



**The Institute of Chartered Accountants of India**

# **CA Student's Conference at Ernakulam**

**24th & 25th November 2017**

**Organised by:**

**Board of Studies, ICAI**

**Hosted by:**

**Ernakulam Branch of SIRC of ICAI &  
Ernakulam Branch of SICASA of ICAI**

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA  
NEW DELHI



## MOTTO

**Ya esa suptesu jagarti** kamam kamam Puruso nirmimanah ।

Tadeva sukram tad brahma tadevamrtamucyate ।

Tasminloka sritah sarve tad natyeti Kascan । etad vai tat ॥

**य एष सुप्तेषु जागर्ति** कामं कामं पुरुषो निर्मिमाणः ।

तदेव शुक्रं तद् ब्रह्म तदेवामृतमुच्यते ।

तस्मिंल्लोकाः श्रिताः सर्वे तदु नात्येति कश्चन । एतद् वै तत् ॥

*(That person who is awake in those that sleep, shaping desire after desire, that, indeed, is the pure. That is Brahman, that, indeed, is called the immortal. In it all the worlds rest and no one ever goes beyond it. This, verily, is that, kamam kamam : desire after desire, really objects of desire. Even dream objects like objects of waking consciousness are due to the Supreme Person. Even dream consciousness is a proof of the existence of the self.*

*No one ever goes beyond it : cf. Eckhart : 'On reaching God all progress ends.'*)

Source : Kathopanishad

## Programme

### Day 1

9.30am to 10.30am

Inaugural Session

Chief Guest : Hon'ble Mr. Justice K. SURENDRA MOHAN, High Court of Kerala

10.30am to 11.30am

Special Session I: Motivational Session - CA STUDENTS IN NATION BUILDING

Speaker : CA. V. PATTABHI RAM, Chennai

11.30am to 11.45am

Tea Break

11.45am to 1.15pm

Special Session II: Interaction and Open House with Board of Studies

CA. MANGESH PANDURANG KINARE, Vice-Chairman, Board of Studies, ICAI

1.15pm to 2.15pm

Lunch break

2.15pm to 3.45pm

Technical Session I: Corporate Law

Session Chairman : CA. SRIPRIYA K, Central Council Member, ICAI, Chennai

a. Privileges of Small Companies

Student Speaker : Ms. Elena Mariam Thomas, Ernakulam

b. Acceptance of deposits and loans to directors

Student Speaker : Mr. Jishnu Manavedan V, Ernakulam

c. Restrictions on foreign exchange transactions under FEMA

Student Speaker : Mr. Achuth P, Kozhikode

3.45pm to 4.00pm

Tea Break

4.00pm to 5.30pm

Technical Session II: Direct Tax

Session Chairman : CA. G. SEKAR, Central Council Member, ICAI, Chennai

a. Restrictions on cash transactions under Income Tax Act, 1961

Student Speaker : Mr. Simran B. Salim, Ernakulam

b. Disclosure requirement under ICDS- A practical approach

Student Speaker : Mr. Mohammed Yaseen, Ernakulam

c. International Taxation

Student Speaker : Mr. Raghuveersinh B. jadeja, Rajkot, Gujarat

### Day 2

8.00 am to 9.00 am

Breakfast

9.00 am to 10.30 am

Technical Session III: Accounting

Session Chairman : CA. RAJESH SHARMA, Central Council Member, ICAI

a. AS 10- Property, Plant and Equipment

Student Speaker : Mr. Abdulla P. Ali, Ernakulam

b. Related party disclosure- AS 18 vs Ind AS 24

Student Speaker : Ms. Sneha. V, Ernakulam

c. AS 22- Accounting for taxes on income

Student Speaker : Ms. V.K. Krishna Veni, Palakkad.

10.30 am to 11.30 am

Special Session III: Motivational Session

Speaker : CA. ANJANI KUMAR SHARMA, Delhi.

11.30 am to 11.45 am

Tea break

11.45 am to 01.15 pm

Technical Session IV: Auditing

Session Chairman : CA. VENUGOPAL C. GOVIND, Kochi

a. Audit documentation in the context of Quality Review/ Peer review

Student Speaker : Mr. S. Ajay Ganesh, Ernakulam

b. Powers, duties and responsibilities of Auditors

Student Speaker : Mr. Aakarsh Jain, Madhya Pradesh

c. Compliance requirements under Companies Act, 2013

Student Speaker : Ms. Rose Raju, Kottayam

1.15 pm to 2.15 pm

Lunch break

2.15 pm to 3.15 pm

Special Session IV:

Meet the Achievers – Guinness World Record Holders

Mr. Job Pottas,

Mr. William Panipicha

& Mr. Abheesh P Dominic

3.15 pm to 4.45 pm

Technical Session V : Goods and Services Tax

Session Chairman : CA. GANESH PRABHU BALAKUMAR, Chennai

a. Time and Place of Supply

Student Speaker : Mr. Kunal Lunawat, Nashik, Maharashtra

b. Input Tax Credit and Composition Levy

Student Speaker : Mr. Jeet Mashrani, Raipur, C.G.

c. Returns under GST

Student Speaker : Ms. Sahasi Rupa, New Delhi.

4.45pm to 5.15pm

Valedictory Session

Chief Guest: Shri. Hibi Eden MLA

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## Message

**CA. Nilesh Shivji Vikamsey**  
President, ICAI (2017-18)



Dear Students,

Chartered Accountancy has always been regarded as one of the most respectable and sacrosanct professions. With a progressive shift in economy in the last two decades, the role of Chartered Accountants has significantly enhanced in all spheres of economy, be it business, industry, financial services, banking, insurance, Government, NGOs, and especially in the corporate sector.

Today, Chartered Accountants are perceived as consultants/advisors to the management in the areas like Mergers and Acquisitions, Business Diversification, Risk Assessment, Costing, Valuation and International Taxation. Being students of a dynamic and challenging profession, you have to be consistent and sincere in your efforts, pragmatic in your approach to achieve academic excellence and professional integrity.

### **ICAI your alma mater: your mentor**

ICAI is committed to guide you to become outstanding and well-rounded professionals. Apart from bringing out academic inputs like Study Material, Revision Test Papers, Practice Manuals, e-lectures, webcasts and conducting Mock Tests, the Board of Studies (BoS) of ICAI also conducts various other programs for your holistic development including **National Students' Conferences** and **contests** like the **National Talent Hunt** besides various other activities for students.

In this direction, I am pleased to know that the Board of Studies of ICAI along with Ernakulam Branch of SIRC and SICASA is organizing **CA Students' Conference** during November 24-25, 2017 at Ernakulam. The theme for the conference is aptly titled "**Nurturing Values & Integrity - Attaining Excellence in Professional Pursuits**". My compliments to the Chairman, Managing committee members of the branch and all the organizers for hosting this Conference.

### **Practical Training: Hallmark of the Profession**

The **article-ship training** which is an integral part of the Chartered Accountancy curriculum gives you extensive practical exposure that helps in to cultivate a professional acumen to apply theoretical concepts prudently in real situations. The exposure helps you to comprehend technical concepts and hone your communication skills leading to improved performance in the examinations. Practical training provides hands on experience giving you the winning edge and confidence that helps you to evolve as a confident student and prepares you for the transition from being a student to a competent and technically proficient professional. Remember what Swami Vivekananda said, "**We may read books, hear lectures, and talk miles, but experience is the one teacher, the one eye-opener.**" Practical training is your learning ground where you learn the practical aspects of the profession from your Principal. Thus, you should learn and follow the valuable guidance you receive during practical training.

### **Revised Scheme of Education and Training: The future beckons....**

With an objective to meet current and future industry requirements and to synchronize the syllabus as prescribed



by International Accounting Education Standards Board (IAESB), the institute has revamped the syllabus and scheme of the Chartered Accountancy course to introduce “**Revised Scheme of Education and Training**”. This revised scheme has been launched by the Hon’ble Prime Minister of India Shri Narendra Modi ji on 1st July, 2017. This would help to position our Indian Chartered Accountants at par with global accounting professionals opening new vistas globally.

I am quite hopeful that the “**Revised Scheme of Education and Training**” shall meet the society and industry expectations and prepare the students to confront future challenges.

### **Strive for Excellence**

Excellence is about setting a high standard for yourself in whatever you attempt and focusing on getting better by the day. It is about realizing your maximum potential i.e. what you are and what you can become. As students, you have your strengths and weaknesses both but most often your degree of success depends on how you are utilizing your strengths for the given tasks. Possessing the necessary talent and capability will not suffice, these are mere prerequisites; you will have to work hard towards excelling in your talent to prove that you truly deserve what you desire. To achieve your dreams, you will have to train yourself to excel, pushing yourself inch by inch, and improving your performance by the day.

### **Excellence is becoming the centre of your own universe, shining your light into the world using your unique talents.**

I am sure that the sessions/activities at the Conference would give you comprehensive exposure and help to understand and appreciate the diverse points of view. Active participation in this Conference would prove invaluable in honing and fine-tuning your communication skills besides providing a wonderful platform for expressing your views and building camaraderie with fellow CA students.

All the best for your future pursuits,

**CA. Nilesh S. Vikamsey**

President, ICAI



**CA. Naveen N. D. Gupta**  
Vice President, ICAI (2017-18)

## Message

*I* am delighted to know that the Board of Studies of the Institute, in association with the Ernakulam Branch of Southern India Regional Council and Ernakulam Branch of SICASA is organizing a two day CA Students' Conference at Ernakulam on 24th & 25th November, 2017. The theme "Nurturing Values & Integrity - Attaining Excellence in Professional Pursuits" of the Conference is very relevant & inspirational, encouraging the students to imbibe ethics with professional knowledge, for succeeding in life. Conferences of this nature are avenues for students to complement their knowledge, develop holistic personality and learn essential life skills, through interaction with senior faculty and fellow peers to shine in professional world.

Our Institute has always taken great steps to sow the seeds of awakening in all the students for their bright future. This Conference will be an appropriate forum for students to showcase their talent and sharpen their skills. The topics of the Conference are very pertinent and will be helpful to the students, so as to synergize their skills and knowledge for shaping up as a better Chartered Accountant. The programme structure is a good combination of technical and special motivational sessions, and will immensely benefit the participating students to listen to some of the esteemed faculties and experts on various topics of contemporary and professional relevance.

I wish the Conference all the success.

**CA. Naveen N. D. Gupta**  
Vice President, ICAI,  
New Delhi.

*Message***CA. Atul Kumar Gupta**

Chairman, Board of Studies

JOINT MESSAGE,  
**CHAIRMAN,**  
BOARD OF STUDIES AND  
**VICE CHAIRMAN,**  
BOARD OF STUDIES  
**FOR CA STUDENTS' CONFERENCE****CA. Mangesh P. Kinare**

Vice Chairman, Board of Studies

Once Nelson Mandela said, "Education is the most powerful weapon you can use to change the world". Course of Chartered Accountancy is a right direction step you have taken to see your empowerment simultaneous with feeling of self-actualisation of serving the society.

Being Chartered Accountant, a conscious keeper of society to see the integrated and prudent reporting, usually called as watchdog of economy. It is always endeavor of ICAI to shape and support its students in their chase of visionaries and successful professionals. Our advice will be to concentrate on your article training which is backbone of our profession and your success.

The Board of Studies (BoS), being academic wing of the ICAI, always been a trend-setter in innovating and implementing various programmes for the knowledge enhancement of its students. It has its multifarious activities to keep the students always abreast of the developments around the world in the field of Accountancy Profession. The initiatives it takes for the cause are release of well researched study materials, revision test papers, practice manuals, e-Lectures, webcasts, conduct of mock tests. Besides providing various academic inputs, the BoS also aims at making its students outstanding & well rounded professionals. Towards the achievement of this goal, it organizes various programs, conferences, National Talent Hunt and Quiz contests.

We are happy that the BoS is organizing a two-day Conference for CA



Students. Theme of conference “Nurturing Values & Integrity- Attaining Excellence in Professional Pursuits” is aptly chosen. Attending the Conference will definitely help the students in grooming their personality and get motivated with rich experience will be shared by blend of experienced speakers from Industry and profession.

Being the future of accountancy profession, you should understand “Desire is the key to motivation, but its determination and commitment to an unrelenting pursuit of your goal- a commitment of excellence – that will enable you to the success you seek”.

We wish the Conference all the success.

**CA. Atul Kumar Gupta**

Chairman, Board of Studies

**CA. Mangesh P. Kinare**

Vice Chairman, Board of Studies

24th & 25th November 2017

## CA Students Conference at Ernakulam

## Composition of Board of Studies for the Term 2017-18

### Name & Address



CA. Nilesh Shivji Vikamsey  
President (Ex-Officio)  
M/s. Khimji Kunverji & Co.  
Sunshine Tower, Level 19  
Senapati Bapat Marg (Tulsi Pipe Road)  
Elphinstone Road,  
Mumbai - 400 013.

### Contact Details

Ph.	+91 (22) 6143 7333
Mobile	+91 9323332552
Fax	+91 (22) 6143 7300
E-Mail	nilesh@kkc.in
Resi. Ph.	+91 (22) 2410 5521, 2410 5523



CA. Naveen N. D. Gupta,  
Vice President (Ex-Officio)  
B -4 , Gulmohar Park,  
New Delhi - 110049

Ph.	+91 (11) 4611 1000
Mobile	+91 9810689998
Fax	+91 (11) 46111099
E-Mail	naveen@dassgupta.com;
Resi. Ph.	+91 (11) 46111099



CA. Atul Kumar Gupta, FCA  
Chairman, Board of Studies  
7th Floor, Income Tax Building,  
Udyog Minar, Near Shankar Chowk,  
Udyog Vihar, Phase-5, NH-8,  
Gurugram-122 016.

Ph.	+91 (0124) 4477824-25
Mobile	+91 9810103611
E-Mail	atul@servicetax.net



CA. Mangesh Pandurang Kinare, FCA  
Vice-Chairman, Board of Studies  
102, Yashwant Tower CHS,  
1st Floor, Opp. Gurukul Rickshaw Stand,  
Panch Pakhadi, Thane (West),  
Mumbai - 400 602.

Ph.	+91 (22) 25412102
Mobile	+91 98690 70539
Fax	+91 (22) 24327101
E-Mail	kinareca@rediffmail.com, mangesh.kinare@icai.in, mangesh@icai.org, mangesh.kinare@gmail.com



CA. Jay Chhaira, FCA  
3rd Floor, Platinum Plaza  
Opp. V.T. Choksi Law Collage  
Athwalines  
Surat - 395 007

Ph.	+91 (261) 2210532
Mobile	+91 9825196241
E-Mail	jaychhaira@yahoo.com



CA. Prafulla Premasukh Chhajed, FCA  
Off. No.3, Vimal Udyog Bhavan,  
"B" Wing, 2nd Floor, Opp. Star City  
Matunga (West)  
Mumbai - 400 016.

Ph.	+91 (22) 24361274
Mobile	+91 9821090612, 9320350007
Fax	+91 (22) 24361274
E-Mail	pchhajed@yahoo.com, praful.fca@gmail.com

## Name &amp; Address

## Contact Details



CA. Tarun Jamnadas Ghia, FCA  
101, Amrapali Building  
Near GPM College, Opp. Masjid  
Telli Galli, Andheri (East)  
MUMBAI - 400 069

Ph.	+91 (22) 2684 6993
Mobile	+91 9821345687
Fax	+91 (22) 2684 6993
E-Mail	tarunghiaca@yahoo.co.in



CA. Nandkishore Chidamber Hegde, FCA  
Indiabulls Finance Centre,  
Tower 3, 28th Floor,  
Senapati Bapat Marg,  
Elphinstone Road West,  
Mumbai – 400 013

Ph.	+91 (22) 62451040
Mobile	+91 98204 23420
E-Mail	nhegde@deloitte.com



CA. Dhiraj Kumar Khandelwal, FCA  
Lotus Corporate Park,  
1st Floor, Wing A-G,  
CST No. 185/A, Jay Coach  
Off. Western Express Highway  
Goregaon - East  
Mumbai - 400 063.

Ph.	+91 (22) 2927 7196/97
Mobile	+91 98676 42684
E-Mail	kdhiraj123@yahoo.co.in, info@cadhiraj.com, dk@cadhiraj.com



CA. Babu Abraham Kallivayalil, FCA  
M/s. Babu A. Kallivayalil & Co.  
2nd Floor, Manchu Complex  
P. T. Usha Road  
Kochi - 682 011

Ph.	+91 (484) 2363 119, 2380 868
Mobile	+91 9846035333, 9446066600
Fax	+91 (484) 2380 868
E-Mail	babucentralcouncil@gmail.com; babu.kallivayalil@gmail.com



CA. M. Devaraja Reddy, FCA  
Flat No. 303, Siddhu Residency  
5-9-42/2, Bank of India Lane, Hillfort,  
Street No. 2, Basheerbagh  
Hyderabad – 500 063

Ph.	+91 (40) 2321 2135/0336
Mobile	+91 9849001289, 9399935799
E-Mail	devarajareddy@icai.in



CA. Madhukar Narayan Hiregange, FCA  
# 1010, II Floor,  
(Above Corporation Bank)  
26th Main, 4th "T" Block, Jayanagar  
Bengaluru – 560 041.

Ph.	+91 (80) 41210703, 2653 6404, 2653 6405
Mobile	+91 98450 11210
E-Mail	madhukar@hiregange.com mhiregange@gmail.com



CA. K. Sripriya, FCA  
B 6, Gems Court,  
14, Khader Nawazkhan Road  
Nungambakkam,  
Chennai - 600 006

Ph.	+91 (44) 42636892
Mobile	+91 98410 26973
E-Mail	sripriya@spka.in, casripriyak@gmail.com

Name & Address



CA. M. P. Vijay Kumar, FCA  
G-2, Shree Vishnu Apartments,  
12, 12th Cross Street,  
Dhandeeswaram Nagar, Velachery,  
Chennai – 600 042



CA. Ranjeet Kumar Agarwal, FCA  
Metro Tower, 4th Floor,  
170, Central Avenue,  
Near M G Road Metro Station,  
Kolkata – 700 007.



CA. Sushil Kumar Goyal, FCA  
4 B, B D Bagh East  
4th Floor, Room No. 64  
Stephen House  
Kolkata – 700 071



CA. (Dr.) Debashis Mitra, FCA  
Harabala Road,  
Ulubari, Guwahati – 781 007  
Kolkata Office:  
Nichitpur House, 6, Andul Raj Road,  
Opp. Basusree Cinema,  
2nd Floor, Kolkata-700026.



CA. Shyam Lal Agarwal, FCA  
438 & 439, Mahima Trinity,  
Swey-Farm, New Sanganer Road,  
JAIPUR – 302 019



CA. Mukesh Singh Kushwah, FCA  
III RD – J-50, Nehru Nagar  
Behind Pawan Cinema Hall  
Ghaziabad – 201 001



CA. Manu Agrawal, FCA  
27, Naveen Market  
Above Baluja Footwear,  
Kanpur – 208 001.

Contact Details

Ph.	+91 (44) 42184334
Mobile	+91 98402 51223
E-Mail	mpv@icai.in

Ph.	+91 (33) 22730164
Mobile	+91 98301 40211
E-Mail	ranjeet.airan@gmail.com rka.icai@gmail.com;

Ph.	+91 (33) 22624632
Mobile	+91 98300 88400, 9903403821
E-Mail	skgoyal@icai.org

Ph.	+91(33)65416310, (361)2603 098
Mobile	+91 98640 94551, 9831890318
E-Mail	smitra101@gmail.com;

Ph.	+91 (141) 2293 116
Mobile	+91 9414053163
Fax	+91 (141) 2293 116
E-Mail	shyamjpr@gmail.com

Ph.	+91 (120) 2366 942
Mobile	+91 98104 70274, 93104 70274
Fax	+91 (120) 2366 942
E-Mail	cakushwah@gmail.com

Ph.	+91 (512) 2304 058
Mobile	+91 94150 44675
E-Mail	manufca@gmail.com



## Name &amp; Address



CA. Prakash Sharma, FCA  
323 & 324, Ganpati Plaza  
M. I. Road  
Jaipur – 302 001

## Contact Details

Ph.	+91 (141) 2389 180, 2389 181/82/8
Mobile	+91 99290 97300; 96495 11111
E-Mail	sharmaprakashca@yahoo.com



CA. Sanjiv Kumar Chaudhary, FCA  
Partner, International Tax and Regulatory  
M/s. B.S.R. & Company  
Building No.10, Tower B  
8th Floor, DLF Cyber City, Phase-II  
Gurugram – 122 002  
Haryana

Ph.	+91(124) 7191004
Mobile	+91 9810127362
Fax	+91 (124) 2549101
E-Mail	schaudhary@bsraffiliates.com



CA. Vijay Kumar Gupta, FCA  
Kumar Vijay Gupta & Co.  
304, SSR Corporate Park  
13/6, Mathura Road  
Near NHPC Chowk  
Faridabad- 121 003

Ph.	+91 (11) 23314525, +91 (129) 2254007-11
Mobile	+91 9810050029
Fax	+91 (11) 2331 4525
E-Mail	vkgupta2004@yahoo.co.in caguptavijay@gmail.com;



CA. Rajesh Sharma, FCA  
325, Dhruva Apartments  
4, Patparganj  
Delhi – 110 092.

Ph.	+91 (11) 26522099
Mobile	+91 98102 77394, 93102 77394
E-Mail	rajeshsharmaca@rediffmail.com; rajeshsharmaca14@gmail.com;



Dr. P. C. Jain,  
House No. 82 B, Pocket No. 4,  
Mayur Vihar, Phase 1,  
Delhi – 110 091

Ph.	+91 (11) 22716570
Mobile	+91 9873245000
E-Mail	pcjain1049@gmail.com;



Dr. Ravi Gupta,  
E-6 A (LGF), Kailash Colony  
New Delhi 110 048

Ph.	+91 (11) 2924 2413
Mobile	+91 98100 60708
E-Mail	ravirrg@gmail.com

## Coopted Members



CA. Ashwani Kumar Jindal  
498-LA Model Town  
Near Geeta Mandir,  
Jalandhar-144003

Mobile	+91 9876063350
E-Mail	cajindal@gmail.com

Name & Address

Contact Details



CA. Deepak R. Shah  
603, Arun Chambers, 6th Floor, P  
andit Madan Mohan Malviya Marg, Tardeo,  
Mumbai-400034

Mobile	+91 9820148356
E-Mail	cadeepakshah@gmail.com;



CA. Viral Kiran Mehta  
Office No: 11,12 & 13, 2nd Floor, Meadows  
House, Meadows Street,  
Tamarind lane, Flora Fountain, Fort,  
Above Ankur Restaurant,  
Mumbai -400 001.

Ph.	+91 (22) 67495271
Mobile	+91 9819619296
E-Mail	viral@kiranmehtaca.com



CA. Ajay Kumar Alipuria  
Ajay Alipuria & Co.,  
Chartered Accountants,  
SCO-31-32A, Budhadal Shopping Complex,  
Lower Mall, Patiala-147 001.  
Punjab

Mobile	+91 9814107842
E-Mail	ajayalipuria@gmail.com



CA. Rajiv Dagar  
SCO No. 61, 4th Floor,  
Old Judicial Complex,  
Sector 15,  
Gurgaon-122001.

Mobile	+91 9818280137
E-Mail	carajivdagar@gmail.com



CA. S. Dhananjayan  
MSS and Co.,  
Chartered Accountants,  
RG Chambers First Floor,  
5, Valipalayam 2nd Street,  
Tiruppur – 641601, Tamil Nadu

Mobile	+91 9894770920
E-Mail	mssandco@gmail.com



CA. Deendayal Agrawal  
B-1202, Ground Floor, Shastri Nagar,  
Delhi - 110052

Mobile	+91 9810028042
E-Mail	cadeendayalagrawal@gmail.com



CA. J. P. Sharma,  
2nd Floor, Vypar Lalji Hirji Road, Ranchi,  
Jharkhand - 8340001

Mobile	+91 9334460555
E-Mail	jpsharmaca@gmail.com;
Phone	+91 (651) 2201322

## Name &amp; Address

## Contact Details

## Special Invitees



CA. Shiwaji Bhikaji Zaware, FCA  
Zaware's Professional Academy (India) LLP,  
Office No. 38, Indulal Complex  
Lal Bahadur Shastri Road  
Navi Peth, Pune – 411 030.

Ph	+91 (20) 2453 6105, 2453 0586
Mobile	+91 9822047131
E-Mail	sbzaware@icai.org, casbzaware@gmail.com;



CA. G. Sekar, FCA  
G. Sekar Associates,  
No.27, "Shri Guru Padhuka"  
Akbarabad Second Street  
Kodambakkam,  
Chennai – 600 024.

Ph	+91 (44) 2483 7667, 2484 7667
Mobile	+91 9940177776, 9282104800
E-Mail	sekarg.gurukripa@gmail.com



CA. (Dr.) Sanjeev Singhal  
C-2/164, West Enclave, Pitampura, Delhi  
– 110034.

Mobile	+91 9811565606
E-Mail	Sanjeev.singhal@in.ey.com



CA. Ashok Sharma  
311, Deepshikha,  
8, Rajendra Place,  
New Delhi-110 008.

Mobile	+91 9811078559
E-Mail	As5a82@yahoo.com



CA. Charanjot Singh Nanda  
7/24, South Patel Nagar,  
New Delhi-110 008.

Mobile	+91 9811130985, 9311130986
E-Mail	csnanda@gmail.com;
Phone	+91 (11) 64644450-51-53



CA. Kapil Kumar Bhagirath  
Batra Deepak & Associates  
Chartered Accountants  
1-B, 1/17, Lalita Park,  
Laxmi Nagar, Vikas Marg,  
Delhi-110092.

Mobile	+91 9811445455
E-Mail	kbbhagirath@yahoo.com;
Phone	+91 (11) 22425771, 42487292

## Profile

**CA. Nilesh Shivji Vikamsey**  
President, ICAI (2017-18)



A person of professional vigour, high integrity and technical expertise, CA. Nilesh Shivji Vikamsey has been elected as new President of The Institute of Chartered Accountants of India (ICAI) by its 23rd Council for the term 2017-18 on 12th February 2017. While serving the ICAI Council as a member since 2010 and then as Vice-President of the Institute in 2016-17, he has proven his strength as a formidable professional. Having gained deep insights into the profession as a fellow member of the ICAI with more than 30 years of impeccable professional standing, he is widely commended and credited for his key role in student uplift activities and conceptualization and devising of a new futuristic CA Curriculum.

A selfless hard-worker and down-to-earth personality bestowed with exceptional professional prudence, organisational, administrative and leadership skills, he has been elected to the Central Council for three consecutive terms (i.e. 2010-13, 2013-16 and 2016-19). As a Council Member, he has exceptionally served the ICAI and the accountancy profession as Chairman of Board of Studies, Financial Reporting Review Board, Research Committee and Expert Advisory committee. He has also been noted for his distinguished contribution in the capacity of Vice Chairman of Corporate Laws and Corporate Governance Committee, Committee on Accounting Standards for Local Bodies, Committee on Banking Insurance and pension, Committee on Information Technology and Board of Studies in the past.

Besides, CA. Vikamsey has also effectively served the cause of accountancy profession as a member of 27 ICAI committees during his tenure as Council Member so far. These committees include the Executive Committee, Finance Committee, Accounting Standards Board, Auditing and Assurance Standards Board, Committee for Cooperatives and NPO sectors, Corporate Laws and Corporate Governance Committee, Committee on Economic, Commercial Laws and WTO, Expert Advisory Committee, Financial Reporting Review Board, Committee on International Taxation, Committee for Members in Industry, Professional Development Committee and Management Committee. Other such committees have been Disciplinary Committee (under Section 21B), Examination Committee, Audit Committee, Internal Audit Standards Board, Public Interest Advisory Committee, Peer Review Board, Continuing Professional Education Committee, Technology Development Committee, Committee on Vision and Restructuring, Ind-AS (IFRS) Implementation Committee, Research Committee, International Affairs committee, Indirect Taxes Committee, Editorial Board, Committee on Government Accounting and Committee on Management Accounting.

CA. Vikamsey has always dazzled his fellow members with his humble down-to-earth approach to connect with people, and brilliant and uninterrupted service to the profession. A resident of Mumbai, he has actively partnered in the growth of the nation and the profession as member and first Chairman of the Qualified Audit Report Committee (QARC) of SEBI, and as a member of Committee on Disclosures and Accounting Standards (SCODA) of SEBI, LLP Committee of Ministry of Corporate Affairs (MCA), Committee Constituted by Ministry of Corporate Affairs pertaining to certain issues raised regarding applicability of foreign investment in the LLPs, Committee for Digitization of Balance Sheet & Annual Reports filed with MCA through MCA-21, Working Group for developing Indian Specific ACORD Standards for the Indian Insurance Market of IRDA, Committee on Road Map for Risk Based Solvency Approach in Insurance of IRDA, First Chairman of the then newly formed Corporate Members Committee of The Chamber of Tax

Consultants (CTC) and also on the Managing Council of CTC in 2007-08, Project Implementation Committee to pursue the implementation of 'Accrual Accounting' in the Ministry of Road Transport & Highways constituted by Ministry of Road Transport & Highways and Ministry of Shipping, Merger & Acquisition (M&A) Council constituted by ASSOCHAM. He is also appointed as Director in XBRL India, Accounting Research Foundation (ARF) and Indian Institute of Insolvency Professionals (IIPI). He is ICAI's representative on Government Accounting Standards Advisory Board (GASAB) for Union and the States constituted by C & AG of India and also representing ICAI on XBRL Technical Advisory Committee (XTAC) of SEBI. He is a member of Insurance Regulatory & Development Authority (IRDA). He is also a member of Audit Advisory Board of C&AG.

A proponent of putting Indian accountancy profession on global map, CA. Vikamsey has passionately represented the profession on the international front at several global meetings and conferences. With a global outlook and vision, he has been appreciated for his work as Chairman of Education & CPD Committee of South Asian Federation of Accountants (SAFA) and as Representative of ICAI on the Committee for Improvement in Transparency, Accountability and Governance (ITAG) of SAFA. In addition to serving as member of AOSSG (Asian-Oceanian Standard-Setters Group), he has also been serving as Technical Advisor of the ICAI nominee to the IFAC's SMP Committee.

