), dated 21 06.2022. Applicability: This amendment is effective from 1st April, 2022.

## **29. TDS on benefit or perquisite of a business or profession**

As per clause (iv) of section 28 of the Act, the value of any benefit or perquisite, whether convertible into money or not, arising from business or the exercise of a profession is to be charged as business income in the hands of the recipient of such benefit or perquisite, However, in many cases, such recipient does not report the receipt of benefits in their return of income, leading to furnishing of incorrect particulars of income. Similarly, there are benefits or perquisites received in the course of business / profession which are taxable under some other provisions of "profits and gains of business or profession" or other sections of the Act.

In order to widen and deepen the tax base, a new section 194R has been inserted in the Act to provide that the person responsible for providing to a resident, any benefit or perquisite, whether convertible into money or not. arising from carrying out of a business or exercising of a profession by such resident, shall, before providing such benefit or perquisite, as the case may be, to such resident, ensure that tax has been deducted in respect of such benefit or perquisite at the rate of ten per cent of the value or aggregate of value of such benefit or perquisite. For the purposes of this section, the expression 'person



responsible for providing' means a person providing such benefit or perquisite or in case of a company, the company itself including the principal officer thereof.

Further, in a case where the benefit or perquisite, as the case may be, is wholly in kind or partly in cash and partly in kind but such part in cash is not sufficient to meet the liability of deduction of tax in respect of whole of such benefit or perquisite, the person responsible for providing such benefit or perquisite shall, before releasing the benefit or perquisite, ensure that tax required to be deducted has been paid in respect of the benefit or perquisite.

No tax is to be deducted if the value or aggregate value of the benefit or perquisite paid or likely to be paid to a resident does not exceed twenty thousand rupees during the financial year.

Further, the provisions of the said section shall not apply to an individual or a Hindu undivided family, whose total sales, gross receipts or turnover does not exceed Rs.100 lakhs in case of business or Rs.50 lakhs in case of profession during the financial year immediately preceding the financial year in which such benefit or perquisite, as the case may be, is provided.

Vide circular no. 12 of 2022 of CBDT, dated 16-6-2022 and circular no. 18 of 2022, dated 13-9-2022, the Central Government has issued guidelines for removal of difficulties for operation of section 194R of the Act. Circular no. 12 of 2022, dated 16.6.2022 was laid before the Rajya Sabha on 26th July, 2022 and the Lok Sabha on 1st August, 2022.

Form 26Q and rule 31A of Income-Tax Rules, 1962 have been amended vide G.S.R. 463(E) Notification no. 67/2022, dated 21-06-2022 to also capture details of TDS under section 194R of the Act on benefits and perquisites given in kind. Applicability: This amendment is effective from 1st July, 2022.

### **30. Amendment in section 245MA of the Act related to Dispute Resolution Committee**

Finance Act, 2021 introduced a new Chapter XIX-AA in the Act consisting of section 245MA for constituting Dispute Resolution Committee ("DRC") for specified persons who may opt for dispute resolution under the said section and who fulfil specified conditions mentioned in the said section,

After the resolution of the dispute by the DRC the assessed income of the person who had applied to DRC has to be determined, which will be followed by, inter alia, initiation of penalty proceedings, if any and issuance of demand notice under section 156 of the Act. However, the existing provisions of the said section do not contain any provision which will enable the Assessing Officer to pass an order giving effect to the order or directions of the Dispute Resolution Committee under the said section.

Therefore, a new sub-section has been inserted in this section to enable the Assessing Officer to pass an order giving effect to the resolution of dispute by the DRC. However, since DRC is an alternate dispute resolution mechanism itself, a taxpayer may opt for approaching either the Dispute Resolution Panel under section 144C of the Act or the DRC under section 245MA of the Act, and the AO shall pass the final order in conformity with the order by the DRC even in the case of an eligible assessee. Applicability: The amendment is effective from 1st April, 2022.



### **31. Amendment in the provisions of section 248 of the Act and insertion of new section 239A**

Section 248 of the Act provides that in a case where, under an agreement or other arrangement, a person who has deducted tax on any income paid to a non-resident, other than interest under section 195 of the Act, he may appeal to the Commissioner (Appeals) for a declaration that no tax was deductible on such income, if he claims that such tax is to be borne by him since no tax was required to be deducted on such income. Such appeal can be filed after making payment of tax so deducted to the credit of the Government account. Further, section 249 of the Act lays down that an appeal under section 248 of the Act should be filed within 30 days of making payment of such tax to the Government account.