As President of ICAI, CA. Vikamsey is now the Chairman of all Standing Committees of the ICAI including Executive, Finance and Examination Committees and the Presiding Officer of Board of Discipline (under Section 21-A), Disciplinary Committee (under Section 21-B) and Chairman of Disciplinary Committee (under Section 21D). He is also an ex-officio Member of all Non-Standing Committees of the ICAI and Editor of The Chartered Accountant journal. He is also the new Chairman of Board of Directors of ICAI-ARF (Accounting Research Foundation) as well as of XBRL India.

A propagator of harnessing professional skills for the growth of the nation and society, CA. Vikamsey has also been closely associated with Indian Merchants Chamber, WIRC of ICAI, The Chamber of Tax Consultants, Bombay Chartered Accountants Society, and Bombay Chamber of Commerce & Industry, as a key contributor in many ways. He has also been a Member/Convenor of more than 15 Study Groups formed by the ICAI including the Group for suggesting Uniform Accounting Policies to RBI for Asset Reconstruction Companies, Group for Suggestions on Companies Act 2013 and Electoral Reforms Group and Group for Review of Examination Process.

A thorough professional, CA. Vikamsey holds a Diploma in Information System Audit (DISA) of the ICAI besides having done Business Consultancy Studies course of the Bombay Chartered Accountants Society jointly with Jamnalal Bajaj Institute of Management Studies (JBIMS), Mumbai.

As an avid academic, CA. Vikamsey has addressed and contributed to numerous national and international seminars and conferences on the issues of professional interest. He has been a Founder Member and Core Committee Member of Chembur Chartered Accountants Study Circle of WIRC, which had won the Best Study Circle Award consistently for over a decade. He is a Trustee at Sayagi-U-Ba-Khin Memorial Trust (Vipassana International Academy) and at few other educational trusts in Mumbai.



## Profile

### CA. Naveen N. D. Gupta

Vice-President, ICAI (2017-18)



A man of professional wisdom, vision and strong organisational skills with a firm belief in all-inclusive growth of Indian accountancy profession, CA. Naveen N. D. Gupta is the new Vice-President of the Institute of Chartered Accountants of India (ICAI) for the term of 2017-18. He has been elected Vice-President of ICAI by the 23rd Council of the Institute on 12th February 2017.

An all India Rank Holder and a member of the ICAI since 1996, CA. Naveen N. D. Gupta is widely commended and credited for his facilitating role in making the Income Disclosure Scheme, 2016 a success, in close coordination with the Government of India which was acknowledged by the Finance Minister through tweet.

CA. Naveen N. D. Gupta has always amazed his fellow members with his youthful and down-to-earth approach towards profession. A resident of New Delhi, CA. Gupta has been elected by for a straight third term of the Central Council of ICAI (2016-2019), the earlier terms being 2010-13 and 2013-16. As a Council Member, he has served the ICAI as Chairman of various committees including Direct Taxes Committee, Public Relations Committee; Committee on Economic, Commercial Laws & WTO, Peer Review Board, and Committee for Capacity Building of CA Firms and Small & Medium Practitioners. He has also been appreciated for his distinguished contribution as Vice-Chairman of Audit & Assurance Standard Board, Professional Development Committee, Internal Audit Standards Board, Continuing Professional Education Committee, and Board of Studies.

An articulate professional and contributor, he has effectively served the cause of accountancy profession as member of several ICAI committees during his tenure as Council Member so far, which include Disciplinary Committee (under Section 21B), Accounting Standards Board, Examination Committee, Committee on International Taxation, Expert Advisory Committee, and Committee on Public Finance & Government Accounting.

Known for his technical contribution in many subjects, he steered the drafting of IFRS compliant Schedule III to the Companies Act, 2013, Ind-AS compliant Schedule III for NBFC, Ind-AS -114 on Regulatory Deferral Accounts and Guidance Note on Accounting for Rate Regulated Activities as Convener. He was also Convener of ICAI Group to assess Impact on business of moving to New Finance Year for submitting suggestions to Acharya Panel of Government of India. He is also credited for initiating and starting two Certificate Courses on "Intellectual Property Rights" and "Anti Money Laundering Laws" for ICAI.

He represented ICAI in many important committees constituted by the Government Ministers/ Regulators and contributed important suggestions for the overall benefit of the economy. He represented ICAI on Committee for Prepa-

ration of Manual for the guidance of Official Liquidators of Ministry of Corporate Affairs (MCA), BimalJalan Report Implementation Technical Committee of MCA to advise Government of India on ownership and governance of Market Infrastructure Institutions (MII), Standing Committee on TDS, Central Board of Direct Taxes to advise Government of India on improving compliance of TDS provisions and also Member of high powered Group under Chairpersonship of Additional Secretary (Revenue) to make the legislative and administrative framework of the country more effective and capable of handling the new evolving threats to prevent money laundering including black money and shell companies and countering financing of terrorism.

Having multifarious skills, CA. Naveen ND Gupta has been widely commended for exhibiting professional brilliance at all assigned tasks and responsibilities at national as well as international levels. Towards enhancing branding and recognition at global arena he is instrumental in organising India – African Partnership: Conclave with Ambassadors / High Commissioners of African Continent Nations wherein representatives of various African countries have participated, and also organized Global Exhibition on Services which provided an effective platform to showcase Indian Accounting Profession. A proponent of putting Indian accountancy profession on global map, he has passionately represented the profession on international circuit at a number of global platforms including Committee on Harmonization of Fiscal & Tariff Regimes at South Asian Federation of Accountants, IFAC's International Accounting Education Standards Board as an observer, International Congress of International Institute of Administrative Sciences, Mexico, Annual Congress of European Federation of Accountants & Auditors in Amsterdam, and Annual congress of Global Reporting Initiative in Amsterdam, WTO Public Forum at WTO Headquarters at Vienna.

Widely known for his professional acumen and technical expertise, CA. Gupta has addressed and contributed to numerous national and international seminars and conferences on the issues of professional interest.

As the Vice President of the ICAI, CA. Naveen N. D. Gupta is now the Vice-Chairman of all Standing Committees of the ICAI including Executive, Finance and Examination Committees, and the ex-officio Member of all Non-Standing Committees of the ICAI and Joint Editor of The Chartered Accountant journal. He is also Director on ICAI-Accounting Research Foundation and XBRL India.

# Special Session

## Motivational Session

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**Speaker :**  
**CA. V. PATTABHI RAM,**  
**Chennai**

## Profile

CA.V Pattabhi Ram

Chennai



*"A chartered accountant by qualification, a writer and public speaker by passion, and a teacher by accident."*

A member of the three professional accounting bodies in India, he is a regular speaker at the professional seminar circuit.

His first novel, TICKING TIMES set in the backdrop of the audit profession, was released in March 2016, and has received excellent review on Amazon.

His books, First Lessons in Strategic Financial Management, First Lessons in Information Technology and Strategic Management and First Lessons in Cost and Management Accounting are popular among CA students. He has authored three other books. The first titled Roadmap is a self-help book and is for CA students; the second titled, How to get the best out of College and is for collegians; while the third is a career book, From CA to CEO.

An alumnus of St. Joseph's College, he was voted as one amongst the three best graduating students. CA Internship was at Deloitte Haskins and Sells, he was a rank-holder throughout his college and in his Chartered Accountancy.

Co-Founder of and Partner at Yoganandh & Ram, Chartered Accountants.

# Special Session

## Interaction and Open House with Board of Studies

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**CA. ATUL KUMAR GUPTA,**

Chairman, Board of Studies, ICAI

**CA. MANGESH PANDURANG KINARE,**

Vice-Chairman, Board of Studies, ICAI



## Profile

### CA. Atul Kumar Gupta

CHAIRMAN, BOARD OF STUDIES  
ICAI (2017-18)



Mr. Atul Kumar Gupta is a fellow member of the Institute of Chartered Accountants of India and the Institute of Cost Accountants of India, besides a Law Graduate. He is also member of various other professional bodies and Institutions. A thorough scholar, Mr. Gupta secured All India Rank at the CA Intermediate level. He has addressed more than 900 Seminars, workshops & conferences, organized by Various Professional Bodies, Institutions and Trade & Professional Associations & Chambers across India. He has been awarded many times for his contribution to the profession. He is also the founder of a weekly updates – “Do You Know Series” (DYKS) relating to Indirect Taxes.

Mr. Gupta has authored several books, few of prominent are:

1. Comprehensive Guide on Service Tax (14th Edition).

2. GST- Concept and Road Map (2nd Edition) forwarded by Finance Minister of India. with Lexis Nexis Publisher

His articles have also been published in leading newspapers and various professional magazines across the country.

Presently, Mr. Gupta is a Central Council Member of the Institute of Chartered Accountants of India and Chairman of the Board of Studies and IT Committee of ICAI besides member of more than 15 Committees of the Institute..He is also a member of the Advisory Committee for GST in GSTN Board (Government of India IT Initiative for implementation of GST in India) besides, Member of the Finance Committee of Delhi Management Association.

He has served as Chairman of the NIRC of two prestigious institutes, Institute of Chartered Accountants of India (2010-11) and Institute of Cost Accountants of India (2004-05). Mr. Gupta is also the Director of Accounting Research Foundation (ARF) of ICAI for promoting research in the fields of Accounting and XBRL India.

Mr. Gupta represented ICAI in SAFA, The Institute of Chartered Accountants of England and Wales, CIOT and FRC (UK), C-PA (Ireland), XBRL International, American Accounting Association for various Professional development initiative.

### Special Achievements

- As Director of Accounting Research Foundation of ICAI, acted as Project Leader for first ever project of conversion from Cash basis to Accrual based Financial Statement of Indian Railway. Financial Statement for NWR Zone of Indian Railway released by Hon'ble Minister of Railways.
- As Director of XBRL India, represented India at XBRL International at various forums.
- As Consultant to Ministry of Power, conducted a “comprehensive study on Impact of GST on power Sector” and represented before GST Council, Government of India.
- Served as Chairman of Indirect Taxes Committee of ICAI for two consecutive year i.e. 2014-15 and 2015-16.
- Presently chairing a special task force in ICAI named “Cost Optimization” to bring in Concept of “Outcome Budgeting”.
- Special Research conducted on a very important topic; “How to augment revenue in local bodies” to strengthen the back-bone of financing and community living in the Country.
- Special Research conducted on “early signal of fraud in banking Sector” to handle the menace of NPAs.
- Special Research conducted as Chairman, Indirect Taxes Committee on “Impact of GST on Jammu & Kashmir” and showcased the benefit for the State on implementation of GST there.

## Profile

### CA. MANGESH PANDURANG KINARE

VICE-CHAIRMAN, BOARD OF STUDIES  
ICAI (2017-18)



Mangesh Pandurang Kinare is a Bachelor of Commerce and a Law Graduate. He is a Fellow Member of the Institute of Chartered Accountants of India. He also possesses the qualification of DISA (ICAI). He has been in practice for more than 25 years and the core area of his practice is on Service Tax, Audit and Consultancy.

A thorough academician, he had been a Lecturer of Accountancy in a leading Commerce College in Mumbai for nearly a decade and also a visiting faculty of Accountancy in reputed management colleges in Mumbai for two years. He had also delivered Lectures and Presented Papers at seminars organized by various Branches and study circles of WIRC of ICAI on Service Tax, Accounting Standards, Bank Audit and Co-operative Audit. He has delivered Lectures and is Panel Speaker at Refresher Courses of Mumbai University Staff Training.

He had also been appointed by Education Ministry of Govt. of Maharashtra, as a member of 'Fee Regulation Committee' for regulation of fees in Schools in Maharashtra.

He was elected to the Central Council of ICAI for the term 2016-19. He served as a member of Executive Committee of ICAI (2016-17) and as member of a Bench of Disciplinary Committee of the Institute. He has also served as Vice Chairman of Committee of Co-operatives & NPO in addition to serving as member of various other Committees such as Board of Studies, Direct and Indirect Tax and Auditing and Assurance Standard Board and Internal Audit Standards Board and this year as Vice Chairman, Board of Studies. He has also been nominated as member of 16 other Committees and as Deputy Convener of Women Members Empowerment (Sub-Group under CCBMP).

Before his election to the Central Council, he has served as Chairman of Western India Regional Council during 2013-14 and as Secretary of WIRC during 2010-11. He had also served as Member of WIRC for three consecutive terms.

He had also served as Chairman of various important Committees of WIRC of ICAI.

He was instrumental for the introduction of CPT Mock Test on OMR Sheets first time in ICAI in 2010. He was the Pioneer in starting GMCS Course on in house basis in WIRC. As Chairman of Research & Publication Committee, he gave a new look to WIRC Reference Manual.

A person with a journalistic bend of mind, he has contributed several articles on Service Tax in Marathi Dailies and has been an expert speaker on Service Tax and Budget in Panel Discussions of various TV channels.

# Technical Session 1

## Corporate Law

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Session Chairman : **CA. SRIPRIYA K ,**  
Central Council Member, ICAI, Chennai

**a. Privileges of Small Companies**

Student Speaker : **Ms. Elena Mariam Thomas,** Ernakulam

**b. Acceptance of deposits and loans to directors**

Student Speaker : **Mr. Jishnu Manavedan V,** Kozhikode

**c. Restrictions on foreign exchange transactions under FEMA**

Student Speaker : **Mr. Achuth P,** Ernakulam

## Profile

**CA.Sripriya Kumar**

Chennai



A practising Chartered Accountant by profession, Sripriya is also presently, an elected member of the Central Council of the Institute of Chartered Accountants of India, the apex body that regulates the profession of Chartered Accountants in India.

She has over two decades of experience in industry and practice. She has keen interest and engages professionally in the Risk consulting and compliance advisory domains. She is also actively engaged in training initiatives of ICAI as well as other professional and trade bodies.

### Summary of Skills

A Fast learner, has consistently demonstrated ability to gain quick insights into academic and practical situations. Also possess excellent interpersonal, communication and presentation skills.

### Education and Academic Honours

A graduate in Commerce, she completed her articleship training from M/S Price Waterhouse Chennai. She has an excellent academic record including country top scores at the school level. She secured the All India 17th rank in the CA Intermediate Examinations in 1994 and completed her final examinations with creditable scores and in the first attempt in 1996. She is well versed in contemporary technologies and systems.

### Experience

She worked with Ford India Limited and Price Waterhouse Coopers before commencing Chartered Accountancy practice in 2001. Her post qualification experience includes financial analysis and transaction advisory services. She is a partner with S P R & Co, a new generation practice that services reputed clientele, largely in Risk, IT consulting and Foreign Trade Advisory domains and endeavours to exercise original thought that put client needs first.

### Professional Experience

- Knowledge in definition and implementation of ERM and Risk assessments frameworks for organisations
- Risk based internal audits and operational audits of large corporates
- Corporate Law advisory services and transaction structuring
- Due Diligence Reviews
- Goods and Services Tax Readiness and Implementation

**Academics and Training**

Priya has been actively involved in training in the areas of Financial Reporting, Audit and Compliance and has addressed forums of Chartered Accountants, industry and bodies such as CII, Nasscom as well as Staff Training College of the office of the C&AG.

She is passionate about Information Technology in Training initiatives and has helped launch the ICAI Learning Management System for the emerging Insolvency Profession in India.

**Board Memberships**

She has served on the boards of companies of reputed groups such as Repco and Indian Bank and presently is a Director in the Accounting Research Foundation and XBRL ( India ) Limited as a nominee of ICAI .

**Small and Medium Support Initiative**

She administers a first of its kind knowledge sharing initiative – The Smart CA where the firm supports professional endeavours of Small and Medium Practitioners of the profession in the form of ready to use knowledge repositories and practice kits with an overall reach of about 10,000 CA's across the country

**Role in ICAI**

She was a member of the Southern India Regional Council for the term 2013-16 and is presently elected to the Central Council for the term 2016-19. She is the fourth lady member to occupy this position in the 66 year history of the Institute .

She serves / served in the following important committees and has been an individual and team contributor .

- Executive Committee.
- Management Committee
- Examinations Committee
- Corporate Laws Committee
- Convenor – Insolvency Code Group
- Expert Advisory Committee

**Hobbies and Interests**

Avid Reader, Travelling, Blogger, Indian Mythology and Soft skills training.



## Profile

**Ms.Elena Mariam Thomas**

Ernakulam

Registration No: **SRO 0537334**



### **Course Pursuing:**

CA Final

Pursuing articleship training in G Joseph Associates

### **Achievements:**

Conducted Study Circle Meetings at Ernakulam branch SIRC/ SICASA of ICAI.

### **Topic:**

**Privileges of Small Companies**

## Profile

**Mr. Jishnu Manavedan**

Kozhikode

Registration No: **SRO 0545088**



### **Course Pursuing:**

CA IPCC

### **Achievements:**

Presented paper in Satsang 2017 Sub Regional Conference hosted by Calicut Branch of SIRC and SICASA of ICAI.

### **Topic:**

**Acceptance of deposits and loans to directors**

## Profile

Mr. Achuth P

Ernakulam

Registration No: **SRO 0479106**



### Course Pursuing:

CA Final

### Achievements:

Presented paper on the topic "Time & Place of Supply" for Two-day seminar on GST conducted by Ernakulam Branch of SIRC and SICASA of ICAI.

### Extra Curricular Achievements:

- 3rd Runner up for National Talent Hunt at Branch level competition.
- Mridanagam, Singer, Kalaripattu

### Topic:

**Restrictions On Foreign Exchange Transactions Under FEMA**

## PRIVILEGES OF SMALL COMPANY

***Ms. Elena Mariam Thomas***

### **Small Company (Section 2(85)) :**

A company other than a public company ;

- paid-up share capital of which does not exceed fifty lakh rupees or such higher amount as may be prescribed which shall not be more than five crore rupees; and
- turnover of which as per its last profit and loss account does not exceed two crore rupees or such higher amount as may be prescribed which shall not be more than twenty crore rupees.

Provided that nothing in this Section shall apply to—

- a holding company or a subsidiary company;
- a company registered under Section 8; or
- a company or body corporate governed by any special Act;

This means, for a company to be classified as a small company, it should not be a public company or a holding company or a subsidiary company. If a company falls under any of these categories, it cannot be a small company (no matter howsoever low is the turnover or total paid up share capital). Also, a company which is registered u/s 8 of the Act cannot be classified as a small company, i.e., a limited company which has charitable or other objectives (as specified u/s 8 (1) (a)) and intends to utilise its income for promoting its objectives without making the payment of any dividends to its members cannot be considered to be a small company. In case a company or the body corporate is governed by a special Act which is passed by the government, it cannot fall under the category of small company.

A company which is eligible to be known as a small company in one particular year might not be eligible to have the status of a small company in the subsequent year. This status is determined on the basis of the Annual return which is filed after the end of every financial year. This form needs to have an attached certificate (refer Form no MGT 7) which certifies the company to be a small company. If the company is no longer a small company; along with the change in status, the benefits which are accorded to a small company are also withdrawn. The moot question which remains unanswered here is regarding the benefits which are accorded to a small company. These benefits have been given in order to ensure that the interests of such companies are protected from the consequences of regulations designed to balance the interests of the stakeholders of large corporate blocs.

### **Exemptions & Benefits**

Most of the benefits which are available to the small companies are the same as those which are available to a one person company. However, all the privileges which are available to a one person company are not available to a small company. The benefits which are accorded to a small company are:

### **Annual returns (Section 92):**

Every Company shall prepare a return (referred as Annual Return) in the prescribed form containing the particulars as they stood on the close of the financial year. This has to be signed by the director and the company secretary, or where there is no company secretary, by a company secretary in practice.

In case of a small company, Annual Return can be signed by the Company Secretary and when there is no Company Secretary or by the director of the company.

### **Meetings of the Board (Section 173) :**

As per Section 173(1), Every Company shall hold minimum of 4 meetings every year provided the gap between two consecutive board meetings shall not be more than 120 days.

A Small Company shall be deemed to have complied with the provisions of Section 173 if at least one meeting of the Board of Directors has been conducted in each half of a calendar year and the gap between the two meetings is not less than 90 days.

### **Cash Flow Statement (Section 2(40)):**

Section 2(40) defines “financial statement” and it includes : a Balance Sheet, Statement of Profit and Loss, Cash Flow Statement, A Statement of changes in equity if applicable and any other explanatory notes.

Provided that the financial statement, with respect to Small Company may not include the Cash Flow Statement. Small Company is not required to include the Cash Flow Statement as a part of its financial statement.

### **Auditor Regulations (Rotation of Auditors - Section 139(2)):**

The following class of companies falls under Rotation of Auditors :

- i) All unlisted public companies having paid up share capital of rupees ten crore or more;
- ii) All private limited companies having paid up share capital of rupees twenty crore or more;
- iii) All companies having paid up share capital of below the threshold limit mentioned above, but having public borrowings from financial institutions, banks or public deposits of rupees fifty crores or more.

This provision specifically excludes small company from mandatory rotation of the auditor or the maximum term of an auditor being 5 years in case of an individual and 10 years in case of a firm of auditors is also not applicable.

### **Merger Process:**

The merger process of more small companies has to be approved on a fast track basis. Such merger also requires the approval of:

- 1. Official liquidator;
- 2. Registrar of Companies (ROC);
- 3. Members holding 90% of the total number of shares (or more); and
- 4. Majority of creditors who represent 9/10th in value of the creditors or class of creditors of the respective companies which are indicated in the meeting convened by the company by giving a notice of 21 days along with the scheme to its creditors for the purpose, or have otherwise been approved in writing.

### **Internal Financial Controls (Section 143(3)(i)):**

This section requires the auditors of the companies to report as whether the company has adequate internal financial controls system in place and the operating effectiveness of such controls.

In the notification dated 13th June 2017, states that the requirements of reporting under section 143(3)(i) shall not apply to small companies.

**Consolidated financial statements (Section 129(3)):**

It appears that small companies are not required to prepare consolidated financial statements. But, the small companies which have an associate company or joint venture have to prepare the consolidated financial statements.

**Fees for Small Companies (Section 403):**

Fees for filings and other formalities u/s 403 of the Companies Act, 2013 is also comparatively lower for the small companies. There is substantial rebate in fees for registration of small companies. It is also provided that such fees will be applicable only if it remains small for a minimum period of one year from the date of incorporation.

**Conclusion**

As mentioned above, a small company need not remain a small company throughout its existence. The year it fails to meet the essential requirements as mentioned above, the benefits will be withdrawn from next year onwards. The Act facilitates business-friendly regulations for the small companies and is a positive step taken towards promoting investments and small companies.



## Acceptance Of Deposits And Loans To Directors

**Mr. Jishnu Manavedan**

### Section 73:

It states that no Company, whether public or private, can accept deposit from anybody without complying with the provisions mentioned in Section 73. Clause (viii) of Rule 2(c) specifically excludes loans from directors from the purview of deposit definition if the director gives a declaration that the amount he is lending is not out of borrowed funds. Clause (vi) of Rule 2(c) excludes loans received from any other company from the definition of Deposits.

### Restriction on Company to accept loan and deposit as per Companies Act, 2013 :Change in Provisions:

### Section 73:

The Companies Act, 1956 permitted private companies to borrow from directors, shareholders and relatives of directors. However, the Companies Act, 2013 has brought a major change in the borrowing provisions for private companies and removed shareholders and relatives of directors from the list of lenders. Going forward, any company, whether public or private, can borrow only from the following persons apart from banks and financial institutions:

1. Directors of the Company provided that the director gives a declaration that the amount he is giving is not out of borrowed funds.
2. Any other Company, whether public or private (subject to the limit imposed by section 180(1)(c) of the Companies Act, 2013)

### Loans and Deposits from Members or Directors in a Private Company Loan From Members

Apart from share capital of company, loans are major source of finance for company. A company can raise its funds from various sources like accepting public deposits, loan from financial institutions or banks. However, Companies Act, 2013 strictly prohibits Private Companies accepting funds by way of public deposits.

In Companies Act 1956, a private company was allowed to accept loan from Director, Shareholders or Relatives of Directors. But, Companies Act, 2013 specifically defines any such loans taken are regarded as 'deposits'. As per the definition of the term 'deposit' under section 2(31) : "deposit" includes any receipt of money by way of deposit or loan or in any other form by a company, but does not include such categories of amount as may be prescribed in consultation with the Reserve Bank of India;" However, as per Rule 2(c)(viii) of the Companies (Acceptance of Deposits) Rules, 2014 (the "Deposit Rules") the term 'deposit' shall not include any amount received from a person who, at the time of the receipt of the amount, was a director of the company, provided that the director from whom money is received, furnishes a declaration in writing to the company at the time of giving the money, to the effect that the amount is not being given out of funds acquired by him by borrowing or accepting loans or deposits from others. Loan or an amount received by the company from its director is not regarded as a 'deposit' if the following conditions are fulfilled:

- (a) At the time of receipt of the amount by the company, the lender was a director of the Company. This doesn't state that the exemption applies "as long as the payer is a director". The loan will continue to be exempt even after

the person concerned ceases to be a director on any account whatsoever.

(b) The Director furnishes to the Company a declaration in writing.

(c) Director at the time of giving money should give declaration that amount so advanced is not given out of the funds acquired by the director from others as loan or deposit or out of borrowing. The declaration is to be given before the loan transaction is complete.

This Exception to Deposits rules 2014 is applicable to both Private as well as Public Companies.

**As per MCA notification dated 05/06/2015 section 180 of Companies Act 2015 is no more applicable on Private Limited Companies.**

Hence there is no requirement to file a special resolution in AGM for authorization where the money to be borrowed, together with the money already borrowed by the company even if it exceeds aggregate of its paid-up share capital and free reserves.

### **Deposit From Members**

Any Loans taken are regarded as 'deposits' under the Companies Act, 2013. As per the definition of the term 'deposit' under section 2(31) : "deposit" includes any receipt of money by way of deposit or loan or in any other form by a company, but does not include such categories of amount as may be prescribed in consultation with the Reserve Bank of India;"

According to provisions of Section 73, a company whether private or public can accept deposits from its members only subject to compliance of the Deposit Rules. But deposits from persons other than members can now be accepted by "Eligible Companies" only.

As per Rule (2)(1)(e) of the said rules, Eligible Company is a public company having a net worth of Rs. 100 crores or more or turnover of Rs. 500 crores or more can accept deposits from persons other than members. The eligible company should obtain the prior consent of the company in general meeting by way of special resolution and also file the said resolution with the Registrar of Companies before making any invitation to the public for acceptance of deposits.

Thus, all private limited companies and "Ineligible companies" can accept deposits only from members.

### **Quantum of deposit that can be accepted by a Private Limited company**

As per notification MCA GSR 464(E), dated 5th June, 2015, a private limited company can accept deposits only from its members up to 100% of its paid up capital and Free Reserves & Securities Premium account provided it files with the Registrar information about such acceptance.

The above limit of 100% of paid up share capital & free reserve should be calculated based on the last audited Financial Statements adopted by the members.

## **The pre-condition for acceptance of deposits from members**

Deposits can be accepted from persons, whose name appears on the Register of Members of the Company. However where a person whose name appears in the Register of members has transferred his shares but the transfer is pending for registration, then the Company should repay deposits which it has accepted from such members. The company should pass an ordinary resolution preferably at each AGM seeking authorization for acceptance of deposits and such resolution is to be filed with ROC within 30 days of passing the resolution.

The deposits should be subject to such rules as may be prescribed in consultation with the Reserve Bank of India.

## **Secretarial steps for private limited companies and non-eligible companies for acceptance of deposits**

The following are the various steps which a private limited company and non-eligible company have to fulfill in order to comply with the provision for acceptance of deposits from the members.

1. Hold a Board Meeting for proposing acceptance of fixed deposit. In the said Board Meeting itself, approve the Notice for holding general meeting of the Company for obtaining the approval of the shareholders for the said proposal.
2. Hold the general meeting of the company and obtain the approval of the shareholders by means of special or ordinary resolution for authorizing the Board of Directors to accept the deposits.
3. To file a copy of such resolution within 30 days of date of passing the resolution with the Registrar of Companies in e-form MGT 14.
4. To open a separate bank account called 'Deposit Repayment Reserve Account' with Schedule Commercial Bank and depositing amount not less than 15% of the deposit maturing during the Financial Year. Certifying that the company has not committed any default in repayment of deposit and interest thereon.
5. To hold one more Board Meeting to obtain the approval for the draft Circular in Form DPT-1 of the Deposit Rules. The said Draft Circular should be signed by majority of the Directors of the company.
6. To file a copy of such signed circular with the Registrar of Companies in Form GNL-2 for registration.
7. To ensure that the Circular which is to be issued for acceptance of deposits is sent either by electronic mail or registered post AD or by speed post to the members of the company only and not to public or other persons.
8. To appoint Deposit Trustees for creating security for the secured deposits, if any by executing a Deposit Trust Deed in Form DPT-2 at least 7 days before issuing the Circular.
9. To enter into contract with Deposit Insurance services providers at least 30 days before the issue of the Circular.

10. To issue deposit receipts in the prescribed format and under the signature of an officer duly authorized by the Board within a period of two weeks from the date of receipt of money or realization of the cheque

11. To make entries in the Register of Deposits accepted Rules within 7 days from the date of issuance of the deposit receipt and arrange to get such entries authenticated by a Director or Secretary of the Company or by any other officer authorized by the Board

12. To file the return of deposit in Form DPT-3 by furnishing the requisite information contained thereon as on 31st day of March each year duly audited by the Auditors before 30th June every year.

## Restrictions on Foreign Exchange Transactions under FEMA

**Mr. Achuth P**

The Foreign Exchange Management Act, 1999 (FEMA) came into force from the year 2000 onwards, replacing the erstwhile Foreign Exchange Regulation Act (FERA), 1973. Foreign exchange means 'foreign currency' and includes deposits, credits and balances payable in any foreign currency and secondly drafts, traveler's cheques, letters of credit or bills of exchange, expressed or drawn in Indian currency but payable in any foreign currency.

The preamble to FEMA lays down the purpose of the Act, which is to consolidate and amend the law relating to foreign exchange with the objective of facilitating external trade and payments and to promote the orderly development and maintenance of foreign exchange market in India.

### Rationale for strict regulations under FERA 1973

FERA was to control everything that was specified, relating to foreign exchange whereas FEMA lay down that 'everything other than what is expressly covered is not controlled'. The overriding objective of FERA was to regulate and minimize dealings in foreign exchange and foreign securities while FEMA on the other hand aims to aid in creation of a liberal foreign exchange market in India.