To obtain a refund of the tax deducted and paid by a person, where it was not deductible, as per the provisions of section 248 of the Act, a taxpayer has no recourse to approach the Assessing Officer with such request. He has to necessarily enter the appellate process by filing an appeal before the Commissioner (Appeals). At the same time, the agreement or arrangement, under which the tax has been deducted and paid, is not brought on the record of the Assessing Officer or examined by him.

In view of the above, a new section 239A has been inserted in the Act to, inter alia, provide that such a person, who has made the deduction of tax under an agreement or arrangement in writing and borne the tax liability, when no tax deduction was required, may file an application for refund of such tax deducted before the Assessing Officer, in such form and such manner as may be prescribed. Accordingly, vide Notification no. 98/2022 (GSR 634E), dated 17-8-2022. Rule 40G has been inserted in the Income-tax Rules prescribing Form 29D in which such application shall be made.

Such person can, if he is not satisfied with the order of the Assessing Officer, go into appeal against such order before the Commissioner (Appeals), under section 246A of the Act. Accordingly, the provisions of section 248 of the Act will not apply in cases where the date of tax payment to the credit of Central Government is on or after 1-4-2022. Applicability: These amendments are effective from 1st April, 2022.

### **32. Amendment in the provisions of section 263**

Section 263 of the Act contains the provision for revision of an order passed by the Assessing Officer which is erroneous in so far as it is prejudicial to the interests of revenue. An order under section 263 of the Act can be passed within two years from the end of the financial year in which the order sought to be revised was passed.

As per provisions of section 92CA, if the Assessing Officer considers it necessary or expedient, he may, with the approval of the Principal Commissioner or Commissioner refer the computation of arm's length price (ALP) in relation to the international transaction or specified domestic transaction entered into by an assessee, to the Transfer Pricing Officer (TPO). The TPO passes an order determining the ALP in an international transaction or specified domestic transaction under the provisions of section 92CA and sends it to the Assessing Officer for final income determination. However, it is not clear as to who has the power under section 263 to revise the order of the TPO passed under section 92CA.



Therefore, the provisions of section 263 of the Act have been amended so as to provide that the Principal Chief Commissioner or the Chief Commissioner or the Principal Commissioner or the Commissioner who is assigned the jurisdiction of transfer pricing may call for and examine the record

of any proceeding under this Act, and if he considers that any order passed by the TPO, working under his jurisdiction, to be erroneous in so far as it is prejudicial to the interests of revenue, he may pass an order directing revision of the order of TPO.

Further, section 153 of the Act is amended by inserting sub-section (5A) to provide that where the Transfer Pricing Officer gives effect to an order or direction under section 263 by means of an order under section 92CA and forwards such order to the Assessing Officer, the Assessing Officer shall proceed to modify the order of assessment or reassessment or re-computation, in conformity with such order of the Transfer Pricing Officer, within two months from the end of the month in which such order of the Transfer Pricing Officer is received by him. Further, consequential amendments to sub-sections (3), (5) and (6) have also been carried out. Applicability: This amendment is effective from 1st April, 2022.

### **33. Rationalization of the provisions of sections 271AAB, 271AAC and 271AAD**

Sections 271AAB, 271AAC and 271AAD of the Act under Chapter XXI of the Act contain provisions which give powers to the Assessing Officer to levy penalty in cases involving undisclosed income in cases where search has been initiated u/s 132 or otherwise, or for false entry etc. in books of account.

Under Chapter XXI of the Act which deals with penalties, Commissioner (Appeals) has concomitant powers with Assessing Officer to levy penalty in eligible cases under section 270A, section 271, section 271A, section 271AA, section 271G, section 271J which deal with deliberate concealment, non-disclosure and omission by an assessee to evade tax. Similarly, sections 271AAB, 271AAC, 271AAD penalise actions pertaining to undisclosed income, unexplained credits or expenditures, or deliberate falsification or omission in books of accounts. Therefore, in order to make deterrence more effective against non-compliance among tax payers, sections 271AAB, 271AAC and 271AAD are amended by enabling the Commissioner (Appeals), in addition to the Assessing Officer, to levy penalty under these sections. Applicability: These amendments are effective from 1st April, 2022.