The main change that has been brought is that FEMA is a civil law, whereas the FERA was a criminal law i.e., for contravention of provisions under the FEMA arrest and imprisonment would not be resorted whereas it was the norm under the previous act.

FEMA is applicable to all parts of India. The act is also applicable to all branches, offices and agencies outside India owned or controlled by a person who is a resident of India.

### Important Definitions under FEMA

(A) **Authorised Person:** In FEMA, the earlier categorisation of persons – authorised Dealers and Money Changers have been clubbed together under the definition of the authorised person.

(B) **Current Account and Capital Account Transactions**

### Capital Account Transactions

As per section 2 of the Act, it is a transaction which alters the assets or liabilities including contingent liabilities outside India of persons resident in India or assets or liabilities in India of persons resident outside India would be a capital account transaction.

Since Indian rupee is not yet fully convertible, capital account transaction can be carried out only to the extent permitted. Also, this concept applies differently to residents and non-residents ("Person Resident In India" as per Section 2); A transaction which alters the assets or liabilities in India of non-residents fall under the category of capital account and as far as residents are concerned transactions which alter contingent liabilities are also capital account transactions.

The Act also contains a list of some of the most common capital account transactions:-

- Transfer or issue of any foreign security by a person resident in India;
- Transfer or issue of any security by a person resident outside India;
- Transfer or issue of any security or foreign security by any branch, office or agency in India of a person resident outside India;
- Any borrowing or lending in rupees in whatever form or by whatever name called;
- Any borrowing or lending in rupees in whatever form or by whatever name called between a person resident in India and a person resident outside India;

- Deposits between persons resident in India and persons resident outside India;
- Export, import or holding of currency or currency notes;
- Transfer of immovable property outside India, other than a lease not exceeding five years, by a person resident in India;
- Acquisition or transfer of immovable property in India, other than a lease not exceeding five years, by a person resident outside India;
- Giving of a guarantee or surety in respect of any debt, obligation or other liability incurred-
  - i. By a person resident in India and owed to a person resident outside India; or
  - ii. By a person resident outside India.

The Act has empowered the Reserve Bank of India (RBI) to specify, in consultation with the Central Government, the permissible capital account transactions and the limits upto which foreign exchange may be drawn for such transactions. But it shall not impose any restriction on the withdrawal of foreign exchange for payments due on account of amortization of loans or for depreciation of direct investments in the ordinary course of business. Accordingly, the RBI has issued notifications governing capital account transaction. The FEMA Notification No. 1/2000 dated 3-5-2000 contains the list of permissible capital account transactions as well as list of prohibited capital account transactions.

### Permitted Capital Account Transactions

The permitted capital account transactions have been classified into two categories:-

Permitted capital account transactions by persons resident in India includes,

- Investment in foreign securities;
- Foreign currency loans raised in India and abroad;
- Acquisition and transfer of immovable property outside India;
- Guarantees issued in favour of a person resident outside India;
- Export, import and holding of currency or currency notes;
- Loans and overdrafts (borrowings) from a person resident outside India;
- Maintenance of foreign currency accounts in India and outside India;
- Taking out the insurance policy from an insurance company outside India;
- Remittance outside India of capital assets of a person resident in India;
- Sale and purchase of foreign exchange derivatives in India and abroad and commodity derivatives abroad.

Permitted capital account transactions by non- residents includes,

- Investment in India such as
  - i. issue of security by a body corporate or an entity in India and investment therein by a non-resident and
  - ii. investment by way of contribution to the capital of a firm or a proprietary concern or an association of persons in India;
- Acquisition and transfer of immovable property in India;
- Guarantee in favour of, or on behalf of, a person resident in India;
- Import and export of currency/currency notes into/from India;
- Deposits between a person resident in India and a person resident outside India;
- Foreign currency accounts in India of a non-resident;
- Remittance of the assets in India held by a non-resident.



## Prohibited Capital Account Transactions

There are generally two types of prohibitions on capital account transactions, namely;

1. General Prohibition:- A person shall not undertake or sell or draw foreign exchange to or from an authorized person for any capital account transaction. This prohibition is subjected to the conditions specified by Reserve Bank in its circulars and notifications. For example, Reserve Bank of India has issued an AP (DIR) Circular, wherein a resident individual can draw from an authorized person foreign exchange up to US\$ 25,000 per calendar year for a capital account transaction specified in Schedule I to the Notification.

2. Special Prohibition:- A non-resident person shall not make investment in India in any form, in any company or partnership firm or proprietary concern or any entity, whether incorporated or not, which is engaged or proposes to engage:- (i) in the business of chit fund, or (ii) as Nidhi Company, or (iii) in agricultural or plantation activities or (iv) in real estate business, or construction of farm houses or (v) in trading in Transferable Development Rights (TDRs)

## Current Account Transactions

It is a type of transaction other than a capital account transaction. In other words, the current account transactions are the counterpart of capital account transactions and those transactions that are capital account in nature are not current account transactions and vice versa.

The Act defines the term 'current account transaction' as a transaction other than a capital account transaction and without prejudice to the generality of the foregoing such transaction includes:

- Payments due in connection with
  - Foreign trade,
  - Other current business
  - Services, and
  - Short-term banking and credit facilities in the ordinary course of business;
- Payments due as
  - Interest on loans and
  - Net income from investments,
  - Remittances for living expenses of parents, spouse and children residing abroad, and
- Expenses in connection with
  - Foreign travel,
  - Education and
  - Medical care of parents, spouse and children.

In the above definition, the words "without prejudice to the generality of the foregoing such transaction includes" imply that even if the transactions listed above may fit into the definition of capital account transactions, such transactions shall be treated as current account transactions. For example, a person who is a resident of India imports goods from outside India on a short term credit (for a period of less than 6 months), he is creating a liability outside India and thus, it can be treated a capital account transaction but, it is specifically included in the above definition as a current account transaction.

**Foreign Exchange Management (Current Account Transaction) Rules, 2000**

As a general rule, any person may sell or draw foreign exchange if such sale or withdrawal is a current account transaction. Under the Act, Central Government may, in public interest and in consultation with the Reserve Bank, impose such reasonable restrictions for current account transactions as may be prescribed. Accordingly, the Central Government has issued the Foreign Exchange Management (Current Account Transaction) Rules, 2000. It contains the list of current account transactions for which withdrawal of foreign exchange is:-

- Totally prohibited;
- Permitted, subject to the prior approval of concerned Ministry, Central Government;
- Transactions for which withdrawal of foreign exchange is prohibited:
  - a.Remittance out of Lottery Winnings
  - b.Remittance of income from racing/riding, etc or any other hobby.
  - c.Remittance for purchase of lottery tickets, banned/prescribed magazines, football pools, sweepstakes etc.
  - d.Payment of commission on exports made towards equity investment in Joint Ventures/Wholly Owned Subsidiaries abroad of Indian Companies.
  - e.Remittance of dividend by any company to which the requirement of dividend balancing is applicable.
  - f. Payment of commission on exports under Rupee State Credit Route, except commission up to 10% of Invoice value of exports of tea and tobacco.
  - g.Payment related to "Call Back Services" of telephones
  - h.Remittance of interest income on funds held in Non-resident Special Rupee Scheme a/c.
- Permitted, subject to prior approval of the Reserve Bank of India;

As per the Foreign Exchange Management (Current Account Transactions) Amendment Rules, 2015, with respect to the requirement of Prior approval of Reserve Bank- Every withdrawal of foreign exchange for transactions included in Schedule III shall be governed as provided therein. This shall not apply where the payment is made out of funds held in Resident Foreign Currency (RFC) Account of the remitter.

No restrictions or limits are applicable for undertaking the transactions that are not covered by the above rules and the authorized dealers are free to release foreign exchange upon the satisfaction that the transactions will not involve and is not designed for the purpose of, violation of the Act, or any rules, regulations made thereunder.

In the current scenario, Indian rupee has become fully convertible so far as current account transactions are concerned. This implies that foreign exchange is freely available to the residents for remittance on account of current account transactions for the various purposes like foreign travel, foreign education, and medical treatment abroad etc; and with the Indian economy moving towards further capital account liberalisation, the development of a well-integrated foreign exchange market also becomes important as it is through this market that cross-border financial inflows and outflows are channelled to other markets. The non-residents are also freely allowed to remit outside India the income or capital gain generated in India. But, even today, the Indian rupee, in respect of capital account transactions, is not fully convertible.

# Technical Session 2

## Direct Tax

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Session Chairman : **CA. G.Sekar ,**

Central Council Member, ICAI, Chennai

**a. Restrictions on cash transactions under Income Tax Act, 1961**

Student Speaker : **Ms. Simran B. Salim,** Ernakulam

**b. Disclosure requirement under ICDS- A practical approach**

Student Speaker : **Mr. Mohammed Yaseen,** Ernakulam

**c. International Taxation**

Student Speaker : **Mr. Raghuveersinh B. Jadeja,** Rajkot, Gujarat

## Profile

**CA.G.Sekhar**

Chennai



Member – Central Council – ICAI – 2013–2019  
 Member, Consultative Advisory Group (CAG) of IAESB – 2017-2019  
 Chairman – Professional Development Committee (2017-18)  
 Chairman – Committee on Management Accounting (2017-18)  
 Chairman – Committee for Professional Accountants in Business and Industry (2016-17)  
 Chairman – Committee for Financial Markets & Investors' Protection (2016-17)  
 Vice Chairman – Audit Committee (2016-17)  
 Chairman – Committee for Capacity Building of Members in Practice (2015-16)  
 Vice Chairman – Committee on Management Accounting (2015-16)  
 Chairman – Direct Taxes Committee (2014-15)  
 Vice Chairman – Direct Taxes Committee (2013-14)  
 Vice Chairman – Committee on Public Finance (2013-14)

**Member of following Committees of ICAI (2017-2018)**

- Disciplinary Committee (u/s 21 B) Bench 2
- Accounting Standards Board
- Auditing & Assurance Standards Board
- Committee for Capacity Building of Members in Practice
- Committee for Co-operatives and NPO Sectors
- Committee on Banking, Insurance and Pension & Financial Markets
- Continuing Professional Education Committee
- Corporate Laws & Corporate Governance Committee
- Direct Taxes Committee
- Committee on Public Finance & Government Accounting
- Ind AS (IFRS) Implementation Committee
- Indirect Taxes Committee
- Committee on International Taxation
- Committee for Professional Accountants in Business & Industry
- Committee for Members in Entrepreneurship and Public Service
- Infrastructure Development Committee

**Special Invitee in following Committee of ICAI (2017-18)**

- Board of Studies

Great Motivator for Chartered Accountants in Practice and in Employment, and CA Students, through his effective and convincing communication style. Founder Partner of G Sekar Associates and in practice as Chartered Accountant since 1986. Founder and Faculty for Direct Taxation in Shree Guru Kripa's Institute of Management, an Institution providing education for all levels and all subjects of the Chartered Accountancy Course

and has trained many finance professionals.

### Roots –

1. Commerce Graduate, Gold Medallist & Rank Holder from Virudhunagar Hindu Nadar Senthilkumara Nadar (VHNSN) College, Virudhunagar, Madurai Kamaraj University.
2. Articleship Training with Shri. S. Shanmugavel, FCA, Virudhunagar during 1982 to 1984.
3. Industrial Training at Chennai Petroleum Corporation Limited (CPCL) during 1984 to 1985.

### Professional Profile –

4. Member of the Expert Study Group Committee, Central Board of Direct Taxes, New Delhi, to study the Direct Tax Code Bill in 2006.
5. Member of the Direct Tax Law Committee of The Institute of Chartered Accountants of India in 2011 –12, Vice Chairman in 2013-14 and Chairman in 2014-15.
6. Recipient of Special Award from the Income Tax Department in 2011, during their “150 Years of Income Tax in India” Celebrations, for his contribution and service to the Income Tax Department.
7. Speaker on Budget Presentation in Doordharshan and Sun Television. Participated in various Live Public Interaction programmes on Sun Television to create awareness to public on various legal issues on taxation and education, more specifically on challenges and opportunities available for Commerce Students.
8. Well-known Speaker in the “Vazhikaati”, Career Guidance Programme for Commerce Curriculum conducted by Dinamalar Magazine and has addressed more than One Lakh students in the last 5 years in Chennai, Coimbatore, Tirupur, Salem, Madurai and Puducherry.
9. Writer of Articles of Professional Interest in Journals like Taxmann, Financial Express, Current Tax Reporter, Business Line, etc.
10. Speaker in Seminars, Workshops and Programmes conducted by ICAI, its Branches, Study Circles, Chambers of Commerce, Income Tax & C&AG Officers Training Institutes, National Academy of Direct Taxes (Ministry of Finance), Tamil Nadu State Judicial Academy, etc.
11. Faculty Member of The Institute of Chartered Accountants of India and its Branches, and other Professional and Management Institutions, for CA Intermediate / IPCC and CA Final Level, for the subjects Income Tax, Service Tax, VAT, Direct Tax Law, etc.
12. Sharing of Professional Opportunities available to CAs through phone, email, etc.
13. Working with Income Tax Department in various capacities – viz. (a) Training of Assessing Officers to conduct assessment in a professional and value-added manner, and not merely look for adhoc additions to income, (b) Training of Income Tax Officers and IRS Officials at various forums including National Academy of Direct Taxes (Ministry of Finance), (c) Member of Study Group to discuss the Direct Taxes Code to make it easier for Users, etc.
14. Presented Cash Awards to the Rank Holders, State Toppers, District Toppers, and School Toppers in +2 Commerce Student of every District in the State of Tamil Nadu, Kerala, Karnataka, Andhra Pradesh and Puducherry.
15. Contribution towards E-Filing of Income Tax (IT) Returns – (a) Module-by-Module Testing of E-Filing of IT Returns before its introduction in public domain, (b) Providing Help Desk Support to the IT Department to make e-filing successful, (c) Integrating support for IT Law with e-filing / return formats, etc.

### 16. Member in:

- The Society of Auditors, Chennai
- The Chartered Accountant Study Circle, Chennai
- The Bombay Chartered Accountant Society
- International Fiscal Association

### Author of Books –

Author of Professional Books – for Finance and Legal Professionals, Corporate Taxpayers, Banks, Officials of Income Tax Department, etc.

1. Handbook on Direct Taxes – (Recommended for IRS Trainees at NADT)
2. Practical Guide on TDS and TCS - (Approved Book for ITOs)
3. Personal Income Tax – A Simplified Approach
4. CA's Handbook on Revised Schedule VI
5. Service Tax Reckoner
6. TN VAT and CST Ready Reckoner
7. Professional Guide to CARO 2015
8. A Professional Guide to ICDS
9. Professional Guide to Tax Audit
18. Author of Books for CA Students – Authored 24 books covering the entire curriculum of CA Course.

## Profile

**Mr. Simran B. Salim**

Ernakulam

Registration No: **SRO 0504044**



### Course Pursuing:

CA Final

### EDUCATIONAL QUALIFICATION

- Cleared both groups of IPCC.
- Cleared CPT with 52.50% marks.
- Passed Std XII with 92% From CBSE.
- Passed Std X with A+ in all subjects from CBSE.

### Topic:

**Restrictions On Cash Transactions Under Income Tax Act, 1961**



## Profile

**Mr. Mohammed Yaseen**

Ernakulam

Registration No: **SRO 0358879**



### Course Pursuing:

CA IPCC

### Achievements

- Treasurer of Ernakulam Branch SICASA of ICAI for the year 2016.
- Presented study circle on ICDS at Ernakulam Branch of ICAI.
- Committee member for All India CA Students Conference – “Vedanta” held in Kerala on December 16, 2015.
- Presented Paper on the topic “GST – Overview and Basic” at SATSANG – Calicut CA Students Sub Regional Conference 2017.
- Presented Paper on “Schedule II –Depreciation” at ADVAITA- Kollam National Conclave for CA Students 2017.

### Educational Qualification

- Cleared IPCC First Group with 58% marks in 2015.
- Graduation in B.com from Madras University.
- Cleared CPT with 55% marks.
- Passed Std XII with 92% From State Syllabus.
- Passed Std X with 75% from CBSE.

### Topic:

**Disclosure Requirement Under ICDS – A Practical Approach**

## Profile

**Mr. Raghuveersinh .B. Jadeja**

Rajkot, Gujrat

Registration No: **WRO 0459650**



### Course Pursuing:

CA IPCC

### Achievements:

- Volunteer in Rajkot WICASA for year 2013-14
- Committee member of Rajkot WICASA for year 2014-15 also get BEST COMMITTEE MEMBER AWARD in the same.
- Treasurer of Rajkot WICASA for the year 2015-16 also students co-ordinator for OP and GMCS training.
- At present, volunteer in WICASA for event management.
- Best paper presenter at vasai national conclave held on 2nd & 3rd July, 2016.

### Topic:

**International Taxation**

## RESTRICTIONS ON CASH TRANSACTIONS

**Ms. Simran B. Salim**

### Background

After demonetization, the Government has learned an important lesson. Keeping the rhetoric aside, it's enlightened to the wisdom of colours in money. Notes of two-thousand turned pink, five hundred went green but none could become black.

It's no longer secrete, cash transaction is mere the starting point in the webs of money launderers. A web that has no definite end. Once, cash turns black, it keeps exchanging hands. For few, the cycle ends on real estate, but it's an illusion. It becomes part of an ever expanding parallel economy. An economy that shrinks the other one.

The very nature of cash as an exchange value with no trails makes it most lucrative for all exchangers. Be it tycoons like Sahara Shree or saffron Baba, mystery in changing colours of cash has always given sufficient veil for shady deals. Businessman uses it to suppress profit and save themselves from the burden of tax. Politician use it to earn incentives for their public works. Officials use it to hide the bribes. Public use it for convenience. Yet none are behind in naming and shaming.



### Demonetization

Demonetization of currency is a radical monetary step in which a currency unit's status as a legal tender is declared invalid. This is usually done whenever there is a change of national currency, replacing the old unit with a new one. The Government of India announced that the Rs 500 and Rs. 1000 denominated currency notes will cease to be legal tender. The move was targeted towards tackling black money, corruption and terrorism.



Objectives of Demonetization in India

- To track fake currency.
- To cutoff the supply line money, arms and immunizations to terror funding.
- To transform Indian economy into cashless economy.
- To bring tax evasion to halt.
- To unearth and curb the black money.
- To curb illegal and unethical business activities such as, the black marketing, food adulteration, marketing of spurious goods, human trafficking, smuggling of gold and drugs.

## Restrictions on Cash Transactions under Income Tax Act, 1961

The restrictions placed by Income Tax Act on cash transactions can be broadly divided into two:

1. Disallowing expenses and deductions to incentivise better compliances
2. Penalizing cash transaction above threshold limits to create effective deterrence

### Disallowance for expenses and deductions

Cash transaction is often the main source of generating black money. As seen from the country's top corporate frauds including the Satyam, bogus cash transactions are used to cook the books of account. It's by default the most preferred mode for turning the black into white and vice-versa. So, to create an effective check over it, Income-tax Act places deterrence through below mentioned provisions :

**Section 13A** – This section creates deterrence for Political Parties from accepting cash donations. As per this section, no political party shall take contribution of more than ₹20,000 in cash. This limit is further reduced to ₹2,000 by Finance Act, 2017, w.e.f. 1-04-2018. Non-compliance of this section disallows the tax exemptions provided to Political Parties.

**Section 40A(3)/(3A)** – Under the existing provisions, expenditure incurred in cash exceeding Rs. 20,000 (in the case of payment to transport contractor, it is Rs. 35,000) is not allowable as deduction as per Section 40A(3) (subject to a few exceptions given under rule 6DD)

Section 40 A(3) has now been amended where in the monetary limit of Rs 20,000 has been decreased to Rs. 10,000.00(However there are no changes in the monetary limit for payment to transport contractor)

Section 40A(3A) is applicable if the taxpayer had claimed deduction in respect of an expenditure in any of the earlier years. Payment pertaining to such expenditure is made exceeding Rs. 20,000 during the current year by any other mode other than account payee cheque/bank draft etc. This monetary limit has also been reduced to Rs. 10,000 from the assessment year 2018-19.

### Disallowance of depreciation, investment allowance and capital expenditure

**a) Section 35AD** – Any expenditure in respect of which a payment or aggregate payment made to a person in a day, otherwise than by cheque or bank draft or electronic clearing system exceeds Rs. 10,000/-, no deduction shall be allowed in respect of such payment under section 35AD.

**b) Section 43** - Section 43(1) is amended to provide that where an assessee incurs any expenditure for acquisition of any asset in respect of which a payment or aggregate payment made to a person in a day, otherwise than by cheque or bank draft or electronic clearing system exceeds Rs.10,000/-, such payment shall be ignored to determine the actual cost of such asset.

**Section 80G** – At a time when Government presented itself as if it were limiting cash donations for Political parties, there was no reason for letting other donations, out of such restrictions. It has reduced the existing limit of ₹10,000 to ₹2,000 w.e.f. 1-04-2018, for any cash donations to be allowed as deduction.

### Penalising cash transactions

Other than discouraging cash transaction through disallowances, there are certain provisions that even penalises such transactions. Section 269 restricts payment or repayment of loan through cash transaction above ₹20,000. The only exception is for persons who have agricultural income and none of them have any taxable income (i.e. whose income are above basic exemption limit). The financial institutions or in common as we refer them as bank-

ing entities, are out of the ambit of this section.

Further Section 269ST is introduced to deter cash transaction for other than loans. To limit the most preferred mode of generating black money or as often used to turning black into white and vice versa, restriction is placed for transacting in cash for above ₹2,00,000. Again, financial institutions are not covered under this section. So, other than while dealing with financial institution, no transaction in cash for and above ₹2,00,000 is permitted. This restriction is for

- A single transaction on
- A single day with
- A single person for
- Single occasion

In short, one can deal in cash, but any transaction in a day from a party should not exceed ₹2,00,000 for a transaction related to any one event or occasion.

To effectively enforce this restriction, penal provision under section 271D is introduced. As per this section, the liability lies with the recipient. If anyone receive in cash in violation of this section, he/she shall have to pay penalty of equivalent amount unless he proves-

- Such violation has sufficient good reasons for any contravention.

The Penalty under this section is imposed by Joint Commissioner.

Some Practical examples, to illustrate the cash restrictions

1. Suppose you donate ₹15,000 in cash to a trust registered under Income-tax. Now you want to claim it as deduction under 80G from your total income.

Here you've violated the provision of Income-tax that disallows cash donations for above ₹10,000. (This limit is further reduced to ₹2,000 after 1.4.2018) Therefore, you cannot take deductions under 80G.

2. You have paid ₹50,000 in cash as repayment of loan to Mr. Shyam.

Here you will be disallowed to include ₹50,000 as you expense unless Mr. Shyam and you are persons with no taxable income.

3. You sold a set of Chipsets to Mr. Y whose invoice value is ₹4,50,000. You received payment for the same in cash.

Here, your assessing officer is allowed to penalise you for the same amount as you have violated the provisions of 269ST. For any amount above ₹2,00,000 received in cash in a single day for a single transaction, your Assessing Officer can penalise the same amount. It is also needless to mention that details of cash payments in violation of this section will have to be reported even in your tax audit report, if you are subject to tax audit.

## Incentive to transact through banking Channels

Besides the disincentives and penalising provisions, Income-tax Act has also been amended to incentivise non-cash transaction. For small traders, who do not maintain proper books of accounts and pay tax based on presumptive basis, an incentive has been given. Unlike, in the past, traders going cashless can declare their income at 6% of profit rather than 8%, if their annual gross turnover is below ₹2 crores.

For example, when a trader declares his gross income to be ₹199 lakhs, his presumptive profit u/s 44AD will be –

- 15.92 lakhs @ 8%, if he were to deal in cash
- 11.94 lakhs @6%, if he were to go cashless

The difference in taxable income would amount to 4 lakhs, almost 25% income being exempt. If we see it the other way, it would amount to great saving in taxes. In the same example, if we were to suppose that the trader has no other income and is eligible for no other deductions, his tax liability will be –

- $(1,20,000 + 30\% \text{ of } 5,92,000) + 3\% \text{ of cess} = ₹3,06,530$  when his deals in cash; and
- $(1,20,000 + 30\% \text{ of } 1,94,000) + 3\% \text{ cess} = ₹1,83,550$  when he goes cashless.

The result is saving of ₹1,22,980 in taxes i.e., 40% saving in taxes. It is a great incentive for small traders to go cashless.

## Conclusion

Cashless transactions are soon becoming the most preferred option. Going cashless not only eases one's life but also helps to authenticate and formalize the transactions that are done. This helps to curb corruption and the flow of black money which results in an increase of economic growth. It also helps in reducing the expenditure which is being incurred in printing and transporting currency notes.



## Disclosure requirements under ICDS: A Practical Approach

**Mr. Mohammed Yaseen**

The computation of income under various heads of income, and in particular, under the head “Profits and Gains of Business or Profession” has been the subject matter of innumerable disputes, ever since the introduction of income tax in India. Such computation was generally based on the accounts maintained by an assessee, and was dependent upon the method of accounting, subject to the adjustments for deductions, allowances and disallowances provided under the Income-tax Act, 1961. However, considering the never-ending disputes relating to computation of income and uniformity in the methods employed in income computation, CBDT has notified 10 Income Computation and Disclosure Standards (ICDS) with effect from assessment year 2017-18.

### Applicability of ICDS

The standards are applicable to all assesseees (other than Individual/ HUF not liable for audit under section 44AB in the previous year) following mercantile basis of accounting while computing income under the heads “Profits and Gains of Business or Profession” and “Income from other sources”.

That is, the following persons are not required to comply with ICDS:

1. Individuals/ HUF not liable for audit under section 44AB
2. Assesseees following cash basis of accounting.

It is also to be noted that assesseees other than Individuals/HUF who are not liable to audit under section 44AB is required to comply with ICDS.

### Notified ICDS and their corresponding accounting standards

SI No	ICDS	Corresponding AS	Corresponding Ind AS
1	ICDS I-Accounting Policies	AS 1 & AS 5	Ind AS 2 & Ind AS 8
2	ICDS II-Valuation of Inventories	AS 2	Ind AS 2
3	ICDS III- Construction Contract	AS 7	Ind AS 115
4	ICDS IV- Revenue Recognition	AS 9	Ind AS 18 & Ind AS 109
5	ICDS V- Tangible Fixed Assets	AS 10	Ind AS 16
6	ICDS VI – The effect of Changes in Foreign Exchange Rate	AS 11	Ind AS 21
7	ICDS VII- Government Grants	AS 12	Ind AS 20
8	ICDS VIII – Securities	AS 13	Ind AS 40 & Ind AS 109
9	ICDS IX- Borrowing Costs	AS 16	Ind AS 23
10	ICDS X- Provisions Contingent Liabilities and Contingent Assets	AS 29	Ind AS 37

### Disclosure requirements under ICDS

Various ICDS provide for various disclosure requirements and considering the fact that ICDS are not to be followed in the books of account, the disclosures are not required to be made in the financial statements prepared by the assessee. Then the question is Where should such disclosures to be made? The TAS Committee had recommended as under in its August 2012 report:



“For ensuring compliance with the provisions of TAS by the taxpayer, the Committee recommends appropriate modification in the return of income. For tax audit cases, the Form 3CD should also be modified so that a tax auditor is required to certify that the computation of taxable income is made in accordance with the provisions of TAS.” Accordingly, the CBDT had amended the return of income (ITR3, ITR5 and ITR6) to be filed by various assesseees for AY 2017-18, incorporating a schedule (Schedule ICDS) showing “effect of income computation and disclosure standards on profits”.

Further, from Schedule ICDS, it is clear that only the amount of net effect under each ICDS is required to be disclosed. There is no place in the returns of income for the various disclosures required to be made under each ICDS.

In addition to this, CBDT has also modified clause 13 of Form 3CD to incorporate the effects of ICDS on profits and to disclose the various disclosure requirements set out in the Standards. The auditor needs to disclose increase/decrease in profit consequent to each ICDS separately in Clause 13(e) to Form 3CD and disclosure requirement under each ICDS needs to be disclosed in Clause 13(f). It may also be noted that there are 2 ICDS standards which does not require for any disclosures, viz.,

1. ICDS VI- The effects of changes in Foreign Exchange Rate
2. ICDS VIII- Securities

In order to have a better conceptual clarity, we will have a Standard-wise analysis of various disclosure requirements under ICDS and additional disclosures set-out in each standard (except the two standards without disclosure requirements) as compared to accounting standards.

### **ICDS-I: Accounting policies**

This standard deals with application of significant accounting assumptions and policies in computation of income for the purposes of the income tax as the income for a particular year is significantly affected by the accounting assumptions and policies followed in the preparation of the financial statements. To ensure uniformity, it is imperative to outline the accounting policies and assumptions that need to be applied while computing income for the year. An important aspect is that as compared to AS-1, ICDS excludes the concept of prudence and materiality while framing accounting policies. The disclosure requirement under this standard are as follows:

- All significant accounting policies adopted by a person shall be disclosed.
- Any change in an accounting policy which has a material effect shall be disclosed. The amount by which any item is affected by such change shall also be disclosed to the extent ascertainable. Where such amount is not ascertainable, wholly or in part, the fact shall be indicated.
- If a change is made in the accounting policies which has no material effect for the current previous year but which is reasonably expected to have a material effect in later previous years, the fact of such change shall be appropriately disclosed in the previous year in which the change is adopted and also in the previous year in which such change has material effect for the first time.
- If the fundamental accounting assumptions of Going Concern, Consistency and Accrual are followed, specific disclosure is not required. If a fundamental accounting assumption is not followed, the fact shall be disclosed.

Disclosure of accounting policies or of changes therein cannot remedy a wrong or inappropriate treatment of the item.

The disclosure requirements set-out in this standard is similar to AS-1 and the disclosures made in the financial statements itself will contribute to the requirement of this standard. However, two important aspect to be considered while making disclosure under ICDS-I are:

1. The standard does not consider the concepts of materiality and prudence. Thus, adjustments/ modifications are required to be made policies adopted based on these concepts.
2. As per AS-5 and Ind AS-8, the standards itself provide for situations in which the accounting policy can be changed. However, ICDS-I say that the accounting policy cannot be changed without a reasonable cause and the clarification for reasonable cause as provided by CBDT is as follows:

“Reasonable cause is an existing concept and has evolved well over a period of time conferring desired flexibility to the tax payer in deserving cases.”