### **34. Amendment In the provisions of section 272A**

Section 272A of the Act provides for penalty for failure to answer questions, sign statements, furnish information, returns or statements, allow inspections etc. At present, the amount of penalty for failures listed under sub-section (2) of section 272A is one hundred rupees for every day during which the failure continues. Section 272A ensures compliance with various obligations under the Act by penalizing non-compliance and acting as a deterrent. However, the penalty of Rs.100 per day had been commented upon by the CAG in their report on the entertainment sector as being too low. The penalty had not been increased since the section was introduced in 1999 and does not have an adequate deterrence value. Therefore the amount of penalty for failures listed under sub-section (2) of section 272A has been increased to Rs.500 per day, through an amendment made in the section. Applicability: This amendment is effective from 1st April, 2022,



## Recent Amendments under GST law

### I) Procedure for Withdrawal of Appeal

Vide Notification No. 26/2022 - (Central Tax) dated December 26, 2022, based on recommendations of the 48th GST Council Meeting held on December 17, 2022, the New FORM GST APL-01/03 W vide New Rule 109C has been introduced for the withdrawal of the Appeal. The reasons as stated in the form can be

- Acceptance of order of the adjudicating authority.
- Acceptance of order of a Higher Appellate Authority/ Court on similar subject matter
- Need to file appeal again after rectification of mistakes/omission in the filed appeal
- Amount involved in appeal is less than the monetary limit fixed for Appeal by the Board/Commissioner.
- Any other reasons.

The Application can be filed subject to section 107(11) in respect of appeal filed before Commissioner (Appeal) and Appellate Tribunal in FORM GST APL-01 or FORM GST APL-03. Where the final Acknowledgement has been issued the withdrawal of the appeal will be subject to the approval of Appellate Authority. The Fresh appeal can be filed pursuant to such withdrawal can be filed within the time limit as specified in section 107(1) and section 107(2) of CGST Act 2022.

Rule 88C and FORM GST DRC-01B inserted in CGST Rules, 2017 for intimation to the taxpayer, by the common portal, about the difference between liability reported by the taxpayer in FORM GSTR-1 and in FORM GSTR-3B for a tax period, where such difference exceeds a specified amount and/ or percentage, for enabling the taxpayer to either pay the differential liability or explain the difference. Further, clause (d) to be inserted in sub-rule (6) of rule 59 of CGST Rules, 2017 to restrict furnishing of FORM GSTR-1 for a subsequent tax period if the taxpayer has neither deposited the amount specified in the intimation nor has furnished a reply explaining the reasons for the amount remaining unpaid.

The No Claim Bonus offered by the insurance companies to the insured is an admissible deduction for valuation of insurance services.

### II) Application for refund by Unregistered person in case of cancellation of Flats or Pre-mature of Insurance Policy.

The Form GST Refund-01 is amended to allow the refund for unregistered persons. The Applicant should upload statement 8 and all the requisite documents including the certificate issued by the supplier. Separate application should be filed for different suppliers. The unregistered person should apply in the same state in which the supplier is registered, or else such person should obtain the temporary registration in the respective state. The refund shall be accompanied containing the details of invoices, proof of making the payment to the suppliers, copy of agreements entered with supplier, cancellation agreement, details of payment received from the supplier, certificate from supplier that he has paid the taxes in respect of invoices, not adjusted the tax against the tax liability by



issuing the credit note, buyer has not claimed the refund earlier. The certificate is not required in case where refund is claimed by an unregistered person who has borne the incidence of tax. Where the time limit of issuance of credit note is not expired under section 34 then in such instance the supplier can refund such taxes to the customer by issuing the credit note.

### **III) Reversal of ITC in case of non-payment of tax by the supplier by a specified date and mechanism for re-availment:**

The amended Rule 37(1) of the CGST Rules, w.e.f. October 1, 2022, to state that a registered person, who fails to pay to the supplier, the amount towards the value of such supply whether wholly or partly along with the tax payable thereon, within the time limit, shall pay or reverse an amount equal to the ITC availed in respect of such supply proportionate to the amount not paid to the supplier along with interest. New Rule 37A of the CGST rules has been introduced w.r.t. reversal of ITC by a registered person in the event of non-payment of tax by the supplier by a specified date and mechanism for re-availment of such credit if the supplier pays tax subsequently.

### **IV) Amendment in Procedure for filing the Appeal (Rule 108(3) of CGST Rules 2017)**

Where the decision or order appealed against is uploaded on the common portal, a final acknowledgment, indicating appeal number, shall be issued in FORM GST APL-02 by the Appellate Authority or an officer authorised by him in this behalf and the date of issue of the provisional acknowledgment shall be considered as the date of filing of appeal. Provided that where the decision or order appealed against is not uploaded on the common portal, the appellant shall submit a self-certified copy of the said decision or order within a period of seven days from the date of filing of FORM GST APL-01 and a final acknowledgment, indicating appeal number, shall be issued in FORM GST APL-02 by the Appellate Authority and the date of issue of the provisional acknowledgment shall be considered as the date of filing of appeal. Provided further that where the self-certified copy of the decision or order is not submitted within a period of seven days from the date of filing of FORM GST APL-01, the date of submission of such copy shall be considered as the date of filing of appeal.