### **ICDS-II: Valuation of inventories**

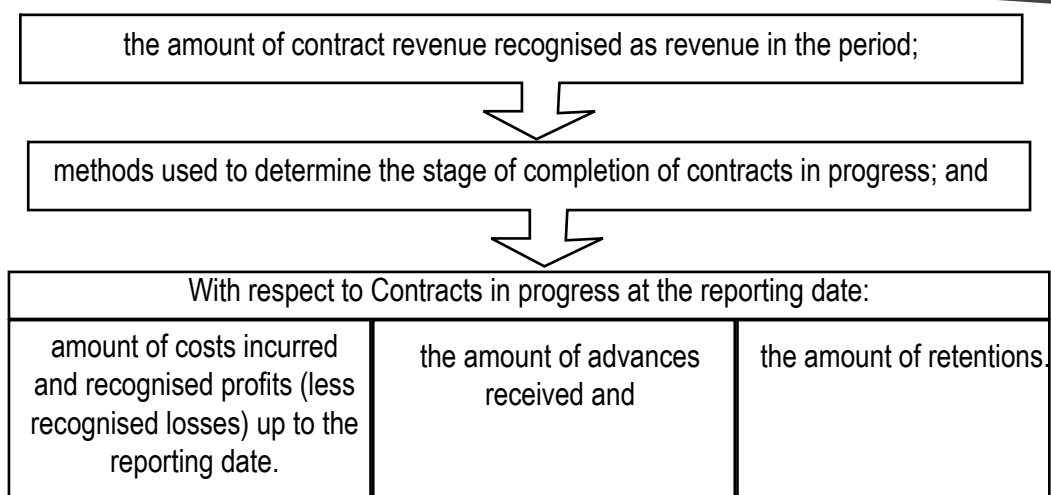
This ICDS is corresponding and similar to AS-2 Valuation of inventories. A significant difference between these two standards is that the cost of inventory as per ICDS II includes all taxes and duties even if the same is recoverable as input tax credit. This concept was introduced by income tax authorities way back through the section 145A of Income Tax Act, 1961. Thus, while making disclosure under this standard, the auditors need to make adjustments and reconcile the same with clause no. 14(b) to Form 3CD which deals with adjustment required with respect to section 145A. The important disclosure requirement as per ICDS-II are as follows:

- The accounting policies adopted in measuring inventories including the cost formulae used. Where Standard Costing has been used as a measurement of cost, details of such inventories and a confirmation of the fact that standard cost approximates the actual cost and
- The total carrying amount of inventories and its classification appropriate to a person.

Common classification for inventory as per para 27 of the Revised AS-2 is raw materials and components, work in progress, finished goods, stock-in-trade (in respect of goods acquired for trading), stores and spares, loose tools and others. The classification of inventories should be done keeping in mind the activities of the assessee.

### **ICDS-III: Construction Contracts**

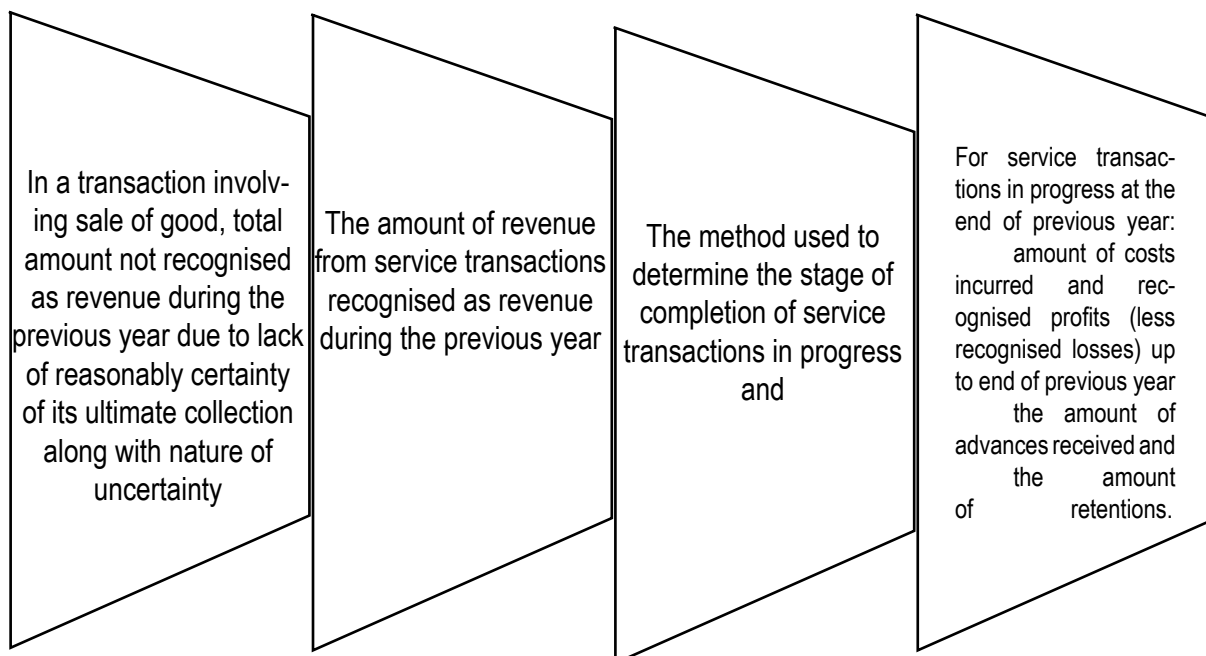
This ICDS is required to be applied in determination of income from a construction contract of a contractor and it recognizes percentage of completion method (POCM) for recognizing contract revenue and contract cost associated with a construction contract. A significant change as per this ICDS as compared to AS-7 is that with respect to recognition of expected loss on construction contract. AS-7 permits recognition of expected loss on construction contract as well as contract costs, recovery of which is not probable, as an expense immediately on the basis of prudence concept. However, ICDS-III does not provide for such a specific requirement and by implication such losses are to be recognized on POCM as per ICDS-III. The TAS Committee in Para 5.2.5 of its report also stated that only the “actual losses” (and not expected losses) are to be recognized. The disclosure requirements set-out in the standard is as follows;



It is also clarified that the disclosure requirement will also apply to the new contracts as per transitional provisions contained in the Standard.

### ICDS-IV: Revenue Recognition

This Income Computation and Disclosure Standard is based on AS-9:Revenue Recognition. While some of the principles contained in AS-9 have been adopted in this ICDS, there are also certain differences between the ICDS and AS-9. Following disclosures shall be made in respect of revenue recognition as per the requirement of the standard:



In case of service transactions, the amount of revenue from service transactions recognised during the previous year and the method used to determine the stage of completion of service transactions in progress have to be disclosed. This ICDS read with para 18 of the ICDS-III provides for three options to determine stage of completion. The ICDS requires disclosure as to how the stage of completion of service transactions is determined.

### ICDS-V: Tangible Fixed Assets

This ICDS is based on the old AS-10: Accounting for Fixed Assets and deals with treatment of tangible fixed

assets which comes under the meaning of property, plant and equipment as per AS-10(Revised) and Ind AS-16. As against the detailed methodology for providing for depreciation in AS/ Ind AS, the ICDS simply says that the depreciation on such assets and income arising on transfer of such assets shall be computed in accordance with the provisions of the Income Tax Act, 1961.

The disclosure requirement set-out through this standard is similar to Clause 18 to Form 3CD and no other additional disclosure is provided. Thus, we can say that the disclosure requirement as per AS-10(Revised), Ind AS-16 along with Schedule II and III to the Companies Act, 2013 provides for a more elaborate disclosure requirement than this standard. The disclosure requirement under the standard is as follows;

- Description of asset or block of assets
- Rate of depreciation
- Actual cost or written down value, as the case may be
- Additions or deductions during the year with dates
- In the case of any addition of an asset, date put to use including adjustments on account of
  - Central Value Added Tax credit claimed and allowed under the CENVAT Credit Rules, 2004
  - Change in rate of exchange of currency
  - Subsidy or grant or reimbursement, by whatever name called;
- Depreciation allowable and
- Written down value at the end of year.

### ICDS VII- Government Grants

Broadly, there are two variants of grants deliberated in this ICDS. One which requires to be reduced from actual cost or written down value of asset and other which requires recognition of grants as income for a year. The ICDS requires disclosure in respect of both these grants to the extent recognised (and not recognised) during the year. The following disclosures are therefore prescribed:

#### With respect to Government grants relating to specific assets

nature and extent of Government grants recognised during the previous year by way of deduction from the actual cost of the asset or assets or from the written down value of block of assets during the previous year and

nature and extent of Government grants not recognised during the previous year by way of deduction from the actual cost of the asset or assets or from the written down value of block of assets and reasons thereof.

#### With respect to other grants:

nature and extent of Government grants recognised during the previous year as income and

Nature and extent of Government grants not recognised during the previous year as income and reasons thereof.

### ICDS-IX: Borrowing Costs

This ICDS deals with the treatment of borrowing cost. It requires that borrowing costs which are directly attributable to the acquisition, construction or production of a qualifying asset to be capitalized as part of cost of that asset. Other borrowing costs have to be recognized in accordance with the provisions of Income Tax Act, 1961. The standard provides for two disclosure requirements, viz.,

- The accounting policy adopted for borrowing costs and
- The amount of borrowing costs capitalised during the previous year.

The accounting policy required to be disclosed in respect of borrowing costs would be the policy followed as per ICDS-I. The ICDS requirement of disclosure of the amount of borrowing costs capitalised during the previous year does not state whether such details are required to be given block-wise or whether such disclosure has to be given in aggregate. A disclosure of the aggregate amount should suffice. It is, however, necessary to keep the details of block-wise, capitalisation of borrowing costs to tally the total figure with the additions to the respective blocks of assets.

### ICDS-X: Provisions, Contingent Liabilities and Contingent Assets

As per ICDS-X, Provision shall be recognized if it is reasonably certain that outflow of economic resources will be required. Criteria for recognition of provision on basis of 'Probable' replaced with 'reasonable certain'. Contingent assets are assessed continually and when it becomes reasonably certain that inflow of economic benefit will arise, the asset and related income are recognized in the previous year in which the change occurs. The standard provides separate disclosure requirements for provisions and contingent assets and related income. They are:

With respect to each class of provision:

- a brief description of the nature of the obligation
- the carrying amount at the beginning and end of the previous year
- additional provisions made during the previous year, including increases to existing provisions
- amounts used, that is incurred and charged against the provision, during the previous year
- unused amounts reversed during the previous year and
- the amount of any expected reimbursement, stating the amount of any asset that has been recognised for that expected reimbursement.

With respect to each class of contingent asset and related income recognized:

- a brief description of the nature of the asset and related income
- the carrying amount of asset at the beginning and end of the previous year
- additional amount of asset and related income recognised during the year, including increases to assets and related income already recognised and
- amount of asset and related income reversed during the previous year

The disclosures under this ICDS are fairly extensive, and need to be made for each class of provision and asset. They are however similar to the disclosures required under AS-29 and under Ind AS-37.

## Conclusion

Various ICDS provide for various disclosure requirements and considering the fact that ICDS are not to be followed in the books of account, the disclosures are not required to be made in the financial statements prepared by the assessee. However, the return to be furnished by assessee does not have schedules to disclose the same except the disclosure relating to effect on profit/ loss whereas the amendments made to Form 3CD with effect from assessment year 2017-18, provides for disclosure requirements in the Form which provides extra burden for auditors. However, we have to remember the words of Robin Sharma "Changes is hard at first, messy in the middle and gorgeous at the end".

## International Taxation

Mr. Raghuveersinh B. Jadeja

### INTRODUCTION

Globalization of economies is seeing companies with multi country operations in increasing numbers. Increase in the number of cross border transactions, mergers & acquisitions, transfer pricing and tax treaties have added to the complexities of already complex tax laws in the country. Such a scenario gives rise to more complex and vague taxation issues. Therefore, to untangle the complexities and keeping in mind the problems faced by the tax professionals and the companies operating at global scale, IIT has come up with this course on international taxation. The course would help participants understand taxation from a global standpoint.

### WHAT IS INTERNATIONAL TAXATION?

International Taxation is the study or determination of tax on a person or business subject to tax laws of different countries or international aspects of an individual country's tax laws.

A discipline of study & practice that centres on the application of taxes & tax laws in the international community as it relates to individuals, business & government agencies.

### WHY IS INTERNATIONAL TAXATION NECESSARY & REALISTIC ?

#### Regulating Globalization

The process of Economic Globalization reveals need for International taxation. This is because the roots of globalization lead to an erosion of national tax systems as well as refeudalisation of tax systems.

#### Financing Development

The study analyses a wide range of proposals for international taxes concerning strengths and limitations. The main focus lies on the two-tier currency transaction tax (CTT) in form of Spain's modifications of the Tobin-Tax. Environmental taxes are another important contribution; they include taxes on CO<sub>2</sub>, kerosene, air plane tickets and tolls on the use of air corridors.

Furthermore, duties and taxes on emissions and dangerous goods in maritime shipping and taxation on sea straits are analysed.

### ISSUES RELATED TO INTERNATIONAL TAXATION

Implications of different treatments of resident capital income originating abroad and Non-Residents capital income originating at home.

Implications of different treatments of exports & Imports under indirect tax system (VAT).

What is economically efficient international tax structure?

### Main concepts of international taxation

Double Taxation Avoidance Agreement (DTAA)

Special Provision for NRI (Ch. XII-A)

Transfer Pricing (TP)

Presumptive Taxation Schemes for NRI

TDS Provision for NRI

1) Double Taxation Avoidance Agreement (DTAA)



DTAA is nothing but the agreement made for the purpose of avoidance of double taxation.

Double taxation means same income getting taxed twice in the hand of same assesses.

Two legal criteria for taxing any income:

- Resident rule
- Source rule.

EX.. Assessee of india deriving income from u.s.a in this india levy tax it is resident rule & U.S.A levy tax is source rule.

Types of double taxation

- Juridical DT
- Economic DT

In case of juridical double taxation relief is available as follows:

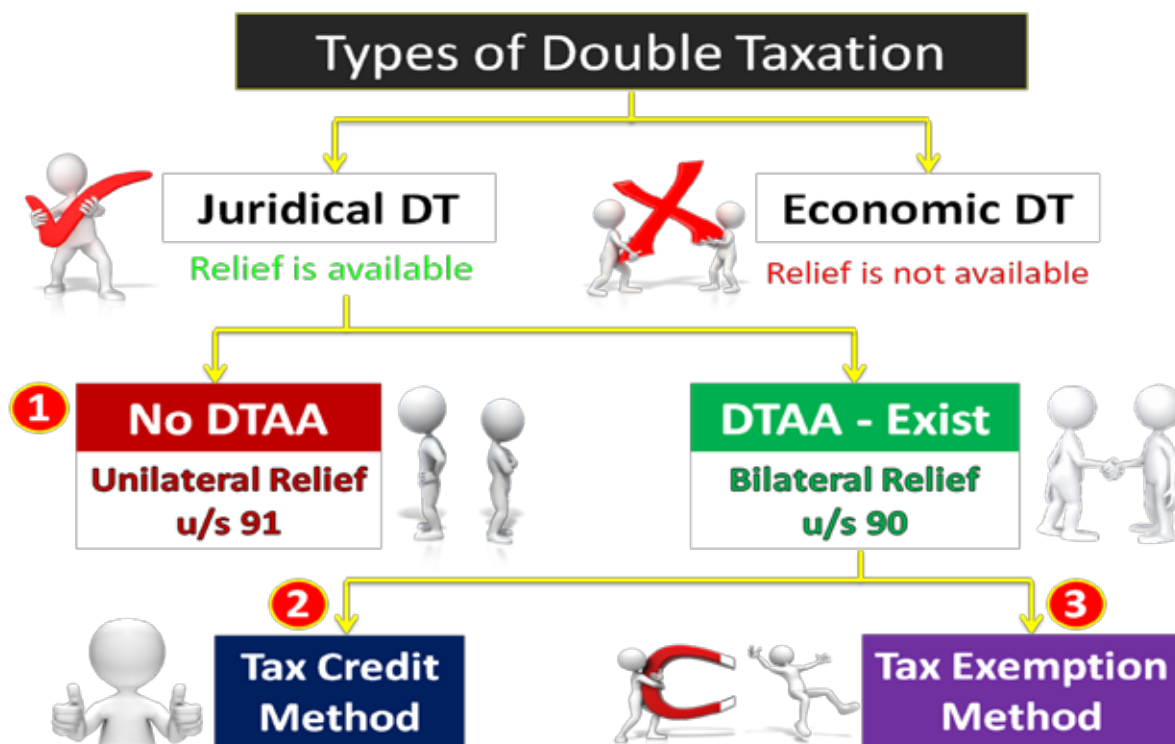
If No DTAA available then- unilateral relief available as per section 91.

If DTAA available then - Bilateral Relief u/s 90. u/s 90 there are two method for claiming relief

1 tax credit method – in this method first tax charge and after that credit for this payment are given.

2 tax exemption method- in this method either of the country give exemption for tax payment.

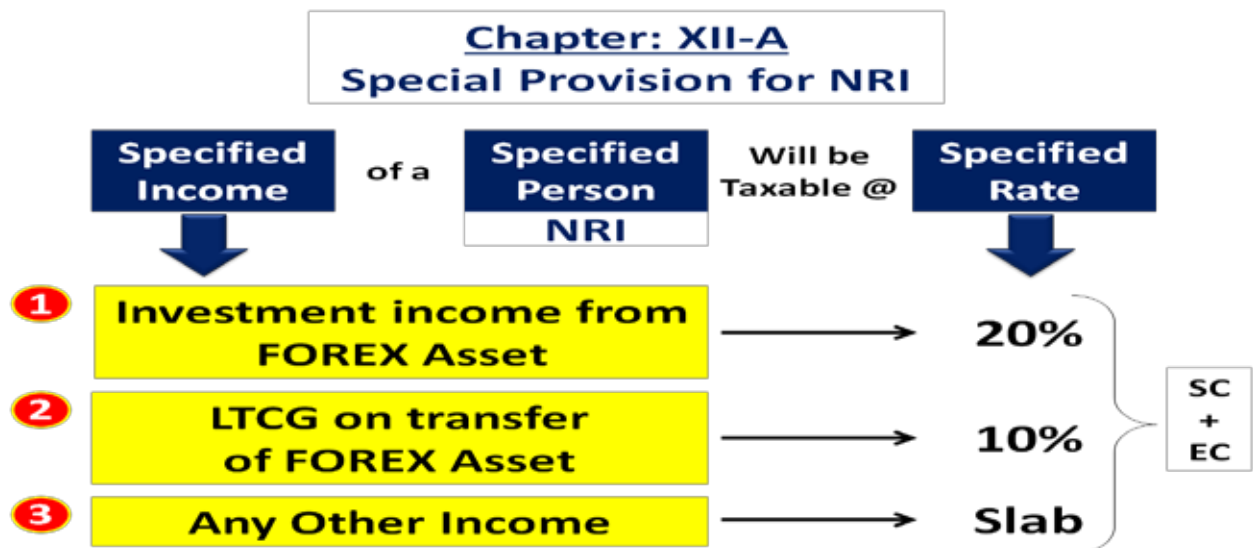
In short.....



## 2) Chapter: XII-A Special Provision for NRI

Specified income of a specified person (NRI) taxable at specified rate that will be known as a special provision.

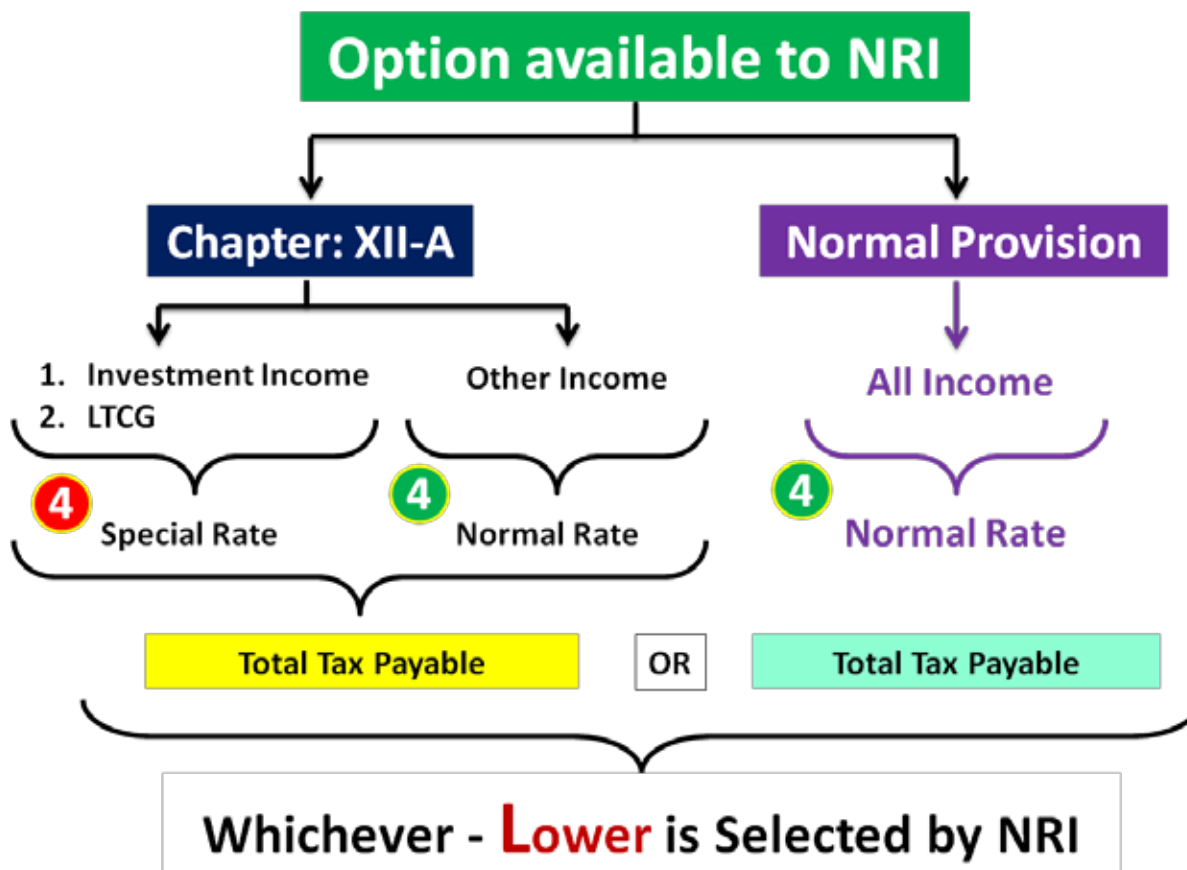
1. Investment income from FOREX Asset @20% +(SC + EC).
2. LTCG on transfer of FOREX Asset @ 10%+(SC + EC).
3. Any Other Income @ slab rate. +(SC + EC).



There are 4 constrain we need to keep in mind...

1. No Basic Exemption
2. No Deduction of Actual Exp. (Except for LTCG)
3. No Deduction under Ch. VI-A
4. No Benefit of indexation

In short assessee has 2 option for computation of taxation...



4

In the above means above four constrain which is there in computation .

In case of normal computation there is no constrain so it is describe via ..

4

### 3) Transfer Pricing:

Transfer pricing is the setting of the price for goods and services sold between controlled (or related) legal entities within an enterprise. For example, if a subsidiary company sells goods to a parent company, the cost of those goods paid by the parent to the subsidiary is the transfer price.

#### As per Sec. 92C

It is right of assessing officer To Determine & Adopt the ALP for International Transaction OR Specified Domestic Transaction.

#### Ingredients for transfer pricing

Associated Enterprise  
International Transaction / SDT  
ALP  
Determine Most Appropriate Method for ALP  
Determine ALP (in Rs.)

#### A) Associated enterprise:

“Associated Enterprise”, in relation to another enterprise, means an enterprise-- which participates, directly or indirectly, or through one or more intermediaries, in the management or control or capital of the other enterprise ; or

In respect of which one or more persons who participate, directly or indirectly, or through one or more intermediaries, in its management or control or capital, are the same persons who participate, directly or indirectly, or through one or more intermediaries, in the management or control or capital of the other enterprise also deemed associated enterprise include as per section 92 A (1)(a) to (m).

#### B) International transaction and specified domestic transactions:

- It is transaction between two or more Associated Enterprise, where either or all of them is a Non Resident (NR).
- It is transaction in nature of...
- Buying/selling/leasing of any tangible or intangible
- Provision of services ,
- Lending or borrowing money,
- Any other transaction which bearing profit/loss/income/assets of such enterprise
- Transaction in nature of allocation/apportionment/
- Contribution to any cost expenses incurred by associated enterprise in relation to service or benefit provided or to be provided to any or all of them.

It also include DEEMED INTERNATIONAL TRANSACTION:

1. Transaction with person in the Notified Jurisdictional Areas (NJA).
  2. a transaction entered into by enterprise with a person other than AE, shall be deemed to be IT between AE, if it's AE...
- A. Has Exist Prior Agreement

B. Substantially influence the transaction

**Specified Domestic Transaction (SDT)**

- 1) 40A(2)- Transaction of excessive payment to relative
- 2) 80A- Deduction under chap. 6A
- 3) 80IA(8)- Transaction of transfer of goods or service from eligible business to non eligible business or vice versa
- 4) 80IA (10) – Transaction Of transfer Of goods or services from eligible business of assessee to another person with whom assessee has relationship
- 5) Chapter: 6A OR Section 10AA – Transactions
- 6) Any other transaction as may be prescribed

**C) The Arm's Length Principle:**

Transaction between related party or we can say associated enterprise is must be at arm length price.

A transaction in which the buyers and sellers of a product act independently and have no relationship to each other. The concept of an arm's length transaction is to ensure that both parties in the deal are acting in their own self interest and are not subject to any pressure or duress from the other party.

Arm's length principle is the standard to guide transfer pricing. It is an internationally accepted standard adopted for transfer pricing between related parties.

Where the pricing of related party transactions is not at arm's length and results in a reduced profit for the Singapore taxpayer, IRAS may adjust and tax the profit of the Singapore taxpayer under section 34D of the Income Tax Act.

In short ALP means a price ...

- which is applied or is proposed to be applied
- in Transaction
- between person other then Associated Enterprise (AE),
- In an uncontrolled condition/environment.

**D) Determine Most Appropriate Method for ALP:**

We need to adopt MOST APPROPRIAT METHOD (MAM) for Computation of ALP.

- 1) Comparable Uncontrolled Price Method (CUPM)
- 2) Resale Price Method (RPM)
- 3) Cost Plus Method (CPM)
- 4) Profit Split Method (PSM)
- 5) Transactional Net Margin Method (TNMM)
- 6) Any other method as may be specified by CBDT

**E) Computation of ALP IN RS.**

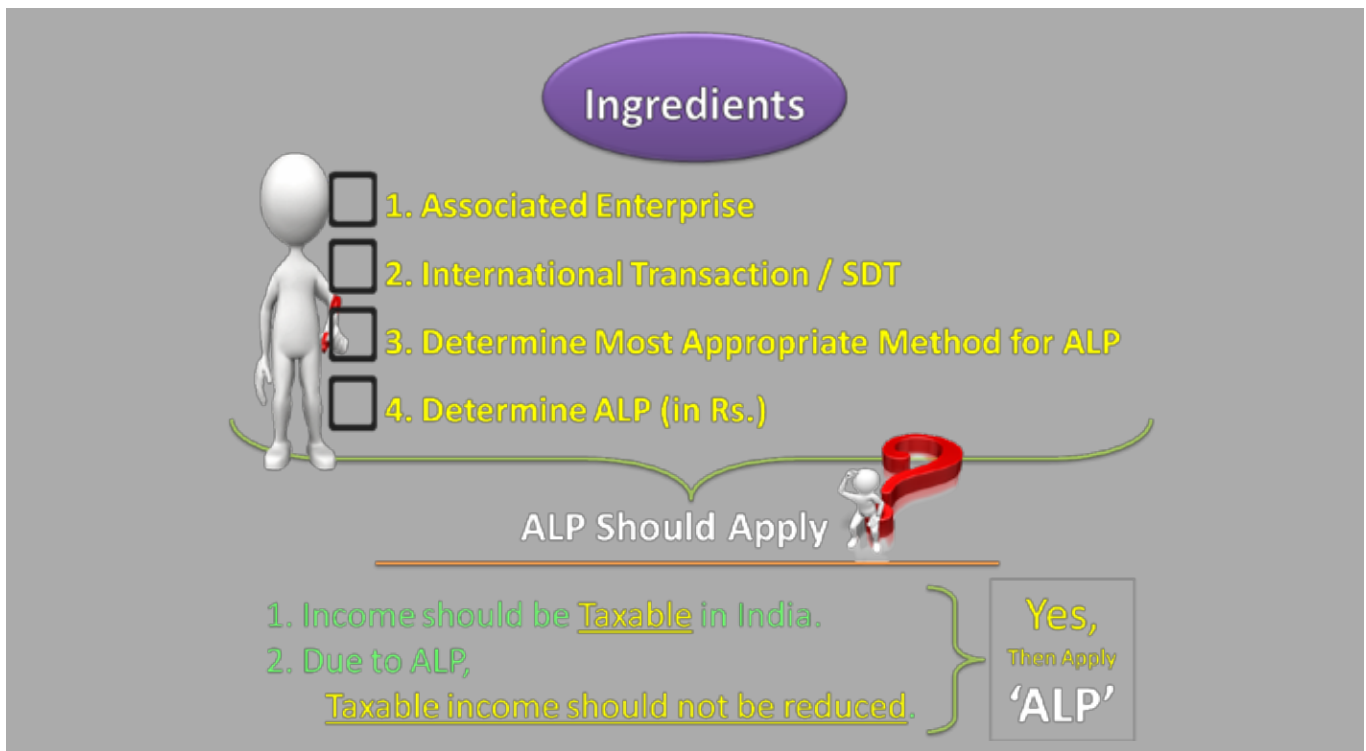
Out of above six method we have to select most appropriate method and determine ALP in Rs.

When ALP Should Apply?

1. Income should be Taxable in India.
2. Due to ALP, Taxable income should not be reduced.

Yes if above condition satisfied then only ALP should apply....

In short....



#### 4) Presumptive Taxation Scheme:

In case of international taxation presumptive taxation means payment of taxes on the pre assumption basis.

There are certain businesses in which due to tax law they have to pay tax on turnover basis.

Rate of tax is in the % of turnover and person who are doing those specified business they have to pay tax on this basis.

This provision is apply only to NRI or foreign company.

Following are some section and presumptive tax business:

44B – Shipping	-TAX @ 7.5%
44BBA – operating aircraft	-TAX @ 5%
44BB - Service/facility for Prospecting / Extracting / Production of Mineral oils or Supply P&M on hire for the same.	-TAX @ 10%
44BBB - Activity related to Turnkey Power Project.	-TAX @ 10%
In short....	

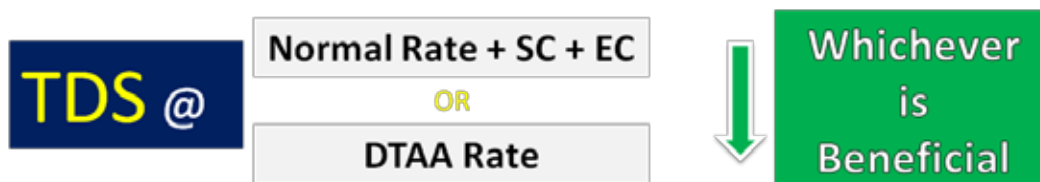
## Presumptive Taxation Scheme

Only for NRI / Foreign Company

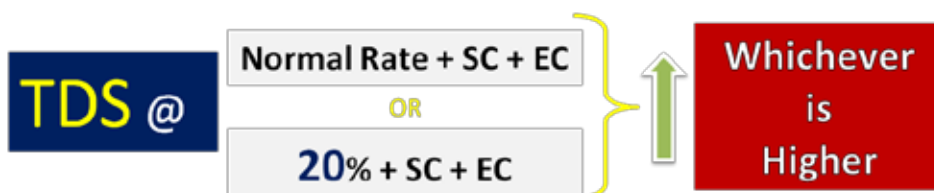
No	Sec.	Business	Rate X T/o of Operation
1	44B	Shipping	7.50%
2	44BBA	Operating Aircraft	5.00%
3	44BB	Service/facility for Prospecting / Extracting / Production of Mineral oils or Supply P&M on hire for the same.	10%
4	44BBB	Activity related to Turnkey Power Project	10%

#### 4) Section – 195: TDS on Payments to Non Resident

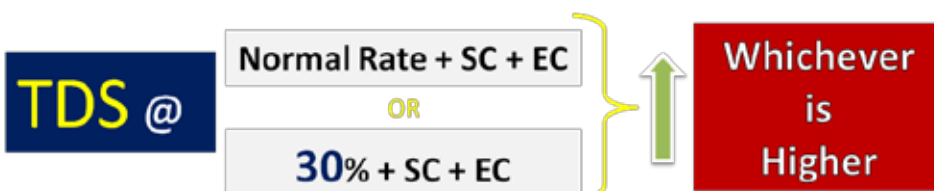
Any Amount Payable to the person who is non-resident payee that is assessee is required to cut the TDS. Except payment under section 192, 194B, 194BB, 194E, 194LB, 194LBA, 194LC, 194LD, 196B, 196C, 196D.



If Payee does not furnish PAN-



If Transaction with Person in NJA (notified juridical area)(refer in transfer pricing deemed international transaction)



### **Conclusion:**

In era of globalization there is required some standard for computation of tax. Different country use different method for taxing income is it viable? No, for that purpose only now a days use of international taxation is become more. In future it will become useful a lot.

### **In a nutshell**

after seen the concept of INTERNATIONAL TAXATION we can surely presume that in near future assessee k liye tax system k “acche din aane wale he”.



# Technical Session 3

## Accounting

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Session Chairman : **CA. Rajesh Sharma,**

Central Council Member, ICAI, New Delhi

**a. AS 10- Property, Plant and Equipment**

Student Speaker : **Mr. Abdulla P. Ali,** Ernakulam

**b. Related party disclosure- AS 18 vs Ind AS 24**

Student Speaker : **Ms. Sneha. V,** Ernakulam

**c. AS 22- Accounting for taxes on income**

Student Speaker : **Ms. V.K. Krishna Veni,** Palakkad

## Profile

### CA. Rajesh Sharma

Central Council Member, ICAI, New Delhi



#### **Vice Chairman-** (2017-2018)

Committee on Accounting Standards for Local Bodies, ICAI

Committee for Capacity Building of Members in Practice, ICAI

#### **Member in the following Committees ( 2017-2018)**

Accounting Standards Board,

Audit Committee

Board of Studies

Continuing Professional Education Committee

Indirect Taxes Committee

## Profile

**Mr. Abdulla P. Ali**

Ernakulam

Registration No: **SRO0460001**



### Course Pursuing:

CA Final

Article Assistant at MA Moideen and Associates, Ernakulam

### ACHIEVEMENTS:

- Kalaprabhitha Awardee during 8th ,9th and 10th standards at Ilahia Public School, Muvattupuzha (2010,2011,2012).
- Achieved 'A' grade at Kerala State School Kalolsav for Elocution Contest (2014).
- Cleared all papers of CA-CPT & CA-intermediate in first attempt itself.
- Fellowship holder of P M Foundation.
- Presented Paper on "Taxation of Charitable Institution in general" at Sub- Regional Conference, Calicut.
- Participated in Debate Program on "Demonetization" at Sub- Regional Conference, Thrissur.
- Presented Paper on Workshop held by SIRC, Ernakulam on the topic "Audit of Charitable Trust".

### Topic:

**AS 10- Property, Plant and Equipment**

## Profile

**Ms. Sneha. V**

Ernakulam

Registration No: **SRO0448499**



### Course Pursuing:

CA Final

Article Assistant at RGN Price and Co, Ernakulam

### Academic Achievements

- Passed Std.XII from CBSE with 94%
- Passed Std. X from CBSE with CGPA 10.
- Presented paper on the topic "Credit under GST Reforms" at All India Conference for CA Students, Ernakulam.
- Presented paper on the topic "Compliance aspects of Auditing Standards" at Regional Conference for CA Students, Palakkad.
- Presented paper on the topic "Income Computation and Disclosure Standards" at Sub-regional Conference for CA Students, Thrissur.
- Presented paper on the topic "Mergers & Acquisitions in the new era of Companies Act, 2013" at Sub-regional Conference for CA Students, Thrissur.
- Presented paper on the topic "Fraud Reporting under Companies Act, 2013" at National Conclave for CA Students, Kollam.
- Represented Ernakulam at the Regional Level Elocution contest organised by SIRC in Chennai in 2016.
- Conducted Study Circles at ICAI, Ernakulam
- Participated and received various accolades for Public Speaking and Writing.

### Topic:

**Related party disclosure- AS 18 vs Ind AS 24**

## Profile

**Ms. V.K. Krishna Veni**

Palakkad

Registration No: **SRO0547054**



### Course Pursuing:

CA Final

Articled assistant at P.Unnikrishna Menon

### Academics/ Achievememnts:

- Completed Plus-2 Commerce in March 2015.
- Cleared CPT in June 2015.
- Completed IPCC (Both groups) in May 2016.
- Completed CS Inter (Both groups) in June 2017.
- Currently holding the position as Secretary of Palakkad SICASA.

### Topic:

**As 22: Accounting for Taxes on Income**

## AS 10: PROPERTY, PLANT AND EQUIPMENT

Mr. Abdulla P. Ali

Accounting standards are written documents, policy documents issued by expert accounting body covering the aspect of recognition, measurement, treatment, presentation and disclosure of accounting transaction in the financial statement. Accounting standards in India are recommended by the Institute of Chartered Accountants of India (ICAI) and notified by the central Government.

### Statutory Compliance

It is the responsibility of the management of the enterprise to prepare financial statements in compliance with the Accounting Standards. Section 134(5)(a) of the Companies Act, 2013 states that Director's responsibility should include that the preparation of the annual accounts the applicable Accounting Standards had been followed. Simultaneously it is the duty of the Auditor of the Company u/s 143(3)(e) to report whether the financial statements are comply with the accounting standards referred in section 133 of Companies Act, 2013.

In this session AS-10(Revised) Property, Plant and Equipment(PPE) are dealt in detail. This AS is applicable to all the entities irrespective of the level the entity belongs to as classified by the ICAI for the purpose of applicability of Accounting Standards.

### Property, Plant and equipment are tangible assets that are:

- Held for use in production or supply of goods and services, for rental to others or for administrative purposes.
- Expected to be used for more than one period.
- Not held for in normal course of business.

### Scope

This standard does not apply to:

- Biological assets related to agricultural activity other than bearer plants.
- Wasting assets including mineral rights, expenditure on the exploration for and extraction of minerals, oils, natural gas and similar non-regenerative resources.

Bearer Plant is a plant that is used in the production or supply of agricultural produce and is expected to bear produce for more than a period of Twelve months which will not being sold as agricultural produce except for incidental scrap sale.

For Example: Mango tree is bearer plant covered by AS-10 PPE while wheat crop the plant of wheat is not a bearer plant because it is cut down and sold as scrape.

This session is dealt with:

- Recognition of assets
- Measurement
- Depreciation and impairment
- Disclosure

### Recognition of Assets

The cost of an item of PPE should be recognised as an asset if and only if:

- it is probable that future economic benefits associated with the assets will flow to the entity and
- The cost of item can be measured reliably.

Major spare parts and standby equipments are treated as PPE when they are expected to be used for more than one period and minor spare parts are usually treated as inventory and recognized in the profit and loss account.

Safety Equipments: Although this equipment not directly increasing the future economic benefits such item qualify for

recognition as asset because they enable an entity to derive future economic benefits from related assets.

For Example: A chemical manufacture company may install chemical handling processes to comply with environmental requirements for the production and storage of dangerous chemicals. This equipments qualifies to recognize as asset because without them the entity not able to manufacture and sell chemicals.

Measurement

Once an item qualifies for recognition, the asset shall be measured in:

- Cost Model
- Revaluation Model

### Cost Model

The initial measurement of an item of PPE shall be at cost model.

The cost of an item of PPE comprises:

- Purchase price, including import duties, non-refundable purchase taxes, less trade discounts and rebates.
- Cost directly attributable to bringing the asset to the location and condition necessary for it to be used in a manner intended by the management.
- Initial estimates of cost of dismantling/decommissioning, removing and site restoration at present value if the entity has an obligation that it incurs on acquisition of assets. AS-29 prescribes the discounting of such provisions and provision is made at present value by applying pre-tax discount rate.

For Example: A Ltd has put a plant on leasehold land, the lease hold period is 15years. The company has to dismantle the plant removing from the leasehold land and restore the land at the same position at the time of inception of lease. If the estimated cost of dismantling after 15 years is 20 crores and pretax discounting rate is 10%, the company has to include in the cost of PPE the present value of dismantling that is `4,78,78,410/-.

Any changes in liability in future shall be considered in the year of Change.

Examples of costs those are directly attributable to the cost of PPE:

- Employee benefits of those involved in the construction or acquisition of an asset
- Cost of site restoration
- Initial delivery and handling cost
- Installation and assembly cost
- Cost of testing minus net proceeds from the sale of any product arising from test production
- Borrowing cost to the extent permitted by AS-16, Borrowing Costs.
- Professional fees like Project Management consultancy Charges.

Examples of costs are not directly attributable to the cost of PPE and charged to profit and loss account:

- Costs of opening a new facility(often referred to as preoperative expenses)
- Costs of introducing a new product or service including Advertising and promotional costs.
- Costs of conducting business in a new location or with a new class of customer.
- Training cost
- Administration and other general overheads
- Initial operating losses
- Costs of relocating or reorganizing part or all of an entity's operations



- The income and expenses of operation that are incidental to the construction or development of an item of PPE. For Example Income earned and related expenses through using a building site as a car park until construction starts.

### Cost of Self Constructed Assets

It is usually determined using the same principle as for an acquired asset. If the entity makes similar assets for sale in normal course of business then any internal profits and cost of abnormal amount of wasted material, labour or other resources incurred in self constructing have to be eliminated in arriving at such cost.

### Exchange of assets

If the transaction has a commercial substance and fair value of assets exchanged can be measured reliably, then the assets are measured at fair value. Else, the asset acquired is valued at the carrying amount of asset given up less settle-up paid or received in cash or a cash equivalent that is often referred to as boot.

### Bearer Plants

It is accounted for in same way as self constructed items of PPE.

#### Subsequent Measurement

- If the expenditure in relation with a capital asset would capitalize to the extend its useful life or increase its capacity or the expenditure results in improve in quality of output or results in saving of cost.
- Major inspection charges (For eg: aircraft) shall be capitalized to the carrying amount of asset, if recognition criteria are satisfied. Any remaining Carrying amount of cost of previous inspection is derecognized.

#### Revaluation Model

Carry at revalued amount, being fair value at the date of revaluation less any subsequent accumulated depreciation. To use this model, fair values or market values must be reliably measurable and if revaluation model adopt for an item of PPE, the same policy shall be adopted for the entire class of assets.

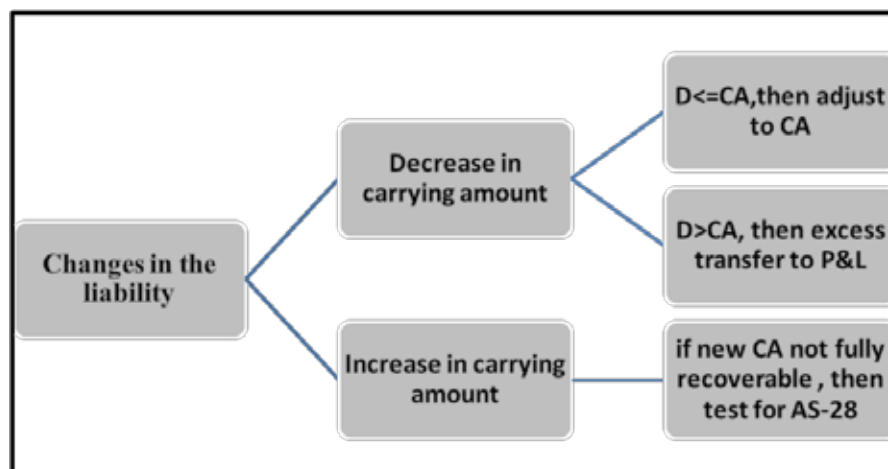
If fair value is not able to estimate, then, FV shall be estimated using:

- Discounted replacement cost
- An income approach

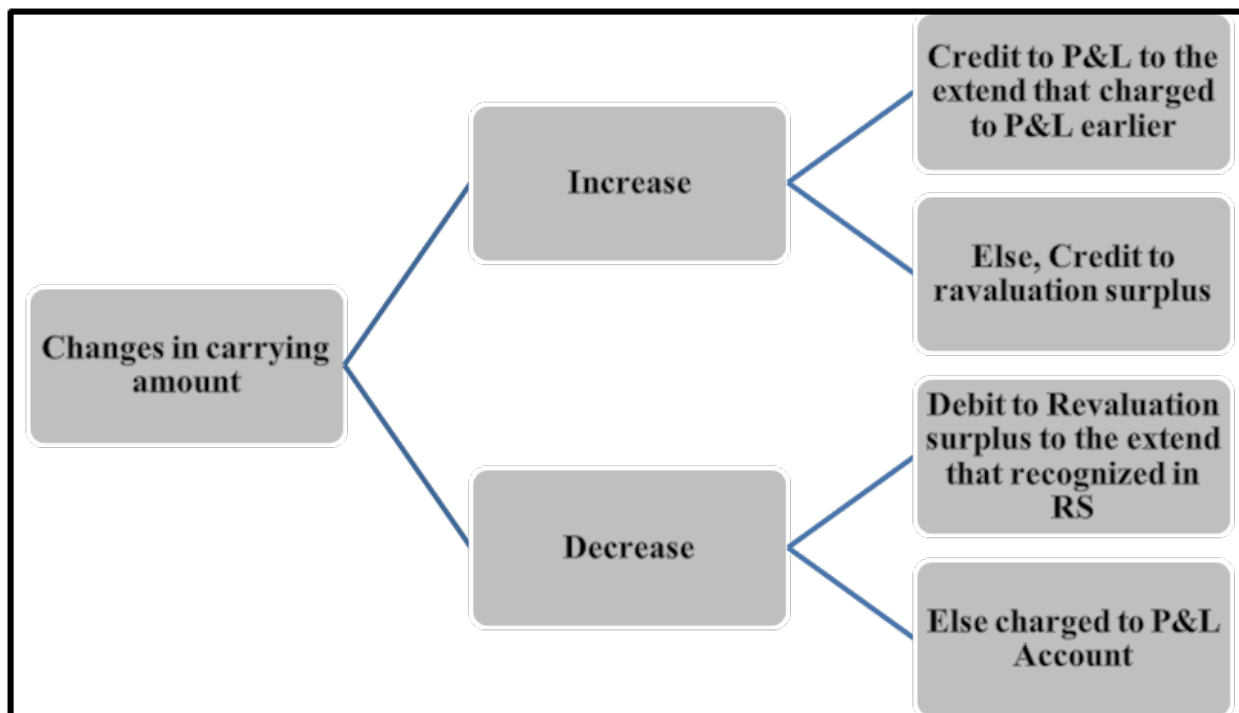
The asset shall be frequently analyzed to ensure no material difference between Carrying amount and fair value at the end of the reporting period.

Treatment in books of accounts of subsequent measurement of in cost model and revaluation model

### Cost Model



## Revaluation Model



## Depreciation

The depreciable amount of an asset shall be allocated over its useful life on systematic basis.

Factors to be considered are:

- Expected usage assessed by reference to expected capacity or physical output.
- Expected physical wear and tyre(depends on number of shifts, repairs and maintenance)
- Technical obsolescence or changes in market demand for product or service output.
- Legal or similar limits of use(Expiry Date)

## Depreciation Method

AS-10 does not specify a method to be used. The different methods are:

- Straight Line method (Constant charge over useful life).
- WDV Method (decreasing charge over useful life).
- Sum of units Method (Based on expected use or output).

## Depreciation as per schedule II Companies Act, 2013

The Schedule II prescribes that the useful life of an asset shall not ordinarily be different from the useful life specified in the schedule and residual value of an asset shall not be more than 5% of the original cost.

When a company adopts different useful life or residual value as stated above, then it shall disclose such difference and provide Justification in this behalf.

## Period of depreciation

- Depreciation commences when an asset is available for use.
- Depreciation ceases at the earlier of asset held for disposal or retired from active use.

## Component Accounting

When the cost of a part of asset is significant to the total cost of the asset(say 25%) and useful life of that part is different from the useful life of remaining asset, the company shall need identify and depreciate separately. Component

accounting is optional from 1st April 2014 and mandatory from 1st April 2015 as per the amendment notified by the MCA on August 29, 2014.

For Example: A building can be split up into Structural Design, Elevators, Heating system, Water System, Electrical System, Furniture and Fixtures etc. A ship can be split up into Hull, Keel, Engine, Navigation system, Major inspections, other fit out assets etc.

NOTE: As per schedule II, if the component asset have useful life more than the principal asset, then the company has an option to adopt lower or higher useful life. The higher useful life only be used if the management intends to use for that period.

### Derecognition

When no future economic benefit are expected from the use of asset, then derecognize the asset and the difference (Net Proceeds on disposal-Carrying amount) gain or loss shall be discharged to profit and loss account.

### Disclosure

For each class of asset, disclose:

- Measurement basis used(Cost or Revaluation)
- Depreciation method used
- Useful life of each class of asset
- Gross carrying amount and accumulated depreciation at the beginning and end of the period.
- A reconciliation of carrying amount at the beginning and end of the period showing:
  - Additions(Capital expenditure)
  - Assets classified as held sale or other disposals
  - Acquisition through business combinations
  - Increase/ decrease resulting from revaluation
  - Impairment losses
  - Depreciation
  - Net exchange differences arising on translation of functional currency and reporting currency.
- A reconciliation of Capital Work in Progress
- The PPE pledged as security.
- Contractual Commitment for the acquisition of PPE.
- The items of PPE stated in revalued amount.

### Transitional Provisions

Issue	Solution
If an entity in past recognized an expenditure in Profit and Loss account which is eligible to capitalize in accordance with AS-10(Revised) Measurement of an item acquired through exchange of asset or any other differences with previous standard	The effect should be recognized retrospectively net-of tax in revenue reserve. Only prospective effect from the effective date of this standard.

### **Major Carve out with Ind AS-16 'Property, plant and Equipment'**

Since AS-10 has already been revised, there are only negligible variations with the Ind AS-16 which are as follows:

- Existing AS deals with Assets retired active use and held for sale and Ind AS 16 does not deal with the same because the treatment of such assets is covered in Ind AS 105, "Non- current Assets Held for Sale and Discontinued Operations".
- Ind AS 16 provides guidance on measuring 'Stripping Costs in the Production Phase of Surface Mine' while existing AS does not contain this guidance

## RELATED PARTY DISCLOSURE AS 18 vs. IND AS 24

**Ms. Sneha. V**

Related party relationships are a normal facet of business and commerce. It is common, for entities to operate separate parts of their activities through subsidiaries, associates or joint ventures. Such relationships can have an effect on the operating results and financial position of the reporting entity. They may lead to transactions being entered into between the related parties that would not be entered into between unrelated parties, or to transactions being effected at different amounts from those that would prevail between unrelated parties. It is crucial for the users of financial statements to be familiar with these transactions in order to make an accurate judgement about the financial position of the reporting entity. For this purpose ICAI issued AS 18 "Related Party Disclosure". This is mandatory to all companies. This Standard should be applied in reporting related party relationships and transactions between a reporting enterprise and its related parties. The requirements of this Standard apply to the financial statements of each reporting enterprise and also to consolidated financial statements presented by a holding company.

In the presentation of the Union Budget for 2014-15, the Hon'ble Finance Minister proposed the adoption of Indian Accounting Standards (Ind AS) that are converged with International Financial Reporting Standards (IFRS), after which, Ind AS 24 has replaced AS 18 for the specified companies.

### OBJECTIVES OF THE STANDARD

The objective of this standard is to ensure that financial statements contain the disclosures necessary to draw attention to the possibility that the reported financial position and results may have been affected by the existence of related parties and by transactions and outstanding balances with such parties. The Standard clarifies that 'outstanding balances' include commitments

The Standard also considers the implications of the existence of related party relationships – even if there are no transactions between the parties concerned. It acknowledges that the mere existence of the relationship may be sufficient to affect the transactions of the reporting entity with other parties. For example, a subsidiary might terminate relations with a trading partner following the acquisition by its parent of a fellow subsidiary engaged in the same trade as the former partner.

Alternatively, one party might refrain from acting because of the significant influence of another – for example, a subsidiary might be instructed by its parent not to engage in research and development.

For these reasons, the Standard concludes that knowledge of an entity's transactions, outstanding balances, including commitments, and relationships with related parties may affect assessments of its operations by users of financial statements, including assessments of the risks and opportunities encountered by the entity.

### SCOPE –IND AS 24 Vs. AS 18

Definition of 'Relative' diluted under Ind-AS 24

## AS 18

No definition for close members of family

The term 'Relative' has been defined to include following relations:

Spouse, Daughter, Son, Brother, Sister, Father & Mother who may be expected to influence, or influenced by, that individual in his/her dealings with the reporting enterprise

## Ind AS 24

Close Members of the Family of a Person

The persons specified within the meaning of 'relative' under the Companies Act, 2013

Also includes the person's domestic partner, children of the domestic partner and dependants of domestic partner.

## Definition of KMP expanded under Ind-AS 24

AS 18: Key management personnel (KMP) are those persons having authority and responsibility for planning, directing and controlling the activities of the entity, including any director of that entity.

Ind-AS 24: Key management personnel (KMP) are those persons having authority and responsibility for planning, directing and controlling the activities of the entity, directly or indirectly, including any director (executive or otherwise) of that entity.

## AS 18

Includes KMP of entity.

Exclude Non- Executive Director.

## Ind AS 24

Includes KMP of entity & its parent

Includes Non-Executive Director

## State Controlled Enterprise

As per AS 18, State Controlled Enterprise (SCE) is an enterprise which is under the control of the Central Government and/or any State Government(s) and are exempted from disclosures.

Ind AS 24 provides a wider definition of SCE as being an entity that is controlled, jointly controlled or significantly influenced by a government. Further, Government refers to government, government agencies and similar bodies whether local, national or international.

## Post Employment Benefit Plan

As per Ind AS 24, an entity is related to a reporting entity if it is a post-employment benefit plan for the benefit of employees of either the reporting entity or an entity related to the reporting entity. If the reporting entity is itself such a plan, the sponsoring employers are also related to the reporting entity.

Existing AS 18 does not specifically cover entities that are post employment benefit plans, as related parties.

Specific Exclusions from the definition of Related Party:

**As per AS 18, the following people are deemed not to be related parties:**

1. Two companies with common directorship unless the director is able to affect the policies of both companies in their mutual dealing.
2. A single customer, supplier, franchiser or general agent with whom an enterprise transacts a significant volume merely by virtue of economic dependence.
3. Finance providers, Trade unions, public utilities, government departments/ agencies in the course of their normal dealing by virtue of those dealings only.

**Ind AS 24 does not specify any such exclusions.****Deletion of definitions of 'Control', 'Significant Influence' & 'Substantial Interest' under Ind AS 24:**

Control and Significant Influence are the two cornerstones on which the relationships are finally concluded.

The definition of control under AS 18 has a wider play. It refers to control over the composition of the directors of the company while Ind AS 24 has no such reference.

AS 18 also refers to the power to direct the financial and/or operating policies of the enterprise while AS 24 refers to financial and operating policies.

AS 18 has defined substantial interest and significant influence to be 20% or more of the voting power. Ind AS 24 does not define significant influence

In Ind-AS 24, as a result of such deletion, the above three terminologies are now allowed to be dealt with by the respective standards.

**Other Aspects**

Ind AS 24 specifically mentions the following:

Co-Associates are not related party

Co-Joint Ventures are Related Party

Co-Ventures are not Related Party

Associate or Joint Venture of any member of the group is an Associate or Joint Venture of any other member, which means, such Associate or Joint Venture is a related party with each member of the group.

AS 18 is silent on all the above aspects.

**DISCLOSURE – IND AS 24 Vs. AS 18****Compensation to KMP**

Ind AS 24 requires compensation paid to KMP to be disclosed under the following categories:

Short Term Employee Benefits

Post Employment Benefits

Other Long Term Benefits

Termination Benefits

Share Based Payments

AS 18 does not specifically require any such disclosures.

**Government Related Entity**

Ind AS 24 requires disclosures of certain information by the government related entities, whereas the existing AS 18 presently exempts the disclosure of such information.

The disclosures required are:

- a) The name of the government and the nature of its relationship with the reporting entity (i.e. control, joint control or significant influence)



- b) The following information in sufficient detail to enable users of the entity's financial statements to understand the effect of related party transactions on its financial statements:
- The nature and amount of each individually significant transaction; and
  - For other transactions that are collectively, but not individually, significant, a qualitative or quantitative indication of their extent.

## Disclosure of Transactions

### AS 18

Disclose the volume of Transactions as

- Amount
- or

ii) Appropriate Proportion

Eg. Goods sold worth Rs.2,00,000 by A to B or A sold 13% goods to B out of the total sales.

### IND AS 24

The Amount of transactions need to be disclosed.

Eg. Goods sold worth Rs.2,00,000 by A to B.

## Other Disclosure Requirements

Existing AS 18 mentions that where there is an inherent difficulty for management to determine the effect of influences which do not lead to transactions, disclosure of such effects is not required whereas Ind AS 24 does not specifically mention this.

Ind AS 24 requires an additional disclosure as to the name of the next most senior parent which produces consolidated financial statements for public use, whereas the existing AS 18 has no such requirement.

## ANALYSIS OF RELATED PARTY RELATIONSHIP

The terminologies namely - Control, Joint Control, Significance, Joint Venture, Subsidiary, Associates will carry the same meaning as covered by AS 18. A Specific analysis as per IND AS 24 is as follows:

A. A Person or a Close Member:

- the reporting entity or of a parent of the reporting entity.

B. Group Entities vs. Reporting Entity:

The entire group of Holding, Subsidiary, Sub-subsidiary, Fellow subsidiary are related parties. Here all entities are related to each other. Fellow subsidiary is the subsidiary under a common control with the related entity. Fellow Subsidiary is also known as Co-Subsidiary

C. Pension & Other Post Employment Funds:

Pension funds and similar post employment funds for the benefit of employees of the entity (or any entity that is a related party to the entity), are related parties to the entity.

If the reporting entity itself is such a plan, the sponsoring employers are also related to the reporting entity. Pension fund that is operated for the benefit of employees in a group is a related party of each entity.

**D. Associates, Joint Ventures vs. Reporting Entity:**

- Investors and their associates are related parties
- Ventures and their Joint Ventures are related parties
- An entity being a Joint Venture of a third entity and the other entity being an associate of the same third party, are related parties. In other words a Joint Venture and an Associate entity jointly controlled/influenced by a common investor.
- An entity is related to the reporting entity, if the person, control/jointly controls the reporting entity also control/ jointly control the entity.
- An entity is related to the reporting entity, if the person controlling the reporting entity, has significant influence over the other entity or is a KMP of the other entity.

**TO WRAP UP**

With the world becoming a global village and with the liberalisation and globalisation of the economy it is imperative the disclosures and reporting of companies are made in line with that of the International Regulations. With the introduction of Companies Act, 2013, many sweeping changes have been brought into the system which will help in ease of doing business and thwart the fraudulent web of activities hitherto followed by many companies. The reporting under the Ind AS makes the financials easily comparable with the financials of its global peers. Once the provisions of the Ind-AS become applicable or once it is voluntarily adopted, it shall have to be followed for the subsequent years even if the criteria as per the Rules are not applicable. Though the transition has serious implications on the financial reporting, it paves way for better standards and good governance.

## AS 22-ACCOUNTING FOR TAXES ON INCOME

Ms. V.K. Krishna Veni

### OBJECTIVE:

The objective of this Standard is to prescribe accounting treatment for taxes on income. Taxes on income is one of the significant items in the statement of profit and loss of an enterprise. In accordance with the matching concept, taxes on income are accrued in the same period as the revenue and expenses to which they relate.

### SCOPE:

- This Standard should be applied in accounting for taxes on income. This includes the determination of the amount of the expense or saving related to taxes on income in respect of an accounting period and the disclosure of such an amount in the financial statements.
- For the purposes of this Standard, taxes on income include all domestic and foreign taxes which are based on taxable income.
- This Standard does not specify when, or how, an enterprise should account for taxes that are payable on distribution of dividends and other distributions made by the enterprise.