### **V) E-Invoice**

In terms of Notification No. 13/2020-Central Tax dated 21st March, 2020, as amended, certain entities/sectors have been exempted from mandatory generation of e-invoices as per sub-rule (4) of rule 48 of Central Goods and Services Tax Rules, 2017. It is hereby clarified that the said exemption from generation of e-invoices is for the entity as a whole and is not restricted by the nature of supply being made by the said entity. For Example: A Banking Company providing banking services, may also be involved in making supply of some goods, including bullion. The said banking company is exempted from mandatory issuance of e-invoice in terms of Notification No. 13/2020-Central Tax, dated 21st March, 2020, as amended, for all supplies of goods and services and thus, will not be required to issue e-invoice with respect to any supply made by it.



- Introduced Rule 89(2)(kb) in the CGST Rules, to prescribe that the refund application shall be accompanied by a certificate issued by the supplier to the effect that he has paid tax in respect of the invoices on which refund is being claimed by the applicant; that he has not adjusted the tax amount involved in these invoices against his tax liability by issuing credit note; and also, that he has not claimed and will not claim refund of the amount of tax involved in respect of these invoices, in a case where the refund is claimed by an unregistered person where the agreement or contract for supply of service has been cancelled or terminated.
- Inserted new proviso to Rule 89(2)(m) to provide that, a certificate is not required to be furnished in cases where refund is claimed by an unregistered person who has borne the incidence of tax
- Amended Rule 12(3) of the CGST Rules, to state that the proper officer may cancel the registration on a request made in writing by a person to whom a registration has been granted.

### **1. CBIC Circular No. 172/04/2022-GST, dated 6-7-2022**

It clarifies the issue on utilization of the amounts available in the electronic credit ledger and the electronic cash ledger for payment of tax and other liabilities.

In terms of sub-section (4) of section 49 of CGST Act, the amount available in the electronic credit ledger may be used for making any payment towards output tax under the CGST Act or the Integrated Goods and Services Tax Act, 2017 (hereinafter referred to as "IGST Act"), subject to the provisions relating to the order of utilization of input tax credit as laid down in section 49B of the CGST Act read with rule 88A of the CGST Rules.

Sub-rule (2) of rule 86 of the CGST Rules provides for debiting of the electronic credit ledger to the extent of discharge of any liability in accordance with the provisions of section 49 or section 49A or section 49B of the CGST Act.

Further, output tax in relation to a taxable person (i.e. a person who is registered or liable to be registered under section 22 or section 24 of the CGST Act) is defined in clause (82) of section 2 of the CGST Act as the tax chargeable on taxable supply of goods or services or both but excludes tax payable on reverse charge mechanism.

Accordingly, it is clarified that any payment towards output tax, whether self-assessed in the return or payable as a consequence of any proceeding instituted under the provisions of GST Laws, can be made by utilization of the amount available in the electronic credit ledger of a registered person.

It is further reiterated that as output tax does not include tax payable under reverse charge mechanism, implying thereby that the electronic credit ledger cannot be used for making payment of any tax which is payable under reverse charge mechanism.

Therefore, the amount available in the electronic credit ledger may be used for making any payment towards output tax under this Act. Electronic credit ledger can be used for payment of any self-assessed liability arising because of any proceeding. Electronic credit ledger cannot be used for payment of any RCM liability, any erroneous refund sanctioned by cash and payment of any interest / penalty / late fee etc.

The Circular No 962/05/2012 dated 28.3.2012 allows the payment of arrears from CENVAT Credit earned at later date. The CENVAT Credit should be allowed to be used is



what was in balance on the last date of that month or quarter and not what has accrued thereafter. The restriction on the utilisation of the CENVAT Credit accruing subsequent to the last date of the month or quarter in which the arrears arise is not applicable for the demands confirmed under section 11A of Central Excise Act 1944.