### DEFINITIONS:

- For the purpose of this Standard, the following terms are used with the meanings specified:
- Accounting income (loss) is the net profit or loss for a period, as reported in the statement of profit and loss, before deducting income tax expense or adding income tax saving.
- Taxable income (tax loss) is the amount of the income (loss) for a period, determined in accordance with the tax laws, based upon which income tax payable (recoverable) is determined.
- Tax expense (tax saving) is the aggregate of current tax and deferred tax charged or credited to the statement of profit and loss for the period.
- Current tax is the amount of income tax determined to be payable (recoverable) in respect of the taxable income (tax loss) for a period.
- Deferred tax is the tax effect of timing differences.
- Timing differences are the differences between taxable income and accounting income for a period that originate in one period and are capable of reversal in one or more subsequent periods.
- Permanent differences are the differences between taxable income and accounting income for a period that originate in one period and do not reverse subsequently.
- Unabsorbed depreciation and carry forward of losses which can be set off against future taxable income are also considered as timing differences and result in deferred tax assets, subject to consideration of prudence.

### RECOGNITION:

- Tax expense for the period, comprising current tax and deferred tax, should be included in the determination of the net profit or loss for the period.
- Taxes on income are considered to be an expense incurred by the enterprise in earning income and are accrued in the same period as the revenue and expenses to which they relate. Such matching may result into timing differences. The tax effects of timing differences are included in the tax expense in the statement of profit and loss and as deferred tax assets or as deferred tax liabilities, in the balance sheet.
- An example of tax effect of a timing difference that results in a deferred tax asset is an expense provided in the statement of profit and loss but not allowed as a deduction under Section 43B of the Income-tax Act, 1961.
- This Accounting for Taxes on Income 351 timing difference will reverse when the deduction of that expense

is allowed under Section 43B in subsequent year(s). An example of tax effect of a timing difference resulting in a deferred tax liability is the higher charge of depreciation allowable under the Income-tax Act, 1961, compared to the depreciation provided in the statement of profit and loss. In subsequent years, the differential will reverse when comparatively lower depreciation will be allowed for tax purposes.

- Permanent differences do not result in deferred tax assets or deferred tax liabilities.

**Deferred tax should be recognised for all the timing differences, subject to the consideration of prudence in respect of deferred tax assets.**

**Explanation:**

(a) The deferred tax in respect of timing differences which reverse during the tax holiday period is not recognised to the extent the enterprise's gross total income is subject to the deduction during the tax holiday period as per the requirements of sections 80-IA/80-IB of the Income-tax Act, 1961 (hereinafter referred to as the 'Act'). In case of sections 10A/10B of the Act (covered under Chapter III of the Act dealing with incomes which do not form part of total income), the deferred tax in respect of timing differences which reverse during the tax holiday period is not recognised to the extent deduction from the total income of an enterprise is allowed during the tax holiday period as per the provisions of the said sections.

(b) Deferred tax in respect of timing differences which reverse after the tax holiday period is recognised in the year in which the timing differences originate. However, recognition of deferred tax assets is subject to the consideration.

(c) For the above purposes, the timing differences which originate first are considered to reverse first. The application of the above explanation is illustrated in the Illustration attached to the Standard. This Standard requires recognition of deferred tax for all the timing differences. This is based on the principle that the financial statements for a period should recognise the tax effect, whether current or deferred, of all the transactions occurring in that period.

Except in the situations, deferred tax assets should be recognised and carried forward only to the extent that there is a reasonable certainty that sufficient future taxable income will be available against which such deferred tax assets can be realised.

While recognising the tax effect of timing differences, consideration of prudence cannot be ignored. Therefore, deferred tax assets are recognised and carried forward only to the extent that there is a reasonable certainty of their realisation. This reasonable level of certainty would normally be achieved by examining the past record of the enterprise and by making realistic estimates of profits for the future.

Where an enterprise has unabsorbed depreciation or carry forward of losses under tax laws, deferred tax assets should be recognised only to the extent that there is virtual certainty supported by convincing evidence that sufficient future taxable income will be available against which such deferred tax assets can be realised.

**Explanation:**

1. Determination of virtual certainty that sufficient future taxable income will be available is a matter of judgement based on convincing evidence and will have to be evaluated on a case to case basis. Virtual certainty refers to the extent of certainty, which, for all practical purposes, can be considered certain. Virtual certainty cannot be based merely on forecasts of performance such as business plans. Virtual certainty is not a matter of perception and is to be supported by convincing evidence. Evidence is a matter of fact. To be convincing, the evidence should

be available at the reporting date in a concrete form, for example, a profitable binding export order, cancellation of which will result in payment of heavy damages by the defaulting party. On the other hand, a projection of the future profits made by an enterprise based on the future capital expenditures or future restructuring etc., submitted even to an outside agency, e.g., to a credit agency for obtaining loans and accepted by that agency cannot, in isolation, be considered as convincing evidence.

2(a) As per the relevant provisions of the Income-tax Act, 1961 (hereinafter referred to as the 'Act'), the 'loss' arising under the head 'Capital gains' can be carried forward and set-off in future years, only against the income arising under that head as per the requirements of the Act.

(b) Where an enterprise's statement of profit and loss includes an item of 'loss' which can be set-off in future for taxation purposes, only against the income arising under the head 'Capital gains' as per the requirements of the Act, that item is a timing difference to the extent it is not set-off in the current year and is allowed to be set-off against the income arising under the head 'Capital gains' in subsequent years subject to the provisions of the Act. In respect of such 'loss', deferred tax asset is recognised and carried forward subject to the consideration of prudence. Accordingly, in respect of such 'loss', deferred tax asset is recognised and carried forward only to the extent that there is a virtual certainty, supported by convincing evidence, that sufficient future taxable income will be available under the head 'Capital gains' against which the loss can be set-off as per the provisions of the Act. Whether the test of virtual certainty is fulfilled or not would depend on the facts and circumstances of each case. The examples of situations in which the test of virtual certainty, supported by convincing evidence, for the purposes of the recognition of deferred tax asset in respect of loss arising under the head 'Capital gains' is normally fulfilled, are sale of an asset giving rise to capital gain (eligible to set-off the capital loss as per the provisions of the Act) after the balance sheet date but before the financial statements are approved, and binding sale agreement which will give rise to capital gain (eligible to set-off the capital loss as per the provisions of the Act).

(c) In cases where there is a difference between the amounts of 'loss' recognised for accounting purposes and tax purposes because of cost indexation under the Act in respect of long-term capital assets, the deferred tax asset is recognised and carried forward (subject to the consideration of prudence) on the amount which can be carried forward and set-off in future years as per the provisions of the Act. 18. The existence of unabsorbed depreciation or carry forward of losses under tax laws is strong evidence that future taxable income may not be available. Therefore, when an enterprise has a history of recent losses, the 354 AS 22 enterprise recognises deferred tax assets only to the extent that it has timing differences the reversal of which will result in sufficient income or there is other convincing evidence that sufficient taxable income will be available against which such deferred tax assets can be realised. In such circumstances, the nature of the evidence supporting its recognition is disclosed.

## **RE-ASSESSMENT OF UNRECOGNISED DEFERRED TAX ASSETS:**

At each balance sheet date, an enterprise re-assesses unrecognised deferred tax assets. The enterprise recognises previously unrecognised deferred tax assets to the extent that it has become reasonably certain or virtually certain, as the case may be (see paragraphs 15 to 18), that sufficient future taxable income will be available against which such deferred tax assets can be realised. For example, an improvement in trading conditions may make it reasonably certain that the enterprise will be able to generate sufficient taxable income in the future.

## **MEASUREMENT:**

Current tax should be measured at the amount expected to be paid to (recovered from) the taxation authorities, using the applicable tax rates and tax laws.

Deferred tax assets and liabilities should be measured using the tax rates and tax laws that have been enacted or

substantively enacted by the balance sheet date.

Explanation:

- The payment of tax under section 115JB of the Income-tax Act, 1961 (hereinafter referred to as the 'Act') is a current tax for the period.
- In a period in which a company pays tax under section 115JB of the Act, the deferred tax assets and liabilities in respect of timing differences arising during the period, tax effect of which is required to be recognised under this Standard, is measured using the regular tax rates and not the tax rate under section 115JB of the Act.
- In case an enterprise expects that the timing differences arising in the current period would reverse in a period in which it may pay tax under section 115JB of the Act, the deferred tax assets and liabilities in respect of timing differences arising during the current period, tax effect of which is required to be recognised under AS 22, is measured using the regular tax rates and not the tax rate under section 115JB of the Act.

### **PRESENTATION AND DISCLOSURE:**

An enterprise should offset assets and liabilities representing current tax if the enterprise: AS 22

- (a) Has a legally enforceable right to set off the recognised amounts; and  
(b) Intends to settle the asset and the liability on a net basis.

An enterprise will normally have a legally enforceable right to set off an asset and liability representing current tax when they relate to income taxes levied under the same governing taxation laws and the taxation laws permit the enterprise to make or receive a single net payment.

- An enterprise should offset deferred tax assets and deferred tax liabilities if: the enterprise has a legally enforceable right to set off assets against liabilities representing current tax; and (b) the deferred tax assets and the deferred tax liabilities relate to taxes on income levied by the same governing taxation laws.
- Deferred tax assets and liabilities should be distinguished from assets and liabilities representing current tax for the period. Deferred tax assets and liabilities should be disclosed under a separate heading in the balance sheet of the enterprise, separately from current assets and current liabilities.
- Explanation: Deferred tax assets is disclosed on the face of the balance sheet separately after the head 'Investments' and deferred tax liabilities is disclosed on the face of the balance sheet separately after the head 'Unsecured Loans'.
- The break-up of deferred tax assets and deferred tax liabilities into major components of the respective balances should be disclosed in the notes to accounts.
- The nature of the evidence supporting the recognition of deferred tax assets should be disclosed, if an enterprise has unabsorbed depreciation or carry forward of losses under tax law.

# Technical Session 4

## Auditing

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Session Chairman : **CA. VENUGOPAL C. GOVIND,**  
Kochi

**a. Audit documentation in the context of Quality Review/ Peer review**

Student Speaker : **Mr. S. Ajay Ganesh,** Ernakulam

**b. Powers, duties and responsibilities of Auditors**

Student Speaker : **Mr. Aakarsh Jain,** Madhya Pradesh

**c. Compliance requirements under Companies Act, 2013**

Student Speaker : **Ms. Rose Raju,** Kottayam



## Profile

### CA. VENUGOPAL C. GOVIND

Ernakulam



CA.Venugopal C Govind, FCA is a Senior Chartered Accountant and Senior Managing Partner of Varma and Varma, Kochi.

He has been a Senior Faculty and member in the Managing/Academic Councils/ Advisory Boards of various Management/Engineering and other Educational Institutions in South India. He has served as President/Chairman of various Chambers of Commerce/Trade Bodies in South India.

He has also served as Member of the Central Council/Managing Committee as also in the Expert Committees on Trade, Industry, Banking and Finance, Direct and Indirect Taxes of Apex Chambers of Commerce, Industry/Trade bodies of India. He has been on several Advisory Committees/Boards of Government, on Industry, Infrastructure and Taxation.

He has served in the Fiscal Laws Committee, Expert Advisory Committee and as faculty for Peer Review programme of the Institute of Chartered Accountants of India.

He has served as faculty for many programmes of ICAI and other professional bodies.

He was awarded the Millennium 2000 Management Leadership Award by the Kerala Management Association for his significant contribution to Business, Industry and Management in Kerala.

He was District Governor of Rotary International District 3201 in South India.

## Profile

**Mr. S. Ajay Ganesh**

Ernakulam

Registration No: **SRO0386912**



### Course Pursuing:

CA Final

### MILESTONES:

- Completed grade XII from CBSE with 95%
- Completed grade X from CBSE with CGPA of 9.7
- Passionate about public speaking and essay writing.
- Participated in debate competitions and group discussions.
- Participated in elocution competitions and essay writing at school level
- Participated in debate competitions
- Contributed articles to The SICASA Newsletter
- Conducted Study circle at the Ernakulam Chapter of ICAI.

### Topic:

**Audit Documentation In The Context Of Quality Rreview / Peer Review**

## Profile

**Mr. Aakarsh Jain**

Madhya Pradesh

Registration No: **CRO0420770**



### Course Pursuing:

IPCC second group

### MILESTONES:

1. Presented paper at Jaipur National Convention in June 2015 on the topic: "Fraud: Reporting Responsibilities"
2. Presented paper at Jaipur National Convention in June 2016 on the topic: "AS 28- Impairment of Assets"
3. Presented paper at Bhopal Regional Conference in December 2016 on the topic: "Directors' Power and Managerial Remuneration"
4. Won best paper presenter's award at Faridabad Convention in July 2017 (Topic: Constructive use of Social Media)

### Topic:

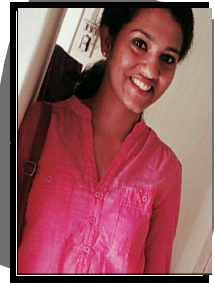
**Powers, Duties And Responsibilities Of Auditors**

## Profile

**Ms. Rose Raju**

Kottayam

Registration No: **SRO0550020**



### Course Pursuing:

CA Final

Article Assistant at Elias George and Co., Ernakulam

### MILESTONES:

- Cleared IPCC Group I in May 2016 with a score of 274 & Group II in November 2016 with a score of 213.
- Participated in state level elocution competition
- Secured 91 Marks in IPCC Advanced Accounts in November 2016

### Topic:

**Compliance Requirements Under Companies Act, 2013**

## Audit Documentation

Mr. S. Ajay Ganesh

in the Context of Peer Review

Putting it in simple terms, Peer Review is basically an examination of work done by a professional, by another person of similar standing. With relevance to the context, it means the examination of an assurance engagement carried out by an auditor, by another person himself qualified to be an auditor. Audit documentation, on the other hand, is a record of audit procedures performed, audit evidences obtained, and conclusions formed.

In order to be able to understand the significance documentation assumes in the process of peer review, it is important to be aware of the concept of peer review and the objective of carrying out the same. A What-Why-How-When break down will give a better picture of the process.

### The 'What'.

Starting with the basics, the area of peer review will see these terms used constantly – 'Practice unit' and 'Reviewer'. Practice unit means a member in practice who may be an individual, or a firm of chartered accountants. The practice unit is the party having his work subject to review. Reviewer means a member eligible to be appointed for carrying out a peer review. Reviewer shall also be a chartered accountant in practice. In the general sense, a peer review is intended to be a measure of quality control.

The Institute of Chartered Accountants of India, constantly stressing on the importance of quality in all engagements, in dedication towards the same has set up the 'Peer Review Board' (Board). The Board maintains a panel of members who are eligible for appointment as Reviewers. The Board shall be responsible for deciding when and how a review is to be called for and selecting the practice unit which is to be subject to review.

### The 'Why'.

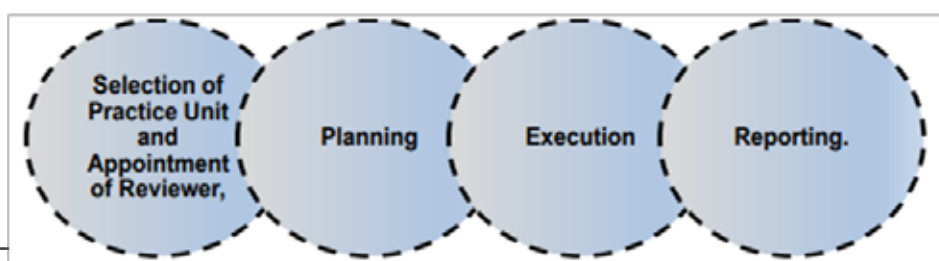
- To ensure conformity of the work carried out with Technical, Ethical and Professional standards.
- A proper system of documentation to prove the quality of service carried out.

That said, it becomes clear that a peer review is not a professional being critical of his colleagues' work. Rather, the purpose of a review is to act as a quality check on assurance engagements. Because assurance engagements involve the auditor providing an assurance on reliability and the users vesting their confidence, the profession's reputation is put at stake. A review ensures that the engagements come out in conformity with the highest standards of quality while contributing towards enhancement of performance of the members and their adherence to regulatory requirements.

### The 'How'.

After a unit is selected for peer review, the Board shall recommend three reviewers to the unit, from which the unit shall select one member as reviewer.

The unit shall submit with the member, among others, a questionnaire on peer review sent by the Board as duly filled. In the planning stage of the review, the reviewer shall decide on the sample of engagements which may be subject to review. As a part of the execution of the review, the reviewer may visit the practice unit's office and examine such records crucial to determining the quality of services.



## The 'When'

For the purpose of peer review, units are classified into 3 levels, with frequency varying for each level of practice units.

Level I Practice Unit – Reviewed once in 3 years	Level II Practice Unit- Reviewed once in 4 years
Central statutory auditors of banks and public financial institutions.	Statutory, Internal, concurrent, departmental review of branch of offices of the following entities
Central statutory auditors of state PSUs, state cooperative societies	Banks – Public sector, private sector, foreign.
Central statutory auditors of insurance companies	Insurance companies
Statutory Auditors of listed companies	Cooperative Banks
Statutory audit of entities that has raised funds, donations of over Rs. 50 Crores.	Statutory audit of Regional rural banks
Statutory audit of entities with net worth over Rs. 500 crores.	Statutory audit of Non-banking financial Companies
Statutory audit of entities that have been funded by the central or state government schemes over Rs 50 Crores.	Statutory audit of entities with turnover above Rs. 50 Crores or net worth of Rs. 5 Crores.

Units not falling in the classes above make Level III units which are reviewed once in 5 years.

## Areas of focus in a review

The report shall draw attention to the practice unit's compliance, or the lack of it, with relation to:

- Maintenance of professional skills and standards, including all regulatory compliances.
- External Consultations
- Office administration
- Independence
- Staff supervision

## Documentation an Indication of quality of engagement

Documentation is an essential part of any assurance engagement. According to SA 230 auditor shall document matters that are important in providing evidence that the audit was carried out in accordance with basic principles. Documentation for the purpose of this standard refers to working papers prepared or obtained by the auditor and retained by him, in connection with the performance of the audit.

## What is to be documented?

There are no hard and fast rules on what documents should form a part of the auditors' documentation. SA 230 on 'Audit Documentation' requires that documentation shall be sufficient to enable an experience auditor to understand:

- The nature, timing, extent of audit procedures performed
- The result of procedures performed and evidences obtained
- Significant matters arising during the audit and conclusions drawn thereon.

As set out by the standard, working papers should record the audit plan, nature, timing and extent of audit proce-

dures performed and the conclusions drawn from the evidences obtained. Thus in today's scenario where the quality of work is getting increasingly questioned, and auditors are being called upon to justify their opinion, adequate documentation is the only way for an auditor to substantiate that he was not negligent.

## **Planning a review**

### Engagement letter

To start with, the reviewer should gain a thorough understanding of the engagement letter for the assurance engagements selected for review. The engagement letter defines the nature and scope of the relevant assurance engagements selected for review and therefore shall be an important document in planning of the review and driving the review forward.

Example: Where an audit accepted by the unit had any scope-limiting factor, which the auditor had agreed to, the engagement letter shall state such fact. The effect of such a clause shall have to be considered in the review.

## **Ensuring quality, adherence to standards, procedures and regulations**

### Policies and Procedures for acceptance of audit

Reviewer is to satisfy himself that, where the unit is to follow any procedures before accepting engagements, whether such procedures have been performed for such engagements are accepted. The relevant records with respect to such procedures performed may be verified.

Example: Where the unit had taken up an audit previously audited by another auditor, whether communication to the previous auditor has been made in the manner laid down. That is, communication to the outgoing auditor by way of Registered Post

### Assessing the Internal controls of the client

Auditor shall perform test of controls for identifying and assessing the existence and extent of internal controls at the entity. Such procedures form an important part of the audit and are important in arriving at the final conclusion in an auditor's report. Reviewer shall check for documentation or records relating to such procedures performed.

### Use of external consultation

In the course of an audit, auditor may have to rely on external consultants, being valuers or experts. Before he may rely on their conclusion, auditor shall have to perform such procedures as are necessary to ensure that the expert possesses the qualifications required and that their service may be relied on. Necessary documents in support of procedures performed shall be available with the unit.

### Staff supervision and development

The engagement partner shall communicate to the engagement team the requirements of the specific engagements, ensure that they are capable of carrying out such part of engagement as assigned to them. Reviewer may verify the relevant records and ensure compliance with them. Documents in this respect will include records of written communications made to the team.

### Independence

During the course of the review, the reviewer shall stay aware for any records he may come across that suggest a possible threat to the independence of the auditor.

Basis for judgements and estimates



In process of assurance engagements auditor shall rely on estimates and judgements arrived at by themselves, or those of the management. In either case, the auditor shall have necessary documentation in support of the basis for making such estimates or judgements.

### **How much documentation is enough documentation?**

The extent of documentation is a matter of professional judgement, since it is necessary nor practical that every observation, consideration or conclusion be documented by the auditor. Working papers should be sufficiently complete and detailed to demonstrate that the auditor has an overall understanding about the entity. Ideally, working papers should be clear and logically prepared and maintained.

Adequate documentation is when documentation maintained at the unit is enough to report by the reviewer. Particularly, all significant matters requiring the exercising of judgement, together with auditor's conclusions should be included in the records.

### **Does the reviewer himself have documentation requirements?**

Being an engagement in itself, the process of peer review requires the reviewer to make necessary documentation and collect such records that will enable him to report on the review. Reviewer should document working papers of the review performed, his findings including matters that indicate deficiencies in the practice unit's policies and procedures relating to quality control and significant lack of compliance.

Working papers for a review carried out shall be maintained for such period as the Board may specify. Maintenance of working papers by the reviewer shall fall within the scope of SA 230. Preferably the records maintained be separated as 'recommendatory' and 'mandatory' for the sake of convenience.

### **Wrapping up**

So, does sufficient documentation as such signify effective quality control?

Not necessarily. Good documentation policies are normally a sign that adequate audit procedures are followed and that loose ends are tied up, but that does not relieve the auditor of his duty to use his professional skill, care, judgement in planning and performing an audit. Documentation is a mere record of what work was done, and does not guarantee the quality of work done or whether technical, ethical and professional standards were followed.

## Powers, duties and responsibilities of Auditors

Mr. Aakarsh Jain

### Definitions:

#### Auditor –

An auditor is an independent professional person qualified to perform an audit. In accounting, an auditor is someone who is responsible for evaluating the validity and reliability of a company or organization's financial statements.



#### Fraud-



An "intentional act" by one or more individuals among management, those charged with governance, employees, or third parties, involving the use of deception to obtain an unjust or illegal advantage.

#### Error-

It's nothing but an "unintentional act"



*As per the survey conducted by Association of Certified Fraud Examiners (ACFE), "Intense financial pressures during the economic crisis have led to an increase of fraud."*

*India is emerging country in terms of growth of the economy and its constituents at global map where on the other side public investor has a great faith to make investment in the corporate securities and other products; Research evidence has shown the remarks that growing number of frauds have undermined the integrity of financial reports correspondingly the mirror of corporate is imitated on corporate governance. Earlier in our country, there was no specific and strict provision on fraud reporting under companies act, 1956 but however as in today's corporate scenario fraud reporting has been made a specific responsibilities upon professional (Chartered Accountants, Cost & Management Accountant and Company Secretary) under the new Companies Act, 2013. Let's read on to know more.....*

### Responsibility for Prevention and Detection of Fraud:

The primary responsibility for the prevention and detection of fraud rests with both those charged with governance of the entity and management.

The auditor is responsible for obtaining reasonable assurance that the financial statements taken as a whole are free from material misstatement, whether caused by fraud or error.

SA 240 the Auditor's Responsibilities Relating to Fraud in an Audit of Financial Statements recognizes that misstate-

ment in the financial statements can arise from either fraud or error.

Fraud can be further split into two types:

- Fraudulent financial reporting - deliberately misstating the accounts to make the company look better/worse than it actually is.
- Misappropriations of assets - the theft of the company's assets such as cash or inventory.

Corporate fraud is a major problem that is increasing both in its frequency and severity. Research evidence has shown that growing number of frauds have undermined the integrity of financial reports, contributed to substantial economic losses, and eroded investors' confidence regarding the usefulness and reliability of financial statements. The increasing rate of white-collar crimes demands stiff penalties, exemplary punishments, and effective enforcement of law with the right spirit. Our country has also witnessed several corporate Frauds, few of them being – the 5000 crore rupees Harshad Mehta scam in 1992, 7000 crore rupees Satyam fiasco in 2009, the 27000 crore rupees Sahara fraud case which started in 2010 and is sub-judice in Supreme Court, till date.

### **The External auditor's responsibilities:**

The External auditor is responsible for obtaining reasonable assurance that the financial statements, taken as a whole, are free from material misstatement, whether caused by fraud or error. Therefore, the external auditor has some responsibility for considering the risk of material misstatement due to fraud.

Auditor is a watchdog and not a blood hound but in order to discharge his duties an auditor must maintain an attitude of professional skepticism. This means that the auditor must recognize the possibility that a material misstatement due to fraud could occur, regardless of the auditor's prior experience of the client's integrity and honesty.

SA 315 Identifying and Assessing the Risks of Material Misstatement Through Understanding the Entity and Its Environment goes further than this general concept and requires that engagement teams discuss the susceptibility of their clients to fraud. The engagement team should also obtain information for use in identifying the risk of fraud when performing risk assessment procedures.

To be able to make such an assessment auditors must identify, through enquiry, how management assesses and responds to the risk of fraud. The auditor must also enquire of management, internal auditors and those charged with governance if they are aware of any actual or suspected fraudulent activity.

Despite these requirements, owing to the inherent limitations of an audit, there is an unavoidable risk that some material misstatements may not be detected, even when the audit is planned and performed in accordance with SAs. The risks in respect of fraud are higher than those for error because fraud may involve sophisticated and carefully organized schemes designed to conceal it. Also the risk of not detecting a material misstatement resulting from management fraud is higher than the risk of not detecting a material misstatement resulting from employee fraud.

### **Extract of Section 143 of Companies Act, 2013**

(12) Notwithstanding anything contained in this section, if an auditor of a company, in the course of the performance of his duties as auditor, has reason to believe that an offence involving fraud is being or has been committed against the company by officers or employees of the company, he shall immediately report the matter to the Central Government within such time and in such



manner as may be prescribed.

(13) No duty to which an auditor of a company may be subject to shall be regarded as having been contravened by reason of his reporting the matter referred to in sub-section (12) if it is done in good faith.

(14) The provisions of this section shall mutatis mutandis apply to—

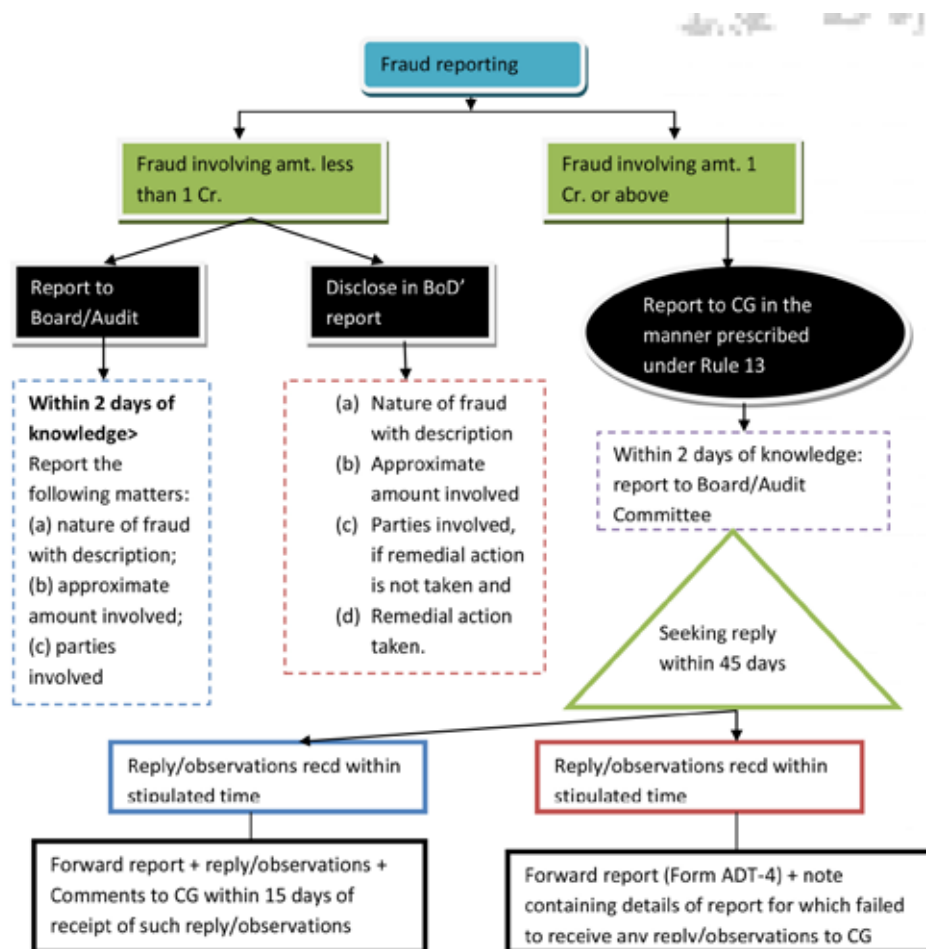
(a) the cost accountant in practice conducting cost audit under section 148; or

(b) the company secretary in practice conducting secretarial audit under section 204.

(15) If any auditor, cost accountant or company secretary in practice do not comply with the provisions of sub-section (12), he shall be punishable with fine which shall not be less than one lakh rupees but which may extend to twenty-five lakh rupees.

Above insertion of sub-section 12 of section 143 is a landmark section which have been inserted along with the duty of the auditor and separate section has not been made for fraud reporting because the intention of law makers was there it to make it as a duty of auditor who will discharge it in his audit exclusively with the compliance of other standards on auditing (SAs). Procedure has been prescribed in Rule 13 of Companies (Audit & Auditors) Rules 2014.