In case of Jyothi Construction Vs Deputy Commissioner of Central Tax & GST Jaipur 2021 (54) GSTL 279 (Ori), the output tax as defined under GST cannot be equated with pre deposit under section 107(6) of CGST Act 2017. The pre deposit while filing appeals cannot be made by debiting electronic credit ledger. The appeals were rightly rejected as defective by Orissa HC. In case of Roma Builders Pvt Ltd Vs State of Maharashtra (Writ Petition No 23507 of 2022) contends that section 107 (6)(b) state that unless the appellant has paid (not deposited) a sum equal to 10% of the remaining amount of tax in dispute. Basically, it is 10% of tax must be paid as a pre-condition. The tax can be IGST/CGST/SGST. The amount of ITC available in in electronic credit ledger can be utilised towards payment of IGST/SGST/CGST respectively. The CBIC has clarified that any amount towards output tax payable because of any proceedings instituted under the provisions of GST laws can be paid by utilisation of the amount available in the electronic credit ledger of a registered person.

The Orissa High Court had held contrary for utilisation of credit ledger for payment of pre-deposit, but the Bombay High Court has pointed to the issue of circular by CBIC subsequently whereby it was clarified that credit ledger can be used for payment of tax arising out of proceedings.

## **2. Instruction: CBIC- 240137/14/2022 dated 28th October 2022 Payment through DRC-03**

- It clarifies that payments through DRC-03 under GST Regime is not a valid mode of payment for making payment pre deposits under Central Excise or Service Tax law.
- There exists a dedicated CBIC-GST Integrated portal <https://cbic-gst-gov.in> (Board Circular 1070/3/2019-CX dated 24th June 2019) which should only be utilized for making pre deposits under the Central Excise Act 1944 and Finance Act 1944 while making payments under the erstwhile law.

## **3. Advisory: Sequential filing of GSTR-1 Filing of GSTR-1**

- The Central Government has amended section 37 and section 39 of CGST Act vide notification 18/2022 dated 28th September 2022 with effect from 1st October 2022.
- Section 37(4) of CGST Act specifies that the taxpayers shall not be allowed to file GSTR-1 if previous GSTR-1 is not filed.
- Section 39(10) state that taxpayer shall not be allowed to file GSTR-3B if GSTR-1 for the same tax period is not filed.
- These changes will be implemented prospectively and will be operational on GST portal from 1st November 2022.
- From October 2022 period onwards, filing of Previous period GSTR-1 will be mandatory before filing current period GSTR-1.
- From October 2022 tax period onwards filing of GSTR-1 will also be mandatory before filing GSTR 3B.



**Circular - SEBI****CIRCULAR****SEBI/HO/IMD/IMD-PoD-2/P/CIR/2022/172****December 16, 2022****To,****All Portfolio Managers****Association of Portfolio Managers in India ('APMI')**

Dear Sir / Madam,

**Subject: Performance Benchmarking and Reporting of Performance by Portfolio Managers**

1. SEBI, *vide* circulars [SEBI/HO/IMD/DF1/CIR/P/2020/26 dated February 13, 2020](#) and [SEBI/HO/IMD/DF1/CIR/P/2021/02 dated January 8, 2021](#), specified various modalities related to Portfolio Managers including, *inter-alia*, reporting of performance/periodic reporting by Portfolio Managers.

2. In order to help investors in assessing the performance of a Portfolio Manager, the applicable requirements related to performance reporting and benchmarking by Portfolio Managers has been reviewed as under:

**Performance Benchmarking**

2.1. An investment approach ('IA') is the documented investment philosophy to be adopted by the Portfolio Managers while managing the client funds in order to achieve client's investment objectives. Now, in addition to IA, an additional layer of broadly defined investment themes called "Strategies" shall be adopted by Portfolio Managers. These broad Strategies shall be 'Equity', 'Debt', 'Hybrid' and 'Multi Asset'.

2.2. Each IA shall be tagged to one and only one Strategy from the Strategies as above. This tagging shall be at the discretion of the concerned Portfolio Manager. A Portfolio Manager may tag more than one IA to a Strategy, but each IA must be tagged to only one Strategy.

2.3. APMI shall prescribe a maximum of three benchmarks for each Strategy. These benchmarks shall reflect the core philosophy of the Strategy. While tagging an IA to a particular Strategy, the Portfolio Manager shall select one benchmark from those prescribed for that Strategy to enable the investor to evaluate relative performance of the Portfolio Managers.

2.4. The Board of the Portfolio Managers shall be responsible for ensuring appropriate selection of Strategy and benchmark for each IA.

2.5. Once an IA is tagged to a Strategy and/or to a benchmark, the tagging shall be changed only after offering an option to subscribers to the IA to exit without any exit load. The performance track record (of the specific IA whose tagging with Strategy/benchmark was changed) prior to the change shall not be used by the Portfolio Manager for performance reporting. Further, the same shall be verified as part of annual audit under [Regulation 30](#) of the [Securities and Exchange Board of India \(Portfolio Managers\) Regulations, 2020](#) ('PM Regulations').

2.6. The changes in Strategy and/ or benchmark shall be recorded with proper justification and shall be verified as part of the annual audit under [Regulation 30](#) of the PM Regulations.

**Valuation of Securities by Portfolio Managers**

2.7. APMI shall prescribe standardized valuation norms for Portfolio Managers same as the corresponding norms applicable to the Mutual Funds. Valuation of the portfolio debt and money market securities by portfolio managers shall be carried out in accordance with these standardized valuation norms prescribed by APMI.



2.8. APMI shall empanel valuation agencies for the purpose of providing security level prices to Portfolio Managers. Portfolio Managers shall mandatorily use valuation services obtained only from one or more of such empanelled valuation agencies for the purpose of valuation of debt and money market securities in portfolios managed by them. The ultimate responsibility for fair valuation shall be that of the Portfolio Manager.

### **Reporting of Performance**

2.9. Portfolio Manager shall present the Time-weighted Rate of Return ('TWRR') of the IA along with the trailing return of the selected benchmark when communicating/ advertising/ publishing/ mentioning performance of an IA.

2.10. Portfolio Manager shall present the Extended Internal Rate of Return ('XIRR') for each IA the investor invests in when reporting performance to an investor. This shall be accompanied by the minimum, maximum and median XIRR return generated across all investors in each of the IA the investor has invested in. The TWRR of the respective IA(s) and the trailing return of the benchmark(s) selected shall also be presented separately. Following disclaimer must accompany this disclosure:

*"Please note that performance of your portfolio may vary from that of other investors and that generated by the Investment Approach across all investors because of*

*1) the timing of inflows and outflows of funds; and*

*2) differences in the portfolio composition because of restrictions and other constraints."*

2.11. The following shall not be mentioned or implied in performance reporting or in any other communication in any form by the Portfolio Managers:

2.11.1. Any other categorization/ classification of IAs, except for the Strategy that they are tagged to.

2.11.2. Model Portfolio returns

2.11.3. The performance of one or more cherry-picked investor(s)

However, aggregated performance statistics of all investors in an IA may be used by a Portfolio Manager for aggregated performance reporting.

2.12. Formats placed at Annexure – 1 of this Circular shall replace format at Section E "Performance Data" in Annexure-A of [SEBI Circular no. SEBI/HO/IMD/DF1/CIR/P/2021/02 dated January 8, 2021](#).

2.13. Portfolio Manager shall disclose relative performance of its investment approach in all the marketing material where performance of the concerned investment approach is being presented. Such disclosure of relative performance shall, at minimum, include the following:

2.13.1. Performance relative to the selected benchmark

2.13.2. Performance relative to other Portfolio Managers within the selected Strategy

2.14. Verification of all the above performance statistics shall be carried out in the annual audit under Regulation 30 of the PM Regulations.

2.15. Portfolio Managers shall also submit the monthly reports to APMI in addition to SEBI within 7 working days from the end of each month. APMI shall make available the monthly reports of the Portfolio Managers on APMI website in an intuitive and user-friendly manner facilitating ease of comparison so as to provide access to portfolio level, investment approach level, portfolio manager level and industry level information to all the stakeholders. APMI shall also make available relative performance of each investment approach within the strategy to concerned portfolio manager and also disclose the same on its website.

### **3. Applicability:**

3.1. The provisions of this Circular shall be applicable with effect from April 01, 2023.

3.2. The provisions of para 2.9 to 2.15 of this Circular shall be applicable to any entity reporting/ publishing/ advertising performance of any IA of any Portfolio Manager. All other provisions of this Circular shall be applicable to the Portfolio Managers.

3.3. Portfolios of investors/ clients of Portfolio Manager shall not be covered under the circular if,

3.3.1. Investors are governed by separate statutes like Provident Funds (Employees' Provident Fund Organization, Coal Mines Provident Fund Organization, Exempted Provident Fund Trusts), Employee State Insurance Corporation, Postal Life Insurance,



etc.

3.3.2. The non-individual Investors are regulated by RBI, IRDA & PFRDA for whom specific valuation and/or benchmarking norms have been specified by the concerned regulator(s).

subject to verification of compliance with the above conditions in the annual audit under Regulation 30 of the PM Regulations.

3.4. Portfolio Managers shall not advertise/ publish/ mention to any entity other than those belonging to the investor category to which said IA is offered the returns of the IAs where exception as above has been exercised. Portfolio Managers may, however, include the assets managed in such IAs in their total AUM when communicating publicly as well as in regulatory reporting.