### Pictorial Analytical View on Fraud Reporting

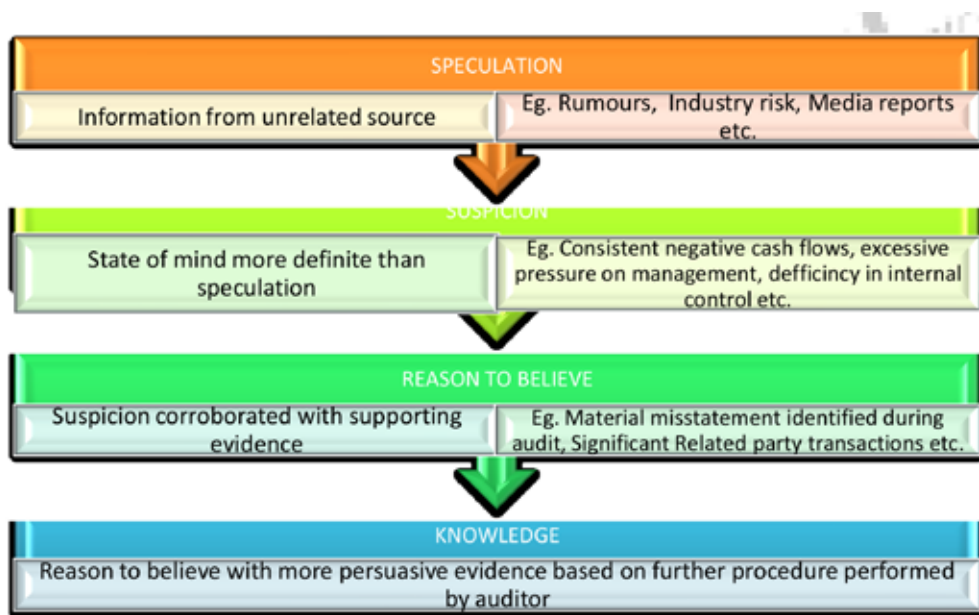


## Fraud Reporting: Section 143(12) Vs. Para 3(x)

Basic Philosophy of Difference:	Basic Philosophy of Difference:
<p>“reason to believe that an offence involving fraud is being or has been committed against the company by officers or employees of the company”</p> <p>It means here only those fraud are covered which have been committed or which are being committed AGAINST the company.</p>	<p>Any fraud BY THE COMPANY or any fraud ON THE COMPANY by its officers or employees has been “noticed or reported” during the year.</p> <p>If yes then the nature and amount involved shall also be indicated.</p> <p>“noticed or reported” means or indicates that the management should have the knowledge about fraud.</p>

### How to Identify Fraud

As per the guidance note on fraud reporting issued by ICAI, fraud identification is a significant aspect in the following stages:



“The auditor is not required to investigate the fraud so as to establish the entire magnitude, the period, the modus operandi and the persons involved since the requirement of Section 143(12) read with the Rule 13 of the Companies (Audit and Auditors) Rules, 2014 is not that the auditor has to perform a forensic audit. So Auditor has not to go in details, he has to perform his duty only under said section”

### Now Internal Auditor can also a play role to assist the Auditor:

Recently SA-610 (01.02.2016) has been amended. Under this SA “direct assistance from Internal Auditor” has been added. So under this new added facility for auditor, internal auditor can play a greater role to identify the fraud

since he knows the day to day operation of company to a great extent. But however Cost Accountant and Company Secretary are not allowed because SAs are applicable on statutory auditor only.

### Penalty & Prosecution:

Section 143(15): if ANY AUDITOR, COST ACCOUNTANT or COMPANY SECRETARY in practice do not comply the provisions of this section => punishable with fine which shall not be less than Rs. 1,00,000 but it may be extended to Rs. 25,00,000.

Section 147(2): If AUDITOR contravenes any provision of section 139, 143, 144 or 145; auditor shall be punishable with fine=> Min - Rs. 25,000 and Max – Rs. 5,00,000.

If auditor has contravened such provisions knowingly or willfully with the intention to deceive the company or its shareholders or creditors or tax authorities, he shall be punishable=> Imprisonment max 1 year, Fine Min – Rs. 1,00,000 and Max – Rs. 25,00,000.

If section u/s 447 is attracted for cognizable offences [Sec. 7(5), 36, 75(1), 206(4), 213, 229, 251(1), 339(3), 448] and a person accused of any such offence classifies as FRAUD under Sec. 143(12) shall not be released on bail or bond, unless subject to the exceptions provided u/s 212(6) of the Act.

### Audit procedures

As well as adopting an attitude of professional skepticism the External auditor is required to perform the following procedures in light of the risk of fraud:

- Discussion amongst the engagement team regarding the susceptibility of the client to fraud;
- Consider the risk of fraud when documenting and testing internal controls;
- Enquiring of management how they: assess the risk of fraud; and identify and respond to the risks of fraud;
- Enquiring of management whether they have any knowledge of actual or suspected frauds;
- Enquiring of internal auditor whether they have any knowledge of actual or suspected frauds;
- Enquiring of those charged with governance how they exercise oversight of management's process for identifying and responding to the risk of fraud; and
- Enquiring of those charged with governance whether they have any knowledge of actual or suspected frauds;

### Auditor Unable to Continue the Engagement

If the auditor encounters exceptional circumstances that bring into question the auditor's ability to continue performing the audit, the auditor shall:

- a. Determine the professional and legal responsibilities.
- b. Consider whether it is appropriate to withdraw from the engagement, where withdrawal from the engagement is legally permitted.
- c. If the auditor withdraws:
  - i. Discuss with the appropriate level of management and those charged with governance.
  - ii. Determine whether there is a professional or legal requirement to report to any authority.



## COMPLIANCE REQUIREMENT UNDER COMPANIES ACT, 2013

Ms. Rose Raju

The company form of organization is the longest standing business structure leading the pack in the amount of protection & flexibility for shareholders. Corporations offer the strongest protection from business liability for the business owners, or shareholders. India is one of the largest economies in the world today, but many new companies still complain, and correctly, of the high complexity of running a business here.

It seems that people don't like rules as they represent a kind of restrictions, but in fact life can't be organized without rules. Can you imagine even a game without rules; of course it will be a kind of mess. So as the case of Companies. A company which has been set or incorporated in India must comply with the provisions of Companies Act, 2013. The Companies Act, 2013 regulates the appointment, qualification, remuneration and retirement of directors of the company and other aspects such as how to conduct board meetings and shareholders meetings.

Once all formalities required legally for the incorporation are done with, and a certificate of the same is issued, the company is recognized as a legal entity, distinct from its members who have incorporated such entity. Irrespective of whether the company is a private or a public company, there are certain things that need to be done post the incorporation.

### I.COMPLIANCE REQUIREMENTS

Annual compliances have changed in its entirety. New disclosures have been added in Directors Report like Disclosure of Sexual Harassment Act, Dates of Board Meetings held during the Financial Year, No. of Board Meetings attended by the Directors etc.

#### 1. MGT 7 Annual Return:

##### According to section 92 (1) of Companies Act 2013:

Every company shall prepare a return (hereinafter referred to as the annual return) in the prescribed form containing the particulars as they stood on the close of the financial year regarding:-

1. Its registered office, principal business activities, particulars of its holding, subsidiary and associate companies;
2. Its shares, debentures and other securities and shareholding pattern;
3. Its indebtedness;
4. Its members and debenture-holders along with changes therein since the close of the previous financial year;
5. Its promoters, directors, key managerial personnel along with changes therein since the close of the previous financial Year;
6. Meetings of members or a class thereof, Board and its various committees along with attendance details;
7. Remuneration of directors and key managerial personnel;
8. Penalty or punishment imposed on the company, its directors or officers and details of compounding of offences and Appeals made against such penalty or punishment;
9. Matters relating to certification of compliances, disclosures as may be prescribed;
10. Details, as may be prescribed, in respect of shares held by or on behalf of the Foreign Institutional Investors indicating their names, addresses, countries of incorporation, registration and percentage of shareholding held by them; and
11. Such other matters as may be prescribed, and signed by a director and the company secretary, or where there is no Company \ secretary, by a company secretary in practice:

According to section 92 (4):

Every company shall file with the Registrar a copy of the annual return, within 60 (sixty) days from the date on which



the annual general meeting is held or where no annual general meeting is held in any year within sixty days from the date on which the annual general meeting should have been held together with the statement specifying the reasons for not holding the annual general meeting, with such fees or additional fees as may be prescribed, within the time as specified, under section 403.

According to section 92 (6):

If a company secretary in practice certifies the annual return otherwise than in conformity with the requirements of this section or the rules made there under, he shall be punishable with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees.

## 2. AOC 4

The Company is required to file its Balance Sheet along with statement of Profit and Loss Account and Directors' Report in this form.

Attachment:

- Financial statements duly authenticated as per section 134
- Auditors' report
- Board's report
- MGT-9

If any,

- Secretarial Audit Report
- Statement of subsidiaries/ Associates/ Joint Ventures as required under section 129 in the format of Form AOC-1
- Company CSR policy
- Details of salient features and justification for entering into contracts/ arrangements/transactions with related parties as per Sub-section (1) of section 188 – Form AOC-2

This form has to be filed within 30 days of holding Annual General Meeting.

## 3. MGT 14

Purpose of the Form – Approval of Directors Report & Annual Statement

Attachment:

- Board Resolution for approval of Financial Statement
- Board Resolution for approval of Directors' Report

This form has to be filed within 30 days of holding Annual General Meeting.

## 4. Director's Report

As per Section 134(3) of Companies Act, 2013 Director Report shall include:

- I. Extract of Annual Return in form MGT-9.
- II. No. of Board Meeting: It is required to mention No. of Board's Meeting in Director Report
- III. Comment on every qualification, reservation or adverse remark or disclaimer made by auditors in auditor report.
- IV. Comment on every qualification, reservation or adverse remark or disclaimer made Company Secretary in Practice in Secretarial Audit Report.
- V. The Directors are required to disclose in Board's Report that, the company have complied with the provisions of Section 186 of companies Act, 2013 in relation to Loan, Investment & Guarantee given by the company during

the financial.

VI. Disclosure of Related Party Transaction

VII. If any dividend was declared by the company during the financial year, Directors should disclose in Board Report, the status payment of the same.

VIII. Material changes and commitments, if any, affecting the financial position of the company which have occurred between the end of the financial year of the company to which the financial statement relate and the date of report.

IX. A statement indicating development and implementation of a risk management policy for the company including identification therein of elements of risk, if any, this in the opinion of the Board may threaten the existence of the company.

X. Corporate Social Responsibility (CSR): Directors are required to disclose in the Board Report the details about the policy developed and implemented by the company on Corporate Social Responsibility initiatives taken during the year.

XI. Report on performance of subsidiaries, associates companies and joint ventures

XII. Secretarial Audit Report:

The following class of companies shall be required to Annex Secretarial Audit Report

- a) All Listed Companies
- b) Every Public Company having a Paid-Up Share Capital of Rs. 50 Crore (fifty crore rupees) or more
- c) Every Public Company having a Turnover of Rs. 250 Crore (two hundred fifty crore rupees) or more

XIII. Disclosure about cost Audit

XV. Disclosure where company is required to constitute Nomination and Remuneration committee

- The policy of qualification
- The remuneration of directors as, formulated under section 178(3)

XVI. Disclosure if MD/WTM is receiving remuneration or commission from a MD/WTM or subsidiary Company

XVII. Disclosure of Vigil Mechanism in board Report

XVIII. Disclosure of composition of Audit committee and their recommendations not accepted:

XIX. Declaration by Independent Director:

XX. Details Relating to Deposit:

XXI. Details of Director and KMP:

Directors & KMP appointed during the Year.

Directors & KMP appointed Resigned the Year

XXIII. Disclosure about ESOP and Sweat Equity Share:

XXIV. Statement of affairs of the Company

XXV. Director Perception of Future of Company

XXVI. Order of Court:

The details of significant and material orders passed by the regulators or courts or tribunals impacting the going concern status and company's operation in future.

XXVII. Details of employees drawing salary above prescribed limits: (LISTED)

Every listed company shall disclose in the Board's Report the ratio of the remuneration of each director to the median employee's remuneration and such other details as may be prescribed. [197(12)]. The disclosures are summarized as below:

Comparison between remuneration managerial personnel and remuneration to employees.

Details of employees drawing salary of Rs. 500,000/- or more per month.

Details of remuneration to person holding 2% or more equity shares

Details of employees (who are not directors or relatives) posted outside India.

#### XXVIII. Conservation of energy, technology absorption & foreign exchange dealing

##### (A) Conservation of energy-

(i) The steps taken or impact on conservation of energy;

(ii) The steps taken by the company for utilizing alternate sources of energy;

(iii) The capital investment on energy conservation equipment;

##### (B) Technology absorption-

(i) The efforts made towards technology absorption;

(ii) The benefits derived like product improvement, cost reduction, product development or import substitution;

(iii) In case of imported technology (imported during the last three years reckoned from the beginning of the financial year)-

(a) The details of technology imported;

(b) The year of import;

(c) Whether the technology been fully absorbed;

(d) If not fully absorbed, areas where absorption has not taken place, and the reasons thereof; and

(iv) The expenditure incurred on Research and Development.

(C) Foreign exchange earnings and Outgo: The Foreign Exchange earned in terms of actual inflows during the year and the Foreign Exchange outgo during the year in terms of actual outflows.

#### XXIX. Director Responsibility statement 134(5)

(a) In the preparation of the annual accounts, the applicable accounting standards had been followed along with proper explanation relating to material departures;

(b) The directors had selected such accounting policies and applied them consistently and made judgments and estimates that are reasonable and prudent so as to give a true and fair view of the state of affairs of the company at the end of the financial year and of the profit and loss of the company for that period;

(c) The directors had taken proper and sufficient care for the maintenance of adequate accounting records in accordance with the provisions of this Act for safeguarding the assets of the company and for preventing and detecting fraud and other irregularities;

(d) The directors had prepared the annual accounts on a going concern basis; and

(e) The directors, in the case of a listed company, had laid down internal financial controls to be followed by the company and that such internal financial controls are adequate and were operating effectively.

(f) The directors had devised proper systems to ensure compliance with the provisions.

## II. PENAL PROVISIONS

If a Company does not comply with the above provision for filling of above-mentioned forms within prescribed time-limit, penalty or prosecution under section 92(5) and 137 (3) shall be initiated.

According to section 92 (5):

If a company fails to file its annual return under sub-section (4), before the expiry of the period specified under section 403 with additional fee, the company shall be punishable with fine which shall not be less than fifty thou-

sand rupees but which may extend to five lakhs rupees and every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to six months or with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees, or with both

**According to section 137(3):**

If a company fails to file the copy of the financial statements, as the case may be, before the expiry of the period specified in section 403, the company shall be punishable with fine of one thousand rupees for every day during which the failure continues but which shall not be more than ten lakh rupees, and the managing director and the Chief Financial Officer of the company, if any, and, in the absence of the managing director and the Chief Financial Officer, any other director who is charged by the Board with the responsibility of complying with the provisions of this section, and, in the absence of any such director, all the directors of the company, shall be punishable with imprisonment for a term which may extend to six months or with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees, or with both.

# Technical Session 5

## Goods and Services Tax

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Session Chairman : **CA. GANESH PRABHU BALAKUMAR,**  
Chennai

**a. Time and Place of Supply**

Student Speaker : **Mr. Kunal Lunawat,** Nashik, Maharashtra

**b. Input Tax Credit and Composition Levy**

Student Speaker : **Mr. Jeet Mashrani,** Raipur, C.G.

**c. Returns under GST**

Student Speaker : **Ms. Sahasi Rupa,** New Delhi.

## Profile

**CA. GANESH PRABHU BALAKUMAR**

Chennai



### EDUCATIONAL BACKGROUND

- a) Information System Audit from ICAI in June 2013.
- b) Bachelor of Law from KSLU in June 2012.
- c) Certification Course on Indirect Taxes from ICAI in March 2012.
- d) Chartered Accountant from ICAI in June 2009.
- e) Master in Financial Management from Pondyicherry University in May 2007.
- f) Bachelor of Commerce from University of Madras in May 2005.

As Partner in C.Ramasamy & B.Srinivasan, Chartered Accountants, Chennai, Tamil Nadu, India

Key Roles & Responsibilities:-

As Partner specializing in Indirect Taxes, representing clients before Customs, Excise, Service Tax Appellate Tribunal (CESTAT), Commissioners and Other Adjudicating Authorities of Service Tax, Central Excise & Customs and involved in Internal Audits, Project Audits for Capital Expenditure.

### As a Faculty Member:-

- Presented papers in Indirect Taxation on SIRC of ICAI, Branches of SIRC of ICAI, SIRC – CPE Study Circle, National Academy of Customs Excise & Narcotics (NACEN), Regional Training Institute (AG's Office), Chartered Accountants Forum such as Chartered Accountant Study Circle, Chamber of Indirect Tax Professional, etc.
- He is a resource person in ICT Academy (An initiative of Government of India & Other States)
- Member of ICAI GST Study Group (Chennai), contributed in development of Background Material of Model GST Law developed by Indirect Tax Committee of Institute of Chartered Accountants of India.
- As a visiting faculty in LOYOLA Institute of Business Administration (LIBA), Institute of Chartered Accountants of India (ICAI), Institute of Cost Accountants of India (ICAI), Institute of Company Secretary of India (ICSI), handled classes for Professional Students in the subject Indirect Taxation.
- Handling classes for CA, CMA & CS students at private institutions in Chennai.
- Secretary of International Chamber of Indirect Tax Professionals, an association dedicated exclusively on Indirect Tax.
- Participated in various events like seminars, case studies and study groups of ICAI, CASC & ICITP.
- He regularly writes articles in reputed financial dailies and magazines and participated in various shows in television.
- Won 1st place in the All India 5th Quiz Competition for ICAI Students, conducted by ICAI.

## Profile

**Mr. Kunal Lunawat**

Maharashtra

Registration No: **WRO 0469922****Course Pursuing:**

CA FINAL – Article assistant at CA Pratik Kajale &amp; Associates

**Educational Qualifications:**

Board/

University	Qualification	Year	Institution	Percentage (%)
SSC	10th	2011	M.G.Highschool, Igatpuri	95.82 %
HSC	12th	2013	External (Form 17)	78.67%
Pune University (SPPU)	B.Com	2016	B.Y.K.College of Commerce, Nasik	78.67%

Professional Qualifications:

- Cleared CPT in June 2013
- Cleared IPCC (Both Groups) in November 2015
- Certified Green Belt in Lean Six Sigma

**Earlier Paper Presentations:**

- Pimpri-Chinchwad National Conclave (GST – Concepts & Impact); Won Best Presenter Award
- Aurangabad National Convention (Information Technology: Cloud Computing); Won Best Presenter Award.
- Ahmednagar National Conclave (India's steps towards becoming a Superpower); Won Best Presenter Award.

**Academic Experiences during Articleship:**

- Eklahare Thermal Power Plant Nashik- Statutory Stock Audit
- Phoenix Market City Mall Pune- Service Tax Audit
- State Bank of Patiala Ludhiana Branch- Statutory Bank Audit

**Key Achievements:**

- Meritorious achievements in academics including extra-curricular activities.
- 1st Rank in District in the 'Computalent Search Competition' in the year 2011.
- 1st Rank in College & Institution in Graduation in Commerce (Gold Medal). & 1st Rank in Pune University in 'Cost & Works Accounting'
- Secured 72 Marks in IPCC Law in November 2015.
- Council Member of BYK College of Commerce, Nashik (2015-16)
- Member of WICASA Student Committee for the year 2016-17

**Topic:****TIME AND PLACE OF SUPPLY**



## Profile

**Mr. Jeet Mashrani**

Raipur, C.G

Registration No: **CRO 0550527**



### Course Pursuing:

CA FINAL

### ACHIEVEMENT

- 2015 1st Place in Inter-School Debate Competition: Ever Year in Raipur ROTARY Club conducts Inter-School Debate competition in Which students from more than 50 school takes Part.
- 2015 1st Place in Inter-School Extempore Competition: MAIC, one the most renowned Raipur, Chhattisgarh organised extempore college of competition for School students.

### ABOUT

CA Finalist as well as Vice-Chairman of CICASA Raipur. Taxation Founder of GSTiNATION.com GST based portal Currently Pursuing My articleship from Amit Agrawal & Company in the Field of Indirect Taxation.

### EDUCATION

- 2015 Higher Secondary School: Shri Balaji Vidya Mandir, Raipur Passed with 92% and DISTN in all Subject
- 2013 High School: Shri Balaji Vidya Mandir, Raipur Secured 2nd position in State.

### Topic:

**Input Tax Credit & Composition Levy**

## Profile

**Ms. Sahasi Rupa**

New Delhi

Registration No: **NRO 0271854**



### **Course Pursuing:**

CA FINAL

### **ACHEIVEMENTS**

- Presented papers at various conferences by Board of Studies

### **Topic:**

### **Returns Under Gst**

## Time and Place of Supply under GST

Mr. Kunal Lunawat



YES...

**GST is Now REALITY**

### INTRODUCTION

With the stroke of midnight of 14th August 1947, a Historic moment for India as India declared independence from colonial rule, marked as Independence Day of India. The place of declaration was the Central Hall of the Parliament... after 70 years, on the midnight of 30th June 2017 in the same Central Hall, India launched Biggest ever Indirect Tax regime of India..GST..!! and thus GST has been rolled out from 1st July 2017 coinciding with the Foundation Day of ICAI.

The Goods and Services Tax (GST) is one of the biggest economic and taxation reforms undertaken in India. The GST aims to streamline the taxation structure in the country and replace a gamut of indirect taxes with a singular GST to simplify the taxation procedure.

This paper is specially focussed on the Time & Place of Supply under the GST. This is most important aspect of GST i.e. Point of Taxation. In this paper through discussion has been made regarding all the aspects of the concept with simple and lucid way. I hope this paper will receive warm welcome from all the learners of these new concepts.

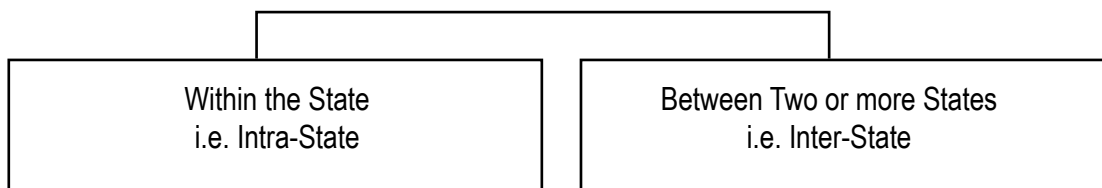
### LEVY OF GST



Intra-State Transactions will attract CGST & SGST  
whereas Inter-State Transactions will attract IGST.

Under GST, special attention is given to the reporting structure of all transactions, irrespective of the fact that it is of goods or for services. There are three types of taxes under GST, CGST, SGST and IGST. All these taxes are leviable whenever there is a Movement of Goods or Services.

Movement of goods and services can be of 2 types:



Intra-State movement attracts CGST and SGST whereas Inter-State movement attracts IGST. In order to determine the levy of taxes based on Place of Supply, following two things are considered:

Location of Supplier : It is the registered place of business of the supplier

Place of Supply/  
Location of Recipient : It is the registered place of business  
of the recipient

* Location of Supplier/ Service Provider		
*	Case	Location of Supplier
A	where a supply is made from a place of business for which the registration has been obtained	the location of such place of business
B	where a supply is made from a place other than the place of business for which registration has been obtained (a fixed establishment elsewhere)	the location of such fixed establishment;
C	where a supply is made from more than one establishment, whether the place of business or fixed establishment,	the location of the establishment most directly concerned with the provision of the supply
D	in absence of such places,	the location of the usual place of residence of the supplier;
* Location of Recipient/ Place of Supply		
	Case	Location of Supplier
A	where a supply is received at a place of business for which the registration has been obtained	such place of business
B	where a supply is received at a place other than the place of business for which registration has been obtained (a fixed establishment elsewhere)	such fixed establishment

C	where a supply is received at more than one establishment, whether the place of business or fixed establishment	The location of the establishment most directly concerned with the receipt of the supply
D	in absence of such places	the location of the usual place of residence of the recipient;

## UNDERSTANDING PLACE OF SUPPLY IN GST

To determine the actual nature of the movement of goods and services, it is imperative to understand the “place of supply” of such goods or services.

It plays a pivotal role in identifying whether CGST & SGST or IGST will be levied on any transaction.

Place of supply of goods and services have been given separate provisions. The location of the supplier and the place of supply together define the nature of the transaction.

The registered place of business of the supplier is the location of the supplier, and the registered place of the recipient is the place of supply.

## PLACE OF SUPPLY OF GOODS AND/OR SERVICES

Principles for determining place of supply of goods and/or services are required for the following reasons:

- Taxpayer : To determine the nature of sale i.e. intra-state/ inter- state/ import/ export.
- Government : To determine the state where state component of GST would accrue.

Place of supply of goods other than supply of goods imported into, or exported from India	
Scenario	Place of Supply
When movement of goods is involved	Location of goods where movement terminates for delivery
When goods are supplied by transfer of documents during movement of goods (Bill to Ship to Model or EI-EII model)	Principal place of business of third person on whose direction goods were supplied to another person
When movement of goods is not involved	Location of goods at the time of delivery
When goods are assembled or installed at site	Place of such installation or assembly
When goods are supplied on board a conveyance (like food supplied by Indian Railways on journey)	Location at which such goods are taken on board
Where the place of supply of goods cannot be determined as per above principles	Manner to be prescribed by the Central Government on recommendation of GST Council.
When goods are imported into India	Location of the importer
When goods are exported from India	Location outside India

The most important and challenging part of determination of place of supply was for the services. It took rigorous efforts of the law makers to finalize rules for the determining place of supply.

Following are the rules regarding Place of Supply for Service for different categories and special services:

Place of supply of services where location of supplier of service and location of the recipient of service is in India	
Categories	Place of Supply
General Rule – Business to Business (“B2B”) and Business to Consumer (“B2C”)	B2B supplies: location of recipient B2C supplies: location of recipient where address on record exists, If not, then the location of supplier of services

**Example: B to C Supplies**

Registered Person(- Supplier)	Consumer	Address on Record exists	Place of Supply of Service
ABC Ltd. of Gujarat providing iPhone re-pairing services	Mr. Modi- Maharashtra	YES	Maharashtra- IGST apply
	Mr. Rahul	NO	Gujrat- CGST/SGST apply

Further, specific provisions for identified situations & different treatment for certain B2B and B2C transactions of specified services has also been provided in respect of the following specified services:

Services directly related to immovable property	Location of immovable property Where property/boat/vessel located in more than one State → proportionate allocation amongst states as per the contract or on reasonable basis Where location of the immovable property/ boat/vessel is located or intended to be located outside India → Place of supply shall be the location of the recipient
Specific services such as supply of restaurant and catering services, health service etc.	Place of actual performance
Services in relation to training and performance appraisal	B2B supply: location of recipient B2C supply: place of performance
Admission to a cultural, artistic, sporting etc., events, amusement parks etc. and ancillary services	Place where event held or where the park/ other place is located

Organisation of event and services in relation to such event and ancillary services or assigning of sponsorship	<p>B2B supply: location of recipient B2C supply: where event is held</p> <p>Where the event is held in more than one state and a consolidated amount is charged → Proportionate value of services to be considered Where event is held outside India → Place of supply shall be the location of the recipient</p>
Goods transportation services	<p>B2B supply: location of recipient B2C supply: location at which such goods are handed over for their transportation</p>
Passenger transportation services	<p>B2B supply: location of recipient B2C supply: Place where the passenger embarks on the conveyance for a continuous journey</p>

#### Additional Services (Not mentioned above)

- Banking or Financial Institutions to account holders: Location of the recipient of the services as per record of the provider
- Banking or Financial Institutions to non-account holders: Location of the supplier of service
- Insurance: If the person is registered, then his location or if the person is unregistered, then the location of the recipient as per records of the service provider

#### Place of supply of services where the location of supplier or the location of the recipient is outside India

Principles of place of supply of services when the location of supplier or the location of recipient is outside India, has been drawn on similar pattern as existing in the Place of Provision of Services Rules, 2012 ("POPS") for determining export/import of services from India/into India, with new inclusion of provision in case of 'online information and database access or retrieval ("OIDAR") services, wherein place of supply shall be the location of recipient.

It is further provided that in order to prevent double taxation or non-taxation of the supply of a service, or for the uniform application of rules, the Central Government shall have the power to notify any description of service or circumstances in which the place of supply shall be the place of effective use and enjoyment of a service.

#### UNDERSTANDING TIME OF SUPPLY IN GST

Once you have determined what to tax, whether CGST, SGST or IGST, then it is time to identify the "When to Tax.?" There are some general provision and some specific provision for determining time of supply. Time of supply is different for goods & services. If specific provision are applied to determine the time of supply then general provision are irrelevant.

To determine time of supply of Goods & Services, Four categories are provided as below:

- Time of Supply of Goods & Services under Forward Charge.
- Time of Supply of Goods & Services under Reverse Charge.



- Time of Supply in case of Supply of Vouchers.
- Residuary Clause.

Time of Supply of Goods & Services under Forward Charge:

The time of supply of goods and services shall be the earlier of the following:

- (a) Date of issue of invoice by the supplier or the last date on which he is required, to issue the invoice with respect to the supply
- (b) Date on which the supplier receives the payment with respect to the supply.

Provisions for raising Invoice	
Supply of Goods	Supply of Services
Before or at the time of,- (a) removal of goods for supply to the recipient, where the supply involves movement of goods, or (b) delivery of goods or making available thereof to the recipient, in any other case	Before or after the provision of service but within a period prescribed [i.e. 30 days in all cases/ 45 days in case of banking and financial institution from the date of supply of services]

Where amount up to Rs. 1,000/- is received in excess of amount indicated in an invoice, the time of supply to the extent of such excess amount shall, at the option of the said supplier, be the date of issue of invoice.

Time of Supply of Goods & Services under Reverse Charge Mechanism (RCM):

Time of Supply for Goods	Time of Supply for Services
Earliest of the following: (a) Date of receipt of goods, or (b) Date on which payment is made, or (c) Date immediately following 30 days from the date of issue of invoice by the supplier	Earliest of the following: (a) Date on which payment is made, or (b) Date immediately following 60 days from the date of issue of invoice by the supplier
Where it is not possible to determine the time of supply under the above clauses, the time of supply shall be the date of entry in the books of account of the recipient of supply	
	In case of associated enterprise: Where the supplier of service is located outside India, the time of supply shall be the date of entry in the books of account of the recipient or the date of payment, whichever is earlier.