4. All other requirements of the [Circulars dated January 8, 2021](#) and [February 13, 2020](#) shall remain unchanged.

5. The Portfolio Managers and APMI shall take necessary steps for implementing the circular including putting required processes and systems in place to ensure compliance with the provisions of this circular.

6. This circular is issued in exercise of powers conferred under [Section 11 \(1\)](#) of the [Securities and Exchange Board of India Act, 1992](#), read with the provisions of [Regulation 43](#) of [SEBI \(Portfolio Managers\) Regulations, 2020](#), to protect the interest of investors in securities and to promote the development of, and to regulate, the securities market.

**Yours faithfully,**

**Chhavi M. Kapoor**

**General Manager**

**Investment Management Department**

**Tel: 022 – 26449112**

**Email: [chhavim@sebi.gov.in](mailto:chhavim@sebi.gov.in)**

**Annexure – 1: Formats for monthly reporting to SEBI/ APMI**

**Table 1**

Name of the Portfolio Manager Registration number			TWRR Returns (%)								
Strategy	Investment Approach	AUM (INR Cr.)	1 Month	3 Months	6 months	1 Year	2 Year	3 Year	4 Year	5 Year	Since Inception
Strategy 1	IA 1										
	Benchmark 1										
	IA 2										
	Benchmark 2										
Strategy 2	IA 3										
	Benchmark 3										



Strategy 3	IA 4										
	Benchmark 1										
	IA 5										
	Benchmark 3										
	IA 6										
	Benchmark 1										

**Table 2**

Name of the Portfolio Manager	Portfolio Turnover Ratio	
	1 month	1 year
Investment Approach		
IA 1		
IA 2		
IA 3		
IA 4		
IA 5		
IA 6		

## TAMILNADU VAT

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

### Madras High Court Judgments in VAT CST GST

Revision and Limitation: Original order of assessment had come to be revised under impugned notice without notice or a pre-assessment proposal having been issued to the petitioner, and long after the period of limitation, of five years from the expiry of the year for escapement of turnover of tax, set out under Section 18 of the Act. he impugned notice has been issued later to the period of limitation. In light of the admitted position, the impugned orders are quashed. M/s. Acer India Pvt. Ltd. Vs CTO, GD-III, CT Dept, Puducherry-5.W.P.No.32177 of 2022 Dt: 30.11.2022

Suspension of Registration : The show cause notice (SCN) does not even allege that petitioner has obtained registration by fraud or wilful misstatement or suppression of facts. Digital signature appended in the document sent by the officer, which says signature is not verified. Hence, the document have to take it to be an unsigned document and how it can be an official document. Stating so, the Court concluded that the SCN is bereft of any materials.



bereft of any materials. The impugned SCN is quashed and consequently, the suspension issued by the respondent is also quashed with directions. R.Sujipriya Vs. 1. Commissioner of CGST & Excise, Bibikulam, Madurai District. 2. The AC of CGST & Excise, Dindigul II Divn, Dindigul District. W.P.(MD) No.24755 of 2022 Dt: 01.11.2022

E way bill Defect and goods release : For the defect in the E way bill, the Court stated that the consignment shall be released on payment of penalty of one time tax i.e., 100% tax and it is open to the Petitioner to agitate the rights finally by way of filing an appeal, if they are so advised. Petitioner submitted that they are willing to pay 100% of tax as penalty that may be adjusted towards 25% pre-deposit for filing an appeal, which was consented to by the Respondents. Recording this, the Hon'ble Court disposed of this WP with the directions that: (a) Respondents shall release the consignment on the Petitioner paying 100% tax forthwith. (b) In the event of the Petitioner filing an appeal, 100% taxes paid shall be adjusted towards 25% pre-deposit for filing appeal. M/s AMCO Batteries Ltd Vs. 1 STO (Intl.), Adjudication-1, Madurai. 2. STO (Intl.), RS (Main), Madurai. W.P(MD). No. 25322 of 2022 dt : 08.11.2022

Personal Hearing: It was incumbent upon the authority u/s 74 of the GST Act, 2017 to have heard the petitioner in person, prior to passing of the impugned order. That apart, the impugned order rejects the explanation tendered by the petitioner vide reply dated 08.02.2022 by way of a cryptic one liner stating "dealer reply was verified and not accepted" The Court set-aside the order with the directions that notice be issued afresh, the petitioner heard and orders passed in accordance with law, within 12 weeks from today. Vinayaka Steels Vs STO (Circle), Krishnagiri-I, Dharmapuri, Salem. W.P.No.30939 of 2022 Dt: 21.11.2022