### Time of Supply in case of Supply of Vouchers:

In case of supply of vouchers, by whatever name called, by a supplier, the time of supply for goods and services shall be:

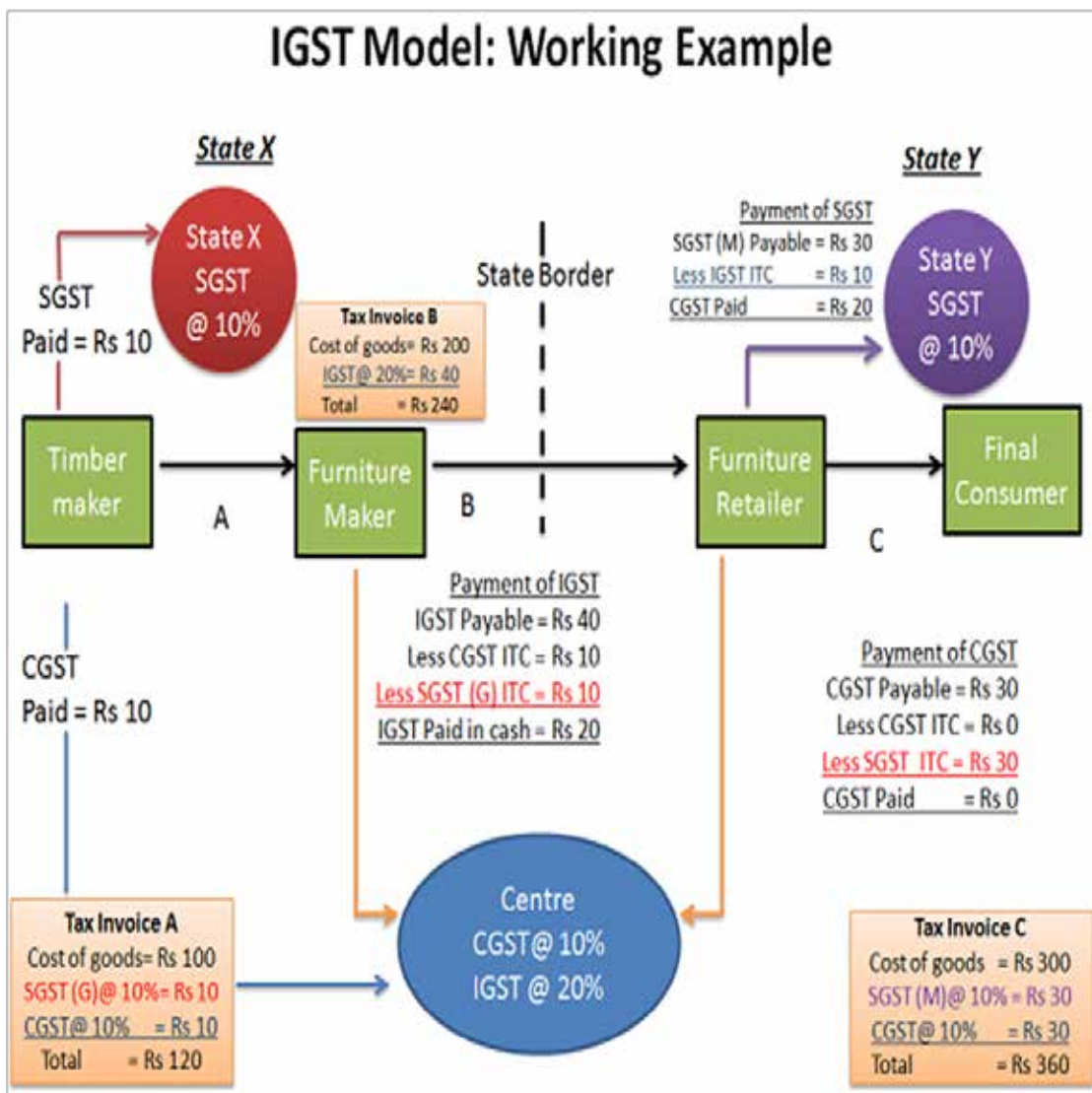
- (a) Date of issue of voucher, if the supply is identifiable at that point; or
- (b) Date of redemption of voucher, in all other cases.

### Residuary Provision:

Where it is not possible to determine time of supply under the above provisions, time of supply for goods and services shall be:

- (a) In a case where a periodical return has to be filed- Date on which such return is to be filed
- (b) In any other case - Date on which the CGST/ SGST or IGST is paid

**Finally to know how GST will work, here's an working example of GST:**



**Input Tax Credit & Composition Levy****Mr. Jeet Mashrani**

INTRODUCTION- Good Afternoon All! What an informative session of TIME & PLACE OF SUPPLY it was but before you think that you all have mastered this law My friend I would like to draw your attention towards the MOST IMPORTANT concept of this tax regime, one of the main reason as to why the Goods and services tax came into effect.

To have a seamless flow of Tax Credit in the nation, to remove the cascading effect on goods so that the product should be received to the consumer at the most reasonable price and without which this technical Session of GST would be incomplete,

Yes all my Dear Friend I'm talking about INPUT TAX CREDIT. So Now Most of the people here would have a query now in their mind-

What is the technical aspect of Input Tax Credit?

Who can claim it?

On what goods it is received? What are the conditions?

What are the restrictions to claim ITC?

What are the special cases that we will encounter in ITC?

My dear friends I assure you all the movement you step out of this FINE ART HALL you won't have any query left in mind!!.

**"Input Tax Credit"**

Enabling Section	Section 16(1) says- Every registered person shall be entitled to take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used for business
Let's now try to Understand what are the Basis Condition to claim Input Tax Credit-	

**DOCUMENTARY EVIDENCE**

You Must Have a Documentary evidence such as (invoice, debit note, Bill of entry, ISD Invoice)  
All the Particulars of Chapter VI should be there.

**ACTUAL RECEIPT OF SUPPLY**

Having an Actual Receipt of Supply (As ITC is only eligible on the physically receiving the goods or services both)  
Deeming Provision-

Where delivery is done by the supplier to the recipient on the direction of a registered person acting as a agent or otherwise in that case the goods shall be deemed to be received by the third person on the transfer of documents of title of goods

## TAX PAID & RETURN FILED

Tax Charged in respect of such supply has been actually paid to the government by the supplier & Recipient has shown such detail in GSTR 2 & GSTR 3

(Special Case – Goods received in multiple lot then ITC can be claimed only when last lot or instalment ) is received	
Payment of invoice within specified time by the Recipient (other than Reverse Charge)	The Invoice amount must be paid by the recipient to supplier within 180 days from date of issue of invoice and if amount not paid then input tax credit will be reversed. The ITC availed shall be added to his output tax liability along with interest
Time limit for claiming input tax credit	<p>Must take credit on or before the earlier of following two dates -</p> <ol style="list-style-type: none"> <li>1. Due date of Furnishing GSTR-3 for September of next Financial Year</li> <li>2. Actual date of furnishing of the relevant annual return</li> </ol> <p>Exception -The time limit shall not apply to claim for re-availing of any credit earlier reversed due to non payment of consideration</p>
Input tax credit eligibility on specific events (sec 18(1) rule 40)	<p><u>New Registration-</u> When - The date on which the person has applied for registration and has got registration Stock - Immediately preceding day of becoming liable to take registration</p> <p><u>VOLUNTARY REGISTRATION-</u> When-When the person takes registration Stock- Immediately preceding day of date of grant registration</p> <p><u>EXEMPT GOODS BECOME TAXABLE-</u> When- An Exempt Supply Becomes taxable supply Stock- Immediately preceding day of date from which such supply becomes taxable</p>
APPORTIONMENT OF CREDIT(SEC 17(1) &(2))	<p>PARTLY FOR-</p> <p>BUSINESS PURPOSE &amp; NON BUSINESS PURPOSE When the ITC are used partly for-business purpose &amp; non business purpose itc shall be restricted to the extent used for business purpose</p> <p>SUPPLIES (INCLUDING ZERO-RATED SUPPLIES) &amp; EXEMPT SUPPLIES</p> <p>When the ITC are used partly for-effecting taxable supplies (Including zero-rated supplies) &amp; exempt supplies in that case ITC shall be restricts to the extent used for effecting taxable supplies (Including Zero-Rated supplies)</p>

Special method for banking co./Financial Institution/NBFCs-

Normally-Apportion Credit between exempt & Taxable supplies as per sec 17(2)

Special option-Avail, every month an amount equal to 50% of the eligible ITC & the rest shall lapse

Provided that the option once excised shall not be withdrawn during the remaining part of the FY

Procedure for such option(Rule 38) – Don't take any inputs and inputs services that are used for the Non-Business purposes

Block credit as per 17(5) Take full ITC on tax paid supplies between 2 branch having same PAN  
Take 50% ITC of Remaining amount of input tax.

BLOCKED CREDIT	<p>There are certain goods &amp; Services in which you cannot claim credit these are called Blocked Credit.</p> <p>The INPUT Tax credit cannot be claimed on following Goods and Services-</p> <ol style="list-style-type: none"> <li>1.Motor Vehicles &amp; Other Conveyances - There are Certain Exceptions if the vehicles are used For further Supply, Used for spelling Transportation of Passenger Services, Used for giving Training, Transportation of Goods</li> <li>2.Food &amp; Beverages/outdoor catering/beauty treatment/health services/cosmetic &amp; plastic surgery-Except when same type of input is used for same type of output</li> <li>3.Club Membership/Health &amp; Fitness centre</li> <li>4.Rent-a-cab,life/health insurance</li> <li>5. Travel benefit to employee on vacation.</li> <li>6.Works contract service for construction of immovable property-Except when same type of input is used for same type of output)</li> <li>7.Goods/Services/both for construction of immovable property</li> <li>8.Composition supply receipt</li> <li>9.Supply Received by NR</li> <li>10.Supply used for personal Consumption</li> <li>11.Goods/lost /stolen/destroyed/written off/gifted/given as sample</li> <li>12.Tax paid in accordance with the section 74,129 &amp;130</li> </ol>
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<p>Input Tax Credit in Specific Cases</p>	<p>ITC In Case of INPUT SERVICE DISTRIBUTION-</p> <p>ISD Meaning- A Centralised Office which takes input services for the organisation as a whole &amp; Then Distribute ITC Among its branches. How it is Distributed- Through ISD Invoice</p> <p>Conditions for distributing ITC- If ITC is Attributable to - Single recipient then distributed only to that recipient More than 1 recipient then distribute in PRO Rata Basis All the recipient then ITC distributed on Pro rata basis on the basis of turnover</p> <p>ITC in Case of CAPITAL Goods –</p> <p>ITC can be claimed in Capital goods but if in a case the Capital goods are supplied as per Rule 40(2).</p> <p>The Registered Person has to pay an amount equal to higher of the following-</p> <ol style="list-style-type: none"> <li>1. ITC Taken-5% per quarter or part thereof from the date of issue of invoice</li> <li>2. Tax Applicable on the transaction value determined under section 15 (sale Value)</li> </ol> <p>Proviso-where refractory bricks, moulds &amp; digs, jigs &amp; Fixtures are supplied as scrap, The taxable person may pay tax on the transaction value</p> <p>ITC in change of Change of business-</p> <p>Where sale, merger, demerger, amalgamation, lease or transfer of the business The registered person shall be allowed to transfer the ITC which remains unutilised to new entity</p> <p>Procedure-Furnish the details in Form GST ITC -02</p> <p>Condition-The input/Capital goods so transferred shall be duly accounted for by the transferee in his books.</p> <p>In Case of demerger ITC shall be apportioned in the ratio of the value of assets of the new units.</p>
<p>ITC Payment/ Reversal on Specific Events Sec 8(4),Sec29(5) &amp; Rule 44)</p>	<p>When any Registered person who has availed ITC –</p> <ol style="list-style-type: none"> <li>1. Goes from Normal to Composition(Details to be filled in FORM GST ITC-03)</li> <li>2. Where his supply become wholly exempt (Details to be filled in FORM GST ITC-03)</li> <li>3. His Registration gets cancelled (Details to be filled in FORM FSTR 10)</li> </ol>

**“COMPOSITION LEVY”**

INTRODUCTION- The composition levy is another method of levy of tax designed for small taxpayers. Under this scheme the vendor will agree to pay a percentage of his/her annual turnover as tax to the government.

Need to brought composition Scheme under GST-

With the threshold for registration under GST being as low as INR 20 lakhs, a large number of small and medium size businesses would now come under the new tax regime they may not be able to invoice each and every transaction

Objective of Composition Scheme - The objective of the optional Composition Scheme is to bring simplicity and to reduce the compliance cost for the small taxpayers.

Applicability	This Scheme is applicable for-  Manufacturer Food & restaurant Services Traders	
Eligibility	Any person above, whose aggregate turnover did not exceed INR 1 cr (special case) in the previous financial year is eligible to opt for this scheme.  Special case - The threshold limit for opting Composition Scheme in Assam, Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Tripura, Sikkim and Himachal Pradesh is INR 75 lakhs.	
Rates	Category of Persons	Rates of Tax
	Manufacturer	2%
	Catering and Restaurant Services	5%
	Traders	1%
	The person should not be Engaged in:  <ul style="list-style-type: none"> <li>•The supply of services (other than the food and restaurant services)</li> <li>•The supply of alcohol liquor for human consumption</li> <li>•The manufacture of ice-cream, pan masala or other tobacco products and tobacco substitutes</li> <li>•Engaged in inter-state outward supply of goods</li> <li>•Engaged in making a supply of goods through an ecommerce operator unless the portal is owned by the said person</li> <li>•A Casual person or a non-resident person</li> <li>•In possession of stock purchased through interstate trade or transfers or imports on the appointed day (clarification)</li> <li>•In possession of stock purchased from an unregistered dealer and if he is in possession of such stock, tax under reverse charge mechanism has been paid.</li> <li>•Person making any supply of goods which are not leviable to tax under this Act.</li> </ul>	



Registration & Cancellation	Registration as a Composition Dealer –  At the time of registration or at the start of a financial year a person can register himself as a composition Dealer.  Cancellation –  The Composition Scheme availability to a person shall lapse with effect from the date of his reaching the threshold turnover of Rs 75 lakh.  Note: You can switch between a normal vendor or compounding vendor only once during a particular financial year								
Returns Required to be filled under composition Scheme	Form	Periodicity	Due Date						
	GSTR 4	Quarterly	18th of the Month following the Quarter						
	GSTR 9A	Annual	31st of December following the end of the Financial Year for which the Annual Return is being filed						
Other Important Provision	Composition levy, once opted will apply to all the business verticals of the said person i.e. the option of the scheme will be awarded to all the businesses owned by a person under a single PAN. <table><tr><td>Combination of businesses owned by a person under a single PAN</td><td>Applicability of Composition Scheme</td></tr><tr><td>Restaurant, mobile dealership and textile manufacturing unit</td><td>YES</td></tr><tr><td>Restaurant, supply of mobile through an ecommerce operator</td><td>NO</td></tr></table> Tax is payable on the Turnover of the Person in a State or Union Territory. The person shall continue to pay taxes at the regular rates for inward supplies under the reverse charge mechanism & Cannot Claim ITC A Person opting for composition scheme shall not issue a tax invoice. He should issue a Bill of Supply.			Combination of businesses owned by a person under a single PAN	Applicability of Composition Scheme	Restaurant, mobile dealership and textile manufacturing unit	YES	Restaurant, supply of mobile through an ecommerce operator	NO
Combination of businesses owned by a person under a single PAN	Applicability of Composition Scheme								
Restaurant, mobile dealership and textile manufacturing unit	YES								
Restaurant, supply of mobile through an ecommerce operator	NO								
Effective date for composition levy	The option to pay tax shall be effective from –  The appointed day The beginning of the financial year when intimation is filed								



Validity of composition levy	The option exercised by a registered shall remain valid so long as he satisfies all the conditions If he ceases to satisfy any of the conditions then shall be liable to pay tax as normal The registered person can also withdraw from the composition scheme
Conclusion	We need to understand that the GST Law replaces all the other Indirect Tax statutes in the Country, thereby allowing each supplier to pass on the credit of input tax down the supply chain. This reduces the effect of additional tax burden at each stage from manufacture to trader to the customer and encourages tax levy only on the value addition at each stage.

## Returns Under GST

Ms. Sahasi Rupa

Every statute requires the registered person to file the return in such format and within such time as may be prescribed in the specific statute. In the same line, the GST Act makes the provisions for furnishing of information by taxable person through filing of returns.

As per CGST Act 2017, there are lots of the types of the GST Returns which you have to file on the monthly basis and also require filing one annual return. If you are registered under the GST Composition Scheme then you have to file the returns quarterly basis with annual return. Most of the times you have to file the GSTR 1, GSTR 2 and GSTR 3 Return.

As per CGST law, a normal taxpayer will be required to furnish three returns monthly with one annual return. Taxpayer registered as an Input Service Distributor, a person liable to deduct or collect the tax (TDS/TCS).

### What Are the Types of Returns Applicable Under GST Regime?

**Chapter IX of the Central GST Act, 2017, read with CGST Rules, 2017 contains the provisions of returns to be filed by various taxable persons.**

The basic features of the returns mechanism in GST include electronic filing of returns, uploading of invoice level information and auto-population of information relating to Input Tax Credit (ITC) from returns of supplier to that of recipient, invoice-level information matching and auto-reversal of Input Tax Credit in case of mismatch. The returns mechanism is designed to assist the taxpayer to file returns and avail ITC.



Under GST, a regular taxpayer needs to furnish monthly returns and one annual return. There are separate returns for a taxpayer registered under the composition scheme, non-resident taxpayer, taxpayer registered as an Input Service Distributor, a person liable to deduct or collect the tax (TDS/ TCS) and a person granted Unique Identification Number. It is important to note that a taxpayer is NOT required to file all types of returns. In fact, taxpayers are required to file returns depending on the activities they undertake.

**All the returns are to be filed online. Returns can be filed using any of the following methods:**

- **GSTN portal ([www.gst.gov.in](http://www.gst.gov.in) )**
- **Offline utilities provided by GSTN**

GST Suvidha Providers (GSPs) - If you are already using the services of ERP providers such as Tally, SAP, Oracle etc., there is a high likelihood that these ERP providers would provide inbuilt solutions in the existing ERP systems  
GST Return Forms –

In the table below we have provided details of all the returns which are required to be filed under the GST Law.

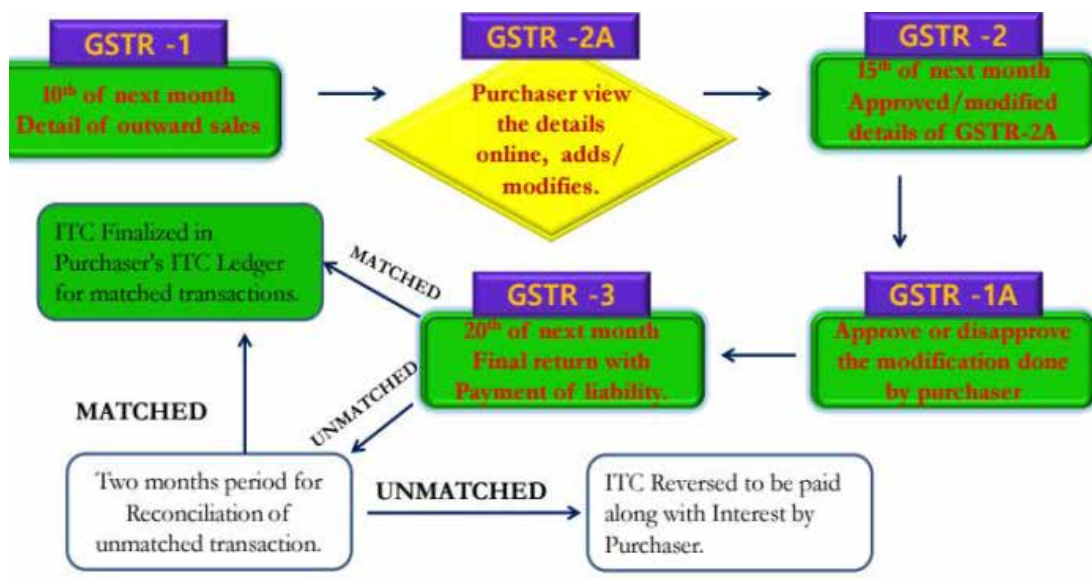
**GST Return Forms –**

In the table below we have provided details of all the returns which are required to be filed under the GST Law.

Return	Description	Who Files?	Date for filing
GSTR-1	Monthly Statement of Outward supplies of Goods or Services.	Registered Person	10th of the next month
GSTR-2	Monthly Statement of Inward supplies of Goods or Services	Registered Person	15th of the next month
GSTR-3	Monthly Return for a normal taxpayer	Registered Person	20th of the next month
GSTR-4	Quarterly Return	'Taxable Person opting for Composition Levy	18th of the month succeeding the quarter
GSTR-5	Monthly Return for a non-resident taxpayer	Non-resident Taxpayer	20th of the month succeeding the tax period & within 7 days after expiry of registration
GSTR-6	Monthly Return for an Input Service Distributor (ISD)	Input Service Distributor	13th of the next month
GSTR-7	Monthly Return for authorities deducting tax at source	Tax Deductor	10th of the next month
GSTR-8	Monthly Statement for E-Commerce Operator depicting supplies effecting through it	E-Commerce Operator	10th of the next month
GSTR-9	Annual Return	Registered Person other than an ISD, TDS/TCS Taxpayer, Casual Taxable Person and Non-resident Taxpayer	31st December of next Financial Year
GSTR-10	Final Return	Taxable Person whose registration has been surrendered or cancelled	Within three months of the date of cancellation or date of order of cancellation, whichever is later.

## GST Monthly Returns

GSTR-3 form will be filled automatically on the basis of outward supplies and inward supplies with the payment of tax furnished in GSTR-1 and 2. The form will be prepared by 20th of the next month. Based on the category of registered person such as monthly return is to be filed by Regular, Foreign Non Residents, ISD and Casual Tax Payers whereas Compounding/Composite tax payers have to file quarterly returns :



## Who needs to file GST Return?

Every registered dealer is required to file return for the prescribed tax period. A Return needs to be filed even if there is no business activity (i.e. Nil Return) during the said tax period of return;

Government entities / PSUs , etc. not dealing in GST supplies or persons exclusively dealing in exempted / Nil rated / non –GST goods or services would neither be required to obtain Registration nor required to file returns under the GST law.

However, State tax authorities may assign Departmental ID to such government departments/ PSUs / other persons and will ask the suppliers to quote this ID in the supply invoices for all inter-State purchases being made to them.

## Salient Features of GST Returns

Filing of returns would only be through online mode. Facility of offline generation and preparation of returns will also be available. The returns prepared in the offline mode will have to be uploaded.

There will be a common e-return for CGST, SGST, IGST and Additional Tax.

A registered Tax Payer shall file GST Return at GST Common Portal either by himself or through his authorized representative;

There would be no revision of Returns. Changes to be done in subsequent Returns

### **GST Monthly Return Rules 2017**

Every registered person, other than a person referred to in section 14 of the Integrated Goods and Services Tax Act, 2017 or an Input Service Distributor or a non-resident taxable person or a person paying tax under section 10 or section 51 or, as the case may be, under section 52 shall furnish a return specified under sub-section (1) of section 39 in FORM GSTR-3 electronically through the Common Portal either directly or through a Facilitation Centre notified by the Commissioner.

### **GST Annual Return**

Every registered person, other than an Input Service Distributor, a person paying tax under section 51 or section 52, a casual taxable person and a non-resident taxable person, shall furnish an annual return as specified under sub-section (1) of section 44 electronically in FORM GSTR-9 through the Common Portal either directly or through a Facilitation Centre notified by the Commissioner:

### **GST Final Return**

Every registered person required to furnish a final return under section 45, shall furnish such return electronically in FORM GSTR-10 through the Common Portal either directly or through a Facilitation Centre notified by the Commissioner.

### **Revision of Returns:**

The mechanism of filing revised returns for any correction of errors/ omissions has been done away with. The rectification of errors/ omissions is allowed in the subsequent returns. However, no rectification is allowed after furnishing the return for the month of September following the end of the financial year to which, such details pertain, or furnishing of the relevant annual return, whichever is earlier.

Latest Update: As per 22nd GST Council meeting of 6th October 2017 & Hon'ble FM Arun Jaitley's tweet on 30th Oct

Return	Month	Revised due date	Additional comments
GSTR-1	July 2017	10-Oct-17	3rd October for persons with turnover more than Rs. 100 crores
GSTR-2	July 2017	30th Nov*	----
GSTR-3	July 2017	11th Dec*	----
GSTR-4	July -September 2017	15th Nov	GSTR-4A is not required for this quarter
GSTR-6	July 2017	15th Nov	-----

Due dates for filing of returns for August, September onwards will be notified later by the government.

GSTR-3B will continue to be filed for the months of August to December, 2017 (earlier it was for just July and August only).

Month	Last Date for filing GSTR-3B
August 2017	20th September 2017
September 2017	20th October 2017
October 2017	20th November 2017
November 2017	20th December 2017
December 2017	20th January 2018

Tax liability of GSTR-3B must be paid by the last date of filing for that month.  
Due dates for July & August 2017

Forms	For July 2017	For August 2017
GSTR-1	Upto 10th September	To be declared
GSTR-2	30th Nov	To be declared
GSTR-3	11th Dec	To be declared

\*\*\*You have 2 options for July 2017-There is no buyer-seller reconciliation for July & August.

- Either file TRAN-1 and claim ITC of previous regime
- File TRAN-1 later but cannot claim ITC of previous regime in this GSTR-3B

Options	Last day of payment of GST	Last date of filing GSTR-3B
Registered persons not opting not to file FORM GST TRAN- 1 by 28th August, 2017	25th August, 2017	25th August, 2017
Registered persons opting to file FORM GST TRAN- 1 by 28th August, 2017	25th August, 2017	28th August, 2017

### Penal Provisions Relating to Returns

Any registered person, who fails to furnish form GSTR-1, GSTR-2, GSTR-3 or Final Return within the due dates, shall be liable to pay a late fee of Rs. 100 per day, subject to a maximum of Rs. 5,000. ITC Matching and Auto-Reversal:

1. It is a mechanism to prevent revenue leakage.
2. The process of ITC Matching begins after the due date for filing of the return (20th of every month). This is carried out by GSTN.

3. The details of every inward supply furnished by the taxable person (i.e. the “recipient” of goods and/or services) in form GSTR-2 shall be matched with the corresponding details of outward supply furnished by the corresponding taxable person (i.e. the “supplier” of goods and/or services) in his valid return. A return may be considered to be a valid return only when the appropriate GST has been paid in full by the taxable person, as shown in such return for a given tax period.
4. In case the details match, then the ITC claimed by the recipient in his valid returns shall be considered as finally accepted and such acceptance shall be communicated to the recipient. Failure to file valid return by the supplier may lead to denial of ITC in the hands of the recipient.
5. In case the ITC claimed by the recipient is in excess of the tax declared by the supplier or where the details of outward supply are not declared by the supplier in his valid returns, the discrepancy shall be communicated to both the supplier and the recipient. Similarly, in case, there is duplication of claim of ITC, the same shall be communicated to the recipient.
6. The recipient will be asked to rectify the discrepancy of excess claim of ITC and in case the supplier has not rectified the discrepancy communicated in his valid returns for the month in which, the discrepancy is communicated, then such excess ITC as claimed by the recipient shall be added to the output tax liability of the recipient in the succeeding month.
7. Similarly, duplication of ITC claimed by the recipient shall be added to the output tax liability of the recipient in the month in which, such duplication is communicated.
8. The recipient shall be liable to pay interest on the excess or duplicate ITC added back to the output tax liability of the recipient from the date of availing of ITC till the corresponding additions are made in their returns.
9. Re-claim of ITC refers to taking back the ITC reversed in the Electronic Credit Ledger of the recipient by way of reducing the output tax liability. Such re-claim can be made by the recipient only in case
10. the supplier declares the details of the Invoice and/or Debit Notes in his valid return within the prescribed timeframe. In such case, the interest paid by the recipient shall be refunded to him by way of crediting the amount to his Electronic Cash Ledger.





**Special Session**

**CA. ANJANI KUMAR SHARMA**

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**New Delhi**

**Profile****CA. ANJANI KUMAR SHARMA**

New Delhi



Anjani studied at the prestigious Mayo College, Ajmer. It was here that his world view took shape with culture, knowledge, and integrity becoming the cornerstone of his personality.

A Chartered Accountant by profession with strong experience in audit, tax, and advisory of Start-ups, Corporates & NPO's, Anjani, ever since, has never looked back. Anjani has conducted many workshops not only as a faculty for Institute of Chartered Accountants of India but also as an advisor to Government, Institutes, innovative Corporates, Start-ups and NPO's.

Anjani also serves as an Independent Director on the board of Tata Power Delhi Distribution Limited, Reliance Infrastructure utility companies - BSES Rajdhani Power Limited and BSES Yamuna Power Limited.

Anjani is also a Director on the board SAGA (Southern Accountability & Governance Alliance pvt. Ltd.) a premier organisation founded by Dr. Manoj Fogla excelling in development laws in South East Asia. Under the banner of Saga, they have provided legal accompaniment to private and National Incubators like (CIIE), Centre for Innovation Incubation and Entrepreneurship, IIM Ahmedabad, Xavier's Centre of Innovation, Xavier's Institute of Management, XLRI Jamshedpur etc.

Anjani has worked with numerous of corporates in various capacities. A partner with Bhawani Sharma & Co. Chartered Accountants, he also has a rich experience in working with not only Corporates but also with a diverse set of organisations and start-ups like Hector Beverages (Paper Boat Juices), DHFL, Discovery Channels, Ebay India, Gail Gas, Essar Foundations, A R Rahman Foundation, Dr. Reddy's etc.

Anjani, is also a Faculty for ICAI in its Certificate Course on NPO's and Co-operative Society and CSR. Anjani, also, is partnering with the Ministry of Home Affairs-FCRA department to help them with their outreach programs. He has been invited to deliver lectures in various forums on start-up like FLOW and institutes and varsities including Shriram College of Commerce, Ramjas College, NUJS Kolkata, Amity University etc.

# Special Session

## Meet the Achievers – Guinness World Record Holders

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**Mr. Job Pottas**



**Mr. William Panipicha**



**Mr. Abheesh P Dominic**

24th & 25th November 2017

## CA Students Conference at Ernakulam