Bar of Limitation: Original VAT assessment is deemed to have been completed on 30.06.2012 and limitation u/s 27 of the TNVAT Act would expire on 30.06.2017. Primary ground argued is the bar of limitation as the first notice, issued proposing revision of assessment, long past the elapse of limitation. As the notices have been issued only on 21.09.2019, the assessments are liable to be set aside. The delay in framing of CST assessments cannot, in any event, extend the statutory limitation. The impugned orders of the assessment are held to be barred by limitation and are set aside and the WPs were allowed. M/s.Srinidhi Industries Ltd., Vs AC(ST)(FAC), Nethaji Road Assessment Circle, Erode. W.P.Nos.4788 & 4791 of 2020 Dt: 11.11.2022

Appeal filing after CIRP process : Petitioner seeks permission to withdraw this WP with liberty to approach the appellate authority by way of statutory appeal. Ld Senior Standing Counsel , expresses no objection for the liberty so sought and granted. This benefit is granted to the petitioner despite the position that the WP has been filed beyond the period of statutory limitation. The petitioner is stated to have been revived on 27.05.2022 pursuant to CIRP process before the NCLAT and this WP has been filed on 03.11.2022. Stating so, WP is dismissed as withdrawn by the Court, with liberty as above. M/s. New Chennai Township Pvt. Ltd Vs Commissioner of GST&CE Chennai South Commissionerate, Chennai-35. W.P.No.29262 of 2022 Dated: 07.11.2022

Opportunity / Personal Hearing: A personal hearing must be afforded specifying the date and time of hearing. That apart, such hearing must be pursuant to the receipt of objections in order that both parties may be fully aware of their respective stands.



The Court observed that the opportunity granted under notice dated 30.07.2019, which is admittedly, the only notice issued to the petitioner prior to finalizing of assessment, does not conform to proper procedure. As written objection has been filed by the petitioner, the Court directed the petitioner appear before the Authority on Thursday, the 24th of November at 10.30 am. without awaiting any further notice in this regard. M/s. KTM Jewellery Ltd Vs. AC, Peelamedu (North) Assessment Circle, Coimbatore. W.P.No.3074 of 2020 DATED: 07.11.2022

No personal hearing: Rectification application moved u/s 84 of the TNVAT Act has come to be decided by way of impugned order dated 19.12.2018. The petitioner assailed the impugned order mostly on the violation of principles of natural justice pointing out that it was in full possession of materials to have established errors arising in the original assessment but had been prevented from doing so since there have been no opportunity granted prior to passing of the impugned order. Despite repeated opportunities granted to the Ld counsel for the respondent to produce a copy of the personal hearing notice or at least the date on which personal hearing was conducted, there is no response forthcoming leading to the unambiguous view that there was no personal hearing that has been granted to the petitioner prior to passing of the impugned order. The Court ruled that the impugned order is set aside with directions M/s. Venus Rubber, Vs. AC(CT), Velandipalayam Assessment Circle, Coimbatore W.P.No.34272 of 2019 DATED: 03.11.2022

Inadvertent Error in Refund: Petitioner states that a mistake had crept in in the GST refund application insofar as the petitioner had, instead of opting for exports “without payment of tax”, had opted for the column “with payment of tax”. The petitioner has also circulated an order passed by the same respondent officer in the case of another assessee by name “Shri Shakti Exports” wherein refund, as sought in similar circumstances has been granted, the officer, taking a lenient view. Court observed that rejecting the refund solely on the inadvertent error that had transpired would be hypothetical and the conclusion of the officer to this effect is thus set aside with directions. Abi Egg Traders, Vs AC, Salem II Division, Anaimedu, Salem W.P.No.3773 of 2020 Dated: 03.11.2022

Service of the proceedings : Ld counsel for the petitioner contends that there has been no order of assessment that has accompanied the demand notice issued in terms of the TNVAT Act, 2006. Counter has been filed by the respondent established the acknowledgment of service of the proceedings dated 14.08.2019 upon the petitioner. With this, there is no merit in the submission of the petitioner that the complete order of assessment has not been served upon it. However, as a matter of grace, Ld Government Advocate does not seriously object to the request of the petitioner to challenge proceedings dated 14.08.2019 by way of statutory appeal. The petitioner is granted liberty to challenge proceedings dated 14.08.2019 with directions. M/s.Sabri Mik Marketing, Vs. STO, Attur (Rural) Circle, W.P.No.5525 of 2020 Dt 02.11.2